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House of Representatives

The House met at 10 a.m.

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

O almighty God, creator of heaven and earth, we pray that in all the seasons of life we can have trust and confidence in Your word. In times of plenty, give us grateful hearts; in times of sadness or worry, grant us hope; in times of need, hear our petitions; in times of anxiety, give us serenity; in times of discouragement, grant us faith; and in times of loneliness may we have a full measure of Your love and Your grace. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. QUINN) come forward and lead the House in the Pledge of Allegiance.

Mr. QUINN led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Lundregan, one of its clerks, announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 900. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

The message also announced that pursuant to Public Law 105–292, the Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, appoints Michael K. Young, of Washington, D.C., to the United States Commission on International Religious Freedom, vice William Armstrong.

The message also announced that pursuant to the provisions of Public Law 105–186, the Chair, on behalf of the Majority Leader, appoints the Senator from Oregon (Mr. SMITH) to the Presidential Advisory Commission on Holocaust Assets in the United States, to fill a vacancy thereon.

The message also announced that pursuant to Public Law 94–304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints the Senator from Arkansas (Mr. HUTCHINSON) to the Commission on Security and Cooperation in Europe (Helsinki).

CUBAN POLITICAL PRISONERS EVENT

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

Ms. ROS-LEHTINEN. Mr. Speaker, on Wednesday, May 19, the members of this body will have an opportunity to hear the testimonials of former political prisoners and prisoners of conscience who have survived Castro's gulags.

For over 40 years, the brutal Castro regime has systematically violated the basic human rights and civil liberties of the Cuban people. During the 4 decades it has been in power, thousands of innocent people have been executed or subjected to beatings, torture or arbitrary detentions.

For some lucky enough to have survived, the opportunity to inform the international community about the Cuban reality has become a mission. Their stories are graphic, compelling and horrific examples of the oppressive, violent and diabolical nature of the Castro regime.

Next Wednesday, we will hear these firsthand accounts of the physical and psychological torture of those who are willing to risk life and limb for freedom, liberty and democracy for Cuba.

I invite all of my colleagues to meet some of Cuba's true heroes, the survivors of Castro's gulags, on Wednesday, May 19, at 12 p.m. in room 2200 in the Rayburn Building.

BIG TOBACCO MONEY SEEMS MORE IMPORTANT THAN OUR NATION'S KIDS

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

Mr. MEEHAN. Mr. Speaker, 5 million kids who are now under the age of 18 are likely to die from smoking-related illness. Decisive Federal action is needed now to address the historically high levels of smoking among our Nation's children.

Yet, this Congress is on the verge of waiving the Federal Government's portion of the tobacco settlement monies to the States without ensuring that any of these funds be spent to protect our kids. We are simply closing our eyes to the number one preventable cause of death in America. That is unacceptable.

Frankly, I am not surprised. Big tobacco gave an astonishing $4.5 million in soft money contributions to the Republican party during the 1997–1998 elections cycle, effectively killing the leading tobacco reform legislation.

The fact of the matter is that public health groups simply cannot compete with big tobacco when it comes to soft money contributions. The pro-tobacco

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language in the supplemental bill is just another example of what happens when we allow big money to talk louder than kids' lives on Capitol Hill.

CHINESE INFLUENCE FOR SALE TO THE HIGHEST BIDDER

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from Massachusetts (Mr. MEEHAN), and I think there are goals that all Members of this House share in terms of public health policy. But when the gentleman from Massachusetts starts talking about campaign finance, the gentleman from Massachusetts and many on that side of the aisle would do well to heed the testimony yesterday of one Johnny Chung and would do well to connect the dots because of the relationship of the People's Republic of China to the Clinton-Gore campaign in 1996.

Mr. Speaker, there may be those who smile wistfully, but I do not believe our national security is something to be toyed with and to fiddle around with while this Nation is in danger of burning.

The fact is we should stand up, remain vigilant, have the Cox committee report released and get to the bottom of Chinese influence for sale to the highest bidder, sadly, it seems at the other end of Pennsylvania Avenue.

GUN SAFETY

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

Mrs. JONES of Ohio. Mr. Speaker, I rise as a wife, mother, former judge and former prosecutor to urge the Speaker to bring to the floor the debate on the issue of gun safety and gun control before Father's Day.

As women, mothers and grandmothers, our goal is to prevent any more gun-related deaths. I joined with other members of the Women's Caucus to send a letter to the Speaker prior to Mother's Day seeking him to set the debate prior to Father's Day.

Our children are killing one another with guns at an ever-increasing rate. From 1993 to 1997, the death rate by guns increased 182 percent for children. To stop the death of our children, we urge the Speaker to bring this issue to the floor for debate prior to Father's Day.

VIOLENCE BEGETS VIOLENCE

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

Mr. STEARNS. Mr. Speaker, after the terrible tragedy in Littleton, Colorado, there has been much soul-searching and hand-wringing in America's public circles and in the media about violence and our youth. It has led to the President holding a conference Monday at the White House to discuss these topics. But are we truly surprised as a Nation about the atmosphere of violence that surrounds our children when our children are taught by our society that it is all right to kill the innocent unborn?

A Nation that allows the lives of babies to be taken for convenience will breed a disrespect for all life in our children. But where is the discussion about the effects of abortion on our society? I did not hear from the White House yesterday, and I have not heard it from one talk show that discussed this matter.

If we ignore the violence of abortion as a society, who really has the trouble of discerning fantasy from reality, our children or the adults in this Nation?

TAXPAYERS ARE STILL TAXED OFF

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

Mr. TRAFICANT. Mr. Speaker, we have taxes on income, death, gifts, investment, fuel and energy, capital gains. We have excise taxes, surtaxes, retroactive taxes, old taxes, new taxes. Unbelievable. Is it any wonder the American people are taxed off?

I say today, tax this. It is time to abolish the IRS, abolish income taxes and pass the National Retail Sales Tax Plan. It is time to reward work and savings for a change. Think about that.

I yield back what freedom and liberty we have left as taxpayers.

TAX FREEDOM DAY 1980–1999

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

Mr. HEFLEY. Mr. Speaker, in line with what the previous speaker had to say, the chart here is labeled ''Tax Freedom Day 1980–1999.'' But maybe a better title for this chart would be ''President Clinton's Road to the 21st Century.''

He was elected in 1992. In 1993, Tax Freedom Day was April 30. Tax Freedom Day is the day when the average taxpayer has finished off paying what he owes to Uncle Sam and begins to work for himself.

In 1994, Tax Freedom Day was May 2. In 1995, it was May 3. In 1996, it was May 5. In 1997, it was May 7. Last year, it was May 10. This year, yesterday, May 11 was the day when taxpayers begin working for themselves.

This is the road to the 21st century under a Democrat administration. Ronald Reagan was able to push back Tax Freedom Day from May 4 to April 27. But since then we have lost ground.

It is considered progress to the tax and spenders in this body; but for middle-class taxpayers, it just means less freedom and more power in Washington.

GUN SAFETY

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

Ms. CARSON. Mr. Speaker, Mother's Day just passed, a day for celebration for some and, unfortunately, a day of mourning for too many women who no longer have a child to call them mother.

In Indianapolis, a young mother named Michelle Miller mourned her young son who was killed while playing with a loaded firearm.

In Littleton, Colorado, 12 mothers mourned their children, killed by two teens who found access to deadly firepower all too easy.

We have a number of good proposals pending before this 106th Congress on gun safety. I have a common-sense bill, H.R. 515, that has already been joined with 49 cosponsors, that will require child safety devices on handguns and establish standards for those devices.

We can move now to enact common-sense gun regulations that does not violate anybody's constitutional rights to bear arms but does protect the lives of a lot of innocents.

Mr. Speaker, let us celebrate Father's Day in a more profound way, by passing gun safety legislation.

NATIONAL SECURITY EMERGENCY CREATED BY CUTTING DEFENSE BUDGET

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

Mr. KNOLLENBERG. Mr. Speaker, the Clinton administration has created a national security emergency by cutting the defense budget while spreading our troops all around the world.

Between 1960 and 1991, the Army conducted 10 operational events. In the past 8 years, the Army has conducted an astonishing 26 operational events. Strangely enough, this increased activity has occurred during a period in which our military has been shrunk by 40 percent.

This misguided policy is playing itself out in Yugoslavia. Already the President has had to call up thousands of reserves and divert planes from the strategically important Iraqi No-Fly Zone to carry out strikes on Milosovic's regime.

Mr. Speaker, it is time for Congress to replenish our national defense which has been substantially weakened by the Clinton administration. The Republican majority stands ready to provide the resources to address the problems related to troop morale and readiness. I implore my colleagues on both sides of the aisle to join in this effort.

DEMONSTRATE PEACE WITH 72–HOUR CEASE-FIRE IN KOSOVO

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

Mr. CLEMENT. Mr. Speaker, I am as concerned as we all are about what is going on in Kosovo. This conflict bothers me more than the Persian Gulf, Haiti, Bosnia and many of the crises that we have had.

I think it is time for us to have a 72-hour cease-fire. Let us let the Russians try to work out a peace settlement. I support the mission. I support our troops. I support NATO. I have seen firsthand the hostility, the destruction of lives and the destruction of property in my visits to Bosnia and Macedonia. I know the ethnic Albanians have suffered greatly. I want them to have the opportunity to go home.

I realize the United States now is the only superpower. But the United States and NATO need to show some real courage, some humility, and do what the gentleman from Illinois (Mr. BLAGOJEVICH) has done. He showed real leadership by going to Belgrade and demonstrating to the world that we want peace. The best way to demonstrate peace is to have a 72-hour cease-fire, and let us do it now.

NATIONAL POLICE WEEK

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

Mr. QUINN. Mr. Speaker, I wanted to take some time today during National Police Week to pay tribute to the men and women who serve our country in law enforcement. This is a time when we are given the opportunity to thank our friends in law enforcement for their commitment to our safety and to honor them for the sacrifices they have made.

Unfortunately, police officers are often called upon to make the ultimate sacrifice so that the rest of us may remain safe. Police officers risk their lives every day of the week to ensure safety in our communities.

I just want to take a moment to recognize and pay tribute to the tens of thousands of law enforcement officers that have given their lives to protect our families and communities. We do not take enough time often enough to honor the lives of fallen law enforcement officials.

□ 1015

I was proud to vote yesterday, as the whole House did, on a resolution that officially expresses the sense of the Congress that all police officers slain in the line of duty be honored and recognized.

On May 15, more than 15,000 law enforcement officers and their families will gather in the Capitol to honor their comrades that have fallen in the line of duty. We are honored to join our voice with theirs in paying respect to the great men and women who have served our country.

ULTIMATE SACRIFICE MADE BY RUSSELL STALNAKER

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

Ms. MCKINNEY. Mr. Speaker, peace officers across the country make the choice to serve our communities in order to enhance the good and protect us from evil. Tragically, senseless actions of violence directed against our peace officers can and do happen at any time.

The family of Russell Stalnaker, who served on the Atlanta Police Department, know all too well the painful reality of the dangers confronting the men and women on the police force. Several weeks ago Mr. Stalnaker was shot while trying to protect the citizens of Atlanta. He and his family paid the ultimate price so that we all might live in a society that values order and discipline. Sadly, as our country violates international law in Europe, cities across the United States are plagued by violence and lawlessness.

Yesterday, I cast my vote in support of H. Res. 165 in honor of Russell Stalnaker and his family. The resolution states that peace officers killed in the line of duty should be honored. We will never forget the sacrifice Russell made in protecting the people of Atlanta. He is a shining example of a good police officer and his sacrifice deserves to be remembered.

THE TAX MAN HAS MOVED OUT, BUT NOT SOON ENOUGH

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

Mr. FOSSELLA. Mr. Speaker, there is a guy who has been living in my house from January 1 until yesterday. He has not paid any rent, has not paid for food, has not paid for boarding, has not paid for gas. Heck, he does not even take us out to dinner. That guy was the tax man. And he finally moved out. Each year it gets worse. He overstays his welcome.

Now, I do not mind him stopping by from time to time, but the time has come to get him out of my house. And it is not just my house, it is every American who pays taxes across this country. Every American who works hard every single day and sees less and less of their paycheck because of this guy who stays in their house.

It is unbelievable that we have to work from January 1 to May 11 just to pay the tax man. The time has come for broad-based tax cuts for the American people so they can have the opportunity and the freedom to spend the money as they see fit and to get that unwanted guest out of their house.

REAUTHORIZE COPS PROGRAM

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

Mr. HOLT. Mr. Speaker, later today the Department of Justice will award a grant for its 100,000 new police officers hired under the COPS program.

For 6 years, in neighborhoods all across the Nation, the COPS program and the idea of community-oriented policing have been creating a breakthrough in law enforcement. COPS have helped local police fight crime, upgrade their equipment and crack down on school violence. COPS has empowered citizens and made our streets safer and more livable.

In New Jersey, the COPS program has helped hire over 3,500 police officers and contributed $213 million to our law enforcement agencies. In my own district, communities in Hunterdon, Monmouth, Mercer, Middlesex, and Somerset Counties have all benefited from the COPS program.

Most importantly, COPS has created a partnership between citizens and police joining them together in efforts to fight and prevent crime.

Mr. Speaker, community policing has been a tremendous success for our Nation and the people we represent. Congress should reauthorize the COPS program.

REPUBLICAN BUDGET PROPOSAL PUTS MORE ASIDE FOR SOCIAL SECURITY THAN ADMINISTRATION BUDGET

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

Mr. HERGER. Mr. Speaker, the Republican budget proposal puts more money aside for Social Security and Medicare than does the Clinton administration's plan. Let me repeat that. Our budget proposal puts more money aside for Social Security and Medicare than does the Clinton administration plan.

In fact, the President spends $52 billion of the Social Security surplus in 2000 and $247 billion of that same Social Security surplus over the 5 years. But do not just take my word for it. I urge concerned American citizens to verify for themselves the truth of these facts.

The Republican proposal puts 100 percent of the retirement surplus aside for Social Security and Medicare. Our proposal puts that money aside in a lock box so that 100 percent of that money goes for Social Security and Medicare. The President's proposal, on the other hand, puts only 62 percent surplus aside for Social Security. American seniors deserve better.

STOP THE SNEAK ATTACKS AGAINST OUR ENVIRONMENT

(Mr. BONIOR asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, we have seen this before. At the last minute, when they think nobody is looking, the special interests are launching a sneak attack on our environment.

A bill that is supposed to provide support for our pilots overseas is being hijacked in a secret assault on our environment here at home. These so-called riders could never pass on their own.

These so-called riders would open up the pristine waters of Alaska's Glacier Bay National Park to destructive commercial fishing; another would throw open the American west to more giant strip mines, with the dangers of chemically bleached waste leaching into our waters and the specter of cyanide poisoning in our rivers and streams. And the list goes on and on.

These anti-environment riders have no place in the emergency supplemental conference report. We need to pass the bill to support our troops this week, not drag it down with a series of unpopular, unrelated and unacceptable anti-environmental riders.

TAX FREEDOM DAY

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

Mr. KINGSTON. Mr. Speaker, today is the first day of the rest of our life. Kind of an old 1960s pop culture saying that Jonathan Livingston Seagull was very proud of.

If we look at this week, today is the first day of the rest of our taxpaying year to be tax free, because as of yesterday we start working for ourselves. We have paid off our debt as a serf for Uncle Sam and big government. We will all continue to pay lots of taxes here and there, but generally speaking we are through. From now on we get to keep our money.

Think about the tax burden just in income tax. Today, the average American family pays 24 percent. In the 1970s, it was 16 percent. In the 1950s, it was 5 percent.

Now, what does that mean? Everybody is busy. Everybody is busy as heck in the 1990s. I know, I have four kids, and all my friends are running around. It is nothing but a treadmill. Because of that, we do not have enough time as families to sit down and impart information to each other, to train our kids, to help them with their homework and bring them up with the good moral values we need to run a country.

One of the by-products becomes tragedies such as what happened in Littleton. Families need to spend more time with each other, particularly with their children, and our tax burden prohibits it right now. We need to lower taxes.

INTELLIGENCE SERVICES DO NOT NEED MORE MONEY

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

Mr. DEFAZIO. Mr. Speaker, on the other side they are talking about lower taxes. That means saving money. On the other side they are talking about dumping more money into the intelligence services, who already have a $30 billion a year budget. Sometimes this place reminds me of Alice in Wonderland.

Think of a parallel. When our kids fail the achievement tests, what do they say, more money for education? They say, no, we need to reorganize, we need to overhaul, we need to revitalize, we need vouchers, we need change. Now, when the CIA fails in its most basic mission on a multibillion dollar budget, they say they need more money.

Guess what? Here is the information they needed. Where did I get it? This came from the Congressional Research Service. It is publicly available. Maps of Belgrade on line. Here is the embassy. That is where it has been for 5 years. Here is where it used to be 5 years ago.

Well, maybe they did not know the current address. They could have gone to the web site, which is put up by the City of Belgrade and the government of Yugoslavia, which has the address. They could have got a phone book, but they probably do not have anybody who can read Serbian. I guess that is why they need more money. Maybe they need more money to go down to the bookstore and pay $19.95 for a Michelin map.

They do not need more money. They need to spend it better, they need to be reorganized, and some people need to be fired.

WILL CHINESE ESPIONAGE SCANDAL BE DISMISSED AS EASILY AS OTHER SCANDALS

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

Mr. SCHAFFER. Mr. Speaker, I can only guess what the response of the knee-jerk Clinton defenders will be as the whole country learns just how bad the Communist Chinese espionage scandal is. Will they dismiss this scandal, too, claiming, ''Everyone lies about treason.''

We have heard so many excuses so many times about so many scandals during the most unethical administration in history. It does not matter, they say. Everyone does it.

The President stated he was unaware of any Chinese espionage and that it had taken place on his watch. But now we have Energy Secretary Bill Richardson admitting that, in fact, a report was prepared and delivered to the President on exactly that subject in November of 1998.

Even more amazing is that the President's and the Vice President's first reaction to the news of this Chinese spying scandal was to, that is right, blame it on Ronald Reagan.

Then we find out the most serious stuff occurred during the Clinton years of 1994 and 1995. Why? Why, I ask, did the Justice Department sit on its hands for 3½ years, 3½ years, while Americans have to rely on a New York newspaper to get to the bottom of it?

NUCLEAR WASTE AND THE ATOMIC TRAIN MOVIE

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

Ms. BERKLEY. Mr. Speaker, not only are the nuclear power industry lobbyists trying to conquer common sense with dollars in Congress, they are trying to do the same thing to the entertainment industry.

I was shocked and dismayed to read in The Washington Post TV column that NBC has caved in to nuclear industry pressure and politely changed the name of the atomic train's cargo from nuclear waste to hazardous materials. What semantic nonsense.

If anyone is able to tell the difference between the two, it would be the people of the State of Nevada, who are fighting a bill that would dump all of the Nation's nuclear waste in our backyard, 77,000 tons of it.

This just is not Nevada's fight. Most of America would be put at risk by H.R. 45, the Nuclear Waste Transport bill. On April 28 I sent a ''Dear Colleague'' letter to my fellow Members of Congress, pointing out that although the movie is fiction, the threat is real.

Let me ask my colleagues this: When the first inevitable crash occurs, where would they want to be living? Would they want to be living in that neighborhood?

I challenge NBC to stand up for public health and safety rather than caving in to the nuclear power industry lobbyists.

REPUBLICANS STAND FOR EMPOWERING INDIVIDUALS BY LOWERING TAX BURDEN

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

Mr. DREIER. Mr. Speaker, I have been listening to some of the speeches from my very distinguished colleagues on the other side of the aisle, and I have yet to hear anyone talk about this issue of tax freedom day.

I was stunned when I first saw the chart the gentleman from Staten Island, New York (Mr. Fossella) used during his speech, which sees this continued increase in the time during which people have to work for the government before they can keep even a nickel for themselves.

We in this Congress stand firmly for empowering individuals and making sure that they can make choices for themselves. How better can we do that than by allowing them to keep more of their own hard-earned dollars?

I have introduced legislation calling for a reduction in the top rate on capital gains. We are considering a complete overhaul of the Internal Revenue Code, whether we go towards a flat rate tax or a consumption tax. We want to make sure that rather than May 11, that people much, much earlier will be able to begin saving some of their own dollars rather than having to work to keep this Federal Government going.

So we stand, on this side, firmly for reducing that tax burden on working families. Unfortunately, my friends want to talk about all kinds of other stuff.

GUNS AND JUVENILE CRIME

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

Mr. BLAGOJEVICH. Mr. Speaker, today the Senate will debate a series of measures aimed at keeping firearms out of the hands of juveniles and convicted criminals.

As the original House sponsor of three of these measures requiring background checks at gun shows, raising the minimum age for possession of handguns from 18 to 21, and preventing violent juveniles from being able to buy guns when they turn 21, I call on the House leadership to allow a full debate on these important public safety measures.

□ 1030

It is not often that gun control advocates and the gun industry see eye to eye; but in the wake of last month's tragedy in Littleton, Colorado, a consensus is emerging that our gun laws need to be stronger.

The American Shooting Sports Council, the National Alliance of Stocking Gun Dealers and leading gun manufacturers now agree we need to close the deadly loophole that allows kids and criminals to purchase firearms at gun shows.

The lack of background checks at gun shows have made them prime targets for criminals and gun traffickers, where kids and dangerous criminals can purchase guns with no questions asked.

Mr. Speaker, making it harder for kids and criminals to get guns are not cure-alls. But Elizabeth Dole had it right when she said, it is time for the Republican party to stop allowing the National Rifle Association to dictate the Congressional agenda.

BASIC STEPS FOR IMPROVING OUR CULTURAL ENVIRONMENT

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

Ms. DELAURO. Mr. Speaker, 3 weeks ago, America learned a terrible lesson: Our culture is producing teenagers who are capable of unspeakable violence. We, as a country, must come together to address this complex problem. It is one that requires several answers.

We have students who attend schools without guidance counselors. We have children exploring violent websites alone at night. We have handguns sold and resold without basic safety features or background checks. Our children grow up in a world that is unlike the one that I grew up in.

We need to take basic steps to improve our cultural environment. Families must embrace their children's questions, ideas, hopes and dreams. Adolescence is a difficult time. Our schools must be safe without becoming prisons. Classrooms should be small enough for strong discipline and individual attention. Schools must have guidance counselors and mental health services that presently are shamefully lacking.

Handguns should come with safety locks. Firearms should not be sold to children under 21. Background checks at gun shows, period. The entertainment industry must clean itself up and stop marketing violence to our children.

Let us take these steps together and invest in a stronger America.

NATIONAL COMMISSION ON TERRORISM

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

Mr. WOLF. Mr. Speaker, in the last Congress, the Congress voted to have a national commission to study terrorism; and to date the Congress has not acted on the funding on that commission.

Today I will be offering an amendment in the supplemental to have the funding for that commission. With all the terrorist activity that is taking place, the CIA killings in my congressional district, the World Trade bombing, the bombing of embassies by Osama Bin Laden and others, for Congress not to act on putting the funding in at this time would absolutely be a disgrace.

This is so important that we ought to have a bipartisan commission that looks to making sure that everything that possibly can be done to deal with the issue of terrorism is being done.

AMERICAN PEOPLE WANT OPEN DEBATE ON GUN VIOLENCE

(Mrs. MCCARTHY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MCCARTHY of New York. Mr. Speaker, a number of us here today are talking about trying to save our children.

The tragedy that happened in Littleton, Colorado, last month certainly struck this Nation. What a lot of people do not know is that we lose 13 children every single day. That is a classroom every 2 days. I am hoping that here, in Congress, we will address this in a bipartisan way.

Because the American people want their children to be safe. There are solutions that we can come to. There are solutions that we can work together on to try to save our children on a daily basis.

Mr. Speaker, I am asking the people of America to call and e-mail all their Congressmen and say, ''We want an open debate.'' Let this not be a fight. Let us do the right thing. Let us have the debate. Let us talk about all the things that we see going wrong and try to make a correction.

That is why I came to Congress. That is why I am here, to try to reduce gun violence in this country.

TEEN SMOKING IN AMERICA IS A CRISIS

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

Mr. HANSEN. Mr. Speaker, teen smoking is a crisis which threatens the health and lives of thousands of our youth every day.

As a result of the recent settlement between the individual States and the tobacco industry, a marvelous opportunity presented itself to this Congress, an opportunity to show our dedication to our children by assuring that part of the billions of dollars that will be paid to the States would be spent on teenage smoking. Sadly, many in this body on both sides of the aisle are unwilling to assure that even one penny of this clearly anti-tobacco money is spent to stop smoking amongst our youth.

Why is it important? One, $78 billion is spent every year on tobacco-related health expenses; $35 billion in extra tax burden faces American taxpayers every year as a result of smoking-related costs; 1.1 million kids begin smoking every year. And the list goes on and on.

Now, contrary to what some might say, this is not a partisan issue. This most recent battle against teen smoking has seen Members of both parties fighting both for and against tobacco control. As one who has been fighting to end teen smoking for many years, I applaud Members from both parties for their support of tobacco control and express my disappointment that leaders from both parties have refused to take a stand against teenage smoking.

Mr. Speaker, if there was ever a time we need strong leadership in this area, it is now.

JUVENILE VIOLENCE AND GUN SAFETY

(Ms. WOOLSEY asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, it is time for this House to schedule a vote on gun safety legislation, legislation to keep guns out of the hands of children.

Often children are their very worst enemy, especially when a gun is involved. Yet, only 16 States have child access prevention laws. In fact, in most States, there are no laws requiring proper firearm storage.

Unlocked guns present an irresistible temptation to young adults and curious children. That is why we must pass legislation like the Children's Violence Prevention Act, to reduce children's access to guns, impose criminal penalties on adults who do not keep firearms out of the reach of children, and require manufacturers to make safe and child-proof guns.

Gun safety legislation alone will not solve the problem of juvenile violence or make our schools islands of safety overnight, because our children's safety must be protected on many fronts. But our children and their schools will be much safer when guns are not available.

CHILDREN'S VIOLENCE PREVENTION ACT

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is violence all around us; and I think it is important that we address the question head-on as the Members of the United States Congress and the legislating body that the American people look to.

Guns do kill. And even if there are those who argue against the fact that people kill, guns do not, people use guns to kill. And our children have used guns to kill, so that 13 children die every day by the use of guns.

It is time now to pass the Children's Violence Prevention Act, the simple and direct way of showing the American people that we mean business in saving our children.

I call upon the Speaker to have a debate. I call upon him to review the gun laws across this Nation and find out, where States have enforced gun safety laws, and how children's deaths have come down.

And then, Mr. Speaker, I refer you to the conflict that is going on, in Kosovo, although I support our troops, and I have been to the refugee camps, and I want to see the refugees go home. I think it is now time to have a pause in the bombing and for the allies to seek a negotiated settlement to end the Kosovo conflict and to make sure that the refugees go home sooner rather than later. The longer we wait the more delayed will be the refugees return with a secured place to their homeland. It is time now to seek peace in the Kosovo conflict, that will only begin if we stop the bombing for a period of time to allow the peace process to begin.

DEBATE ON GUN SAFETY LEGISLATION

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

Ms. SCHAKOWSKY. Mr. Speaker, before Mother's Day, I joined with congressional women House Members to call on the gentleman from Illinois (Mr. DENNIS HASTERT) to schedule a debate on gun safety legislation by June 20th, Father's Day.

What I am hearing from mothers and fathers in my district is, ''It is the guns, stupid.'' The tragedy in Littleton is just another grim reminder that gun violence is rampant, that our children are in danger, and that no community is immune from senseless violence.

In my suburban community of Evanston, Illinois, alone I have been to three funerals in the last 2 years of children killed by guns in the hands of our children.

For the sake of the millions of parents who see their children off to school every day, Congress must act. And there are sensible bills that we can act on. It is time to strengthen our laws to keep firearms out of the hands of children and to break the cycle of juvenile violence.

I feel that I owe it to my granddaughter, Isabelle, and to all the children in the United States and urge Americans everywhere to send a message to the Speaker: Let us debate this issue.

FUNDING FOR 2000 CENSUS

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

Mrs. MALONEY of New York. Mr. Speaker, I rise today to discuss funding for the 2000 census, a constitutionally mandated activity that will be the largest peacetime mobilization ever undertaken by this country.

Mr. Speaker, funding for the Census Bureau will cease on June 15 unless Congress acts to change current law. Let me say that I welcome the Republican leadership's recognition of the need to eliminate that funding deadline and agree with it entirely.

Republicans and Democrats disagree on the best way to conduct the 2000 census, but I think we can all agree on one thing, we should not shut down the government in little more than 4 weeks over this disagreement.

The Republican leadership has hinted that it may be interested in a truce on the census. Let us start by doing something we all agree on. Elimination of the June 15 deadline can easily be inserted in the supplemental appropriation measure this House will consider shortly.

I urge all Members of this body, both Republican and Democratic, to support such a measure.

COPS PROGRAM

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

Mr. WISE. Mr. Speaker, there are lots of reasons, and the good news is, of course, that the crime rate has been dropping across the country. And there are lots of reasons.

There are two reasons I think I would like to talk about briefly today. The first is the COPS program that this Congress passed several years ago, putting 100,000 new police officers on the street, hundreds of them in West Virginia; and I believe that that has made a very powerful difference.

But there is another reason, too. Regardless of how that police officer puts on the uniform, whether the COPS program or whatever way they are funded, the important thing is the police officer themselves, the men and women who wear the uniform.

What we need to recognize in this Congress is still, while the crime rate is dropping, the danger that they face is still there, whether they are walking up on a deserted car on a highway, whether they are answering a call in a rural area, whether they are in the city. We need to remember their needs fundamentally and, most importantly, to say ''thank you.''

PROVIDING FOR CONSIDERATION OF H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 166 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 166

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only

in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the first time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follow another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1045

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

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my terrific colleague, the gentleman from South Boston (Mr. MOAKLEY) pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded will be for debate purposes only.

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

Mr. DREIER. Mr. Speaker, the pending resolution provides for the consideration of H.R. 775, the Year 2000 Readiness and Responsibility Act, under a structured rule with 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order as an original bill for the purpose of amendment the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, modified by the amendments printed in part 1 of the Committee on Rules report. The rule also makes in order only those amendments printed in part 2 of that report.

Mr. Speaker, the rule provides that amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions.

This is a fair rule that provides for full and meaningful debate on all of the key issues relating to this very important legislation. There were 17 amendments submitted to the Committee on Rules. Of them, seven were made in order. Five of those seven amendments were authored by Democrats, including an amendment in the nature of a substitute, which as I recall was the first request made of me by the distinguished ranking member the gentleman from Massachusetts. It is the substitute offered by the gentleman from Michigan (Mr. CONYERS), the ranking Democrat on the full committee, and the gentleman from Virginia (Mr. BOUCHER) and the gentlewoman from California (Ms. LOFGREN), two other very able members of the committee.

Then I see my friend the gentlewoman from Texas (Ms. JACKSON-LEE) here. We were very pleased that we were able to make an amendment of hers in order. We have made amendments in order from the gentleman from Virginia (Mr. MORAN), who is an original cosponsor of the legislation, and the gentleman from Virginia (Mr. SCOTT) and the gentleman from New York (Mr. NADLER) as well. I believe that this rule is worthy of strong bipartisan support just as the bill itself is.

Mr. Speaker, uncertainty is the first word in any serious discussion of the year 2000, Y2K computer problem. The reality is no one, no one is certain what will happen in our digitally interconnected world if some computers and electronic machinery fail to deal with the year 2000 issue. Now, I pride myself on not being an alarmist, and I hope very much that we will not suffer any problems at all. But that does not mean that we can sit back and ignore this issue. As we move forward, we need to realize that the Y2K problem is not a partisan issue at all. In fact, I underscore, this is a very, very bipartisan issue. We all share the same priority.

I am in fact with the people, I will say. We want to solve potential problems that affect all the people before they occur. We need to do everything that we can to ensure that Americans can deal worry-free with such mundane tasks as making telephone calls or getting a car repaired or having a package delivered on time. I am very confident that we can all agree on that overall goal, to make sure that those things are able to work out.

There is absolutely no question that in today's digital economy, many private sector business operations involve multiple companies and numerous hardware and software systems. Therefore, being sure that systems will operate in the year 2000 demands teamwork. Companies need to work together in a positive way.

Mr. Speaker, I believe that the American private sector, the most energetic, creative and powerful force for positive change in the world, is up to the challenge of tackling these problems. In particular, our computer and software companies are the world's best and brightest. We should get this done, but we cannot have hurdles thrown up along the way. The reality today is that unbridled Y2K litigation is jeopardizing coordination and teamwork. This adversarial mentality hampers private sector efforts to solve Y2K problems. Adding another whole layer of uncertainty, and there is that word again, uncertainty, to Y2K planning is the wrong thing to do. It is discouraging cooperation at the very time that we desperately need as much teamwork as possible. While we need to do everything we can to solve Y2K problems before they happen, we also need to head off the temptation to scapegoat our vibrant high tech industries in the event of some failures.

This technology problem was set in place decades ago, many years ago. It is absolutely appropriate to expect high tech companies to marshal their abilities to solve Y2K problems, but we all lose if they are bankrupted by lawsuits.

Mr. Speaker, the bipartisan Year 2000 Readiness and Responsibility Act will replace the adversarial blame game with the kind of private sector cooperation needed to get Y2K problems solved. It is critical for everyone to understand just how broad the coalition supporting this legislation is. It goes far beyond high tech companies that produce computers and software. Instead, it includes a myriad of industries, big businesses, small businesses. They are the ones who use those products and see themselves as potential plaintiffs as well as potential defendants. Let me repeat. Most of them see themselves both as potential plaintiffs and potential defendants. That is why this legislation does not eliminate anyone's right to their day in court.

Mr. Speaker, at the end of the day, there is a basic difference of opinion dividing people on this bill. Some people claim that the fear of lawsuits is a good thing, that this threat drives companies to solve their Y2K problems. I totally disagree with that. I believe that line of reasoning represents a fundamental misunderstanding of our great private sector economy. It misses the point behind why our economy is the strongest in the world. Our system works because private sector businesses, entrepreneurs, want to succeed. They want to provide goods and services that consumers want. That same incentive is working to solve the Y2K problem. Remarkably, American businesspeople want to be in business in the year 2000. There is no greater incentive for business to find Y2K solutions than next year's bottom line.

Legal uncertainty is a hurdle standing in the way of teamwork and problem solving. This bill lowers that hurdle.

Mr. Speaker, I urge my colleagues to support this rule in a bipartisan way, and I urge them to support the bill. We look forward anxiously to a full and very vigorous debate on some of the changes that my colleagues are offering.

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

Mr. MOAKLEY. Mr. Speaker, I thank my colleague, my dear friend, my chairman for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I oppose this rule, and I oppose this bill in its current form. A number of responsible and well-crafted amendments were submitted to the Committee on Rules but are not allowed under this rule. Mr. Speaker, in 7 months the year 2000 will be upon us, and we will find out just how bad the Y2K problem really is. This seemingly small technical problem could have very serious effects on our everyday life. But hopefully it will not. High tech companies all over the country are doing what they can to prepare for it. They are making corrections in their programs, and they are preparing for the possibilities that their technical glitches could threaten medical care, food expiration dates and environmental safety. But, Mr. Speaker, this bill may change all that. I am not saying we should not prepare for the lawsuits related to the Y2K problem. The high tech community wants some legislative solutions. They want narrow legislative goals, and we should pass them. But we are not. My Republican colleagues are using Y2K fears and exaggerated predictions of lawsuits to bring this bill to the floor today, which can be summed up in one word, Mr. Speaker: Overkill. My Republican colleagues are using millennium fears to bring up the most far reaching tort reform legislation ever to come to the floor.

Mr. Speaker, again this is nothing but the widest, most severe tort reform legislation ever to come before us. What they are really doing is swatting a fly with a sledgehammer. This tort reform bill discourages corporate responsibility, it robs consumers of their ability to seek relief, it poses a disadvantage to small businesses, and it is hiding behind the skirts of the Y2K fears because it could not pass on its own.

If my Republican colleagues want tort reform so badly, they should bring a separate bill to the floor of the House and label it accordingly.

Mr. Speaker, the high tech companies did not ask for a broad tort reform bill, they did not ask for an overhaul of the American legal system, but that is exactly what we are giving them today. Although my Republican colleagues feel strongly about States rights, this bill would supersede most State law.

Mr. Speaker, this bill will not resolve Y2K problems. In fact, it may even make companies less likely to correct the problems that they have. Under this bill, companies really have no incentive to fix things. Why repair the problem today if they are protected from any significant legal action tomorrow?

Both the Justice Department and the administration oppose this bill, as do consumer groups, environmental groups, and many doctors. As this April 26 New York Times editorial stated graphically: This legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action. A potential crisis is no time to abrogate legal rights. Those are not my words. Those come right from the April 26 New York Times editorial page.

Mr. Speaker, I include that editorial in the RECORD at this point.

[From the New York Times, Apr. 26, 1999]

LIABILITY FOR THE MILLENNIUM BUG

With 249 days to go until the year 2000, many experts are alarmed and others are only midly concerned about the danger of computer chaos posed by the so-called millennium bug. One prediction seems safe, however. Whatever the damage, there will be lots of lawsuits. In anticipation, some in Congress, mainly Republicans, want legislation to limit the right of people and businesses to sue in the event of a Y2K disaster. Their reasoning is that the important thing is to get people to fix their computer problems now rather than wait and sue. But the legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action.

As most people know by now, the millennium bug arises from the fact that chips and software have been coded to mark the years with only two digits, so that when the date on computers moves over to the year 2000, the computers may go haywire when they register 1900 instead. A recent survey by a Senate Special Committee on the Year 2000 found that while many Government agencies and larger companies have taken action to correct the bug, 50 percent of the country's small- and medium-size businesses have not. The failure is especially worrisome in the health sector, with many hospitals and 90 percent of doctors' offices unprepared.

If hospitals, supermarkets, utilities and small businesses are forced to shut down because of computer problems, lawsuits against computer and software manufacturers will certainly result. Some experts estimate that liabilities could reach $1 trillion. Legislation to protect potential defendants, sponsored by Senator John McCain of Arizona, is expected to be voted on in the Senate this week. The bill would impose caps on punitive damages and tighter standards of proof of liability, and provide for a 90-day waiting period in which the sued company would be allowed to cure the problem. The bills would also suspend ''joint and several liability,'' under which wealthy defendants, like chip or software companies, could have to pay the full cost of damages if other parties could not be sued because they were overseas or unable to pay.

These provisions would curtail or even suspend a basic protection, the right to sue, that consumers and businesses have long enjoyed. The White House and the Congressional Democratic leadership are right to view such a step as unnecessary. Existing liability laws offer plenty of protections for businesses that might be sued. Proponents of the legislation argue, for example, that companies that make good-faith efforts to alert customers of Y2K problems should not be punished if the customers ignore the warning, or if the companies bear only a small portion of the responsibility. But state liability laws already allow for these defenses. The larger worry is that the prospect of immunity could dissuade equipment and software makers from making the effort to correct the millennium-bug problem.

It might make sense to have a 90-day ''cooling off'' period for affected businesses to get help to fix as many problems as possible without being able to file lawsuits. But it would be catastrophic if stores, small businesses and vital organizations like hospitals and utilities were shut down for 90 days. They should have the same recourse to relief from the parties that supplied them with faulty goods that any other customer has.

Government can certainly help by providing loans, subsidies and expertise to computer users and, perhaps, by setting up special courts to adjudicate claims. Congress can also clarify the liability of companies once it becomes clear how widespread the problem really is. But before the new year, the Government should not use the millennium bug to overturn longstanding liability practices. A potential crisis is no time to abrogate legal rights.

Mr. Speaker, I urge my colleagues to support the Lofgren/Conyers/Boucher substitute which will make companies more likely to fix the millennium bug, weed out frivolous Y2K claims and encourage alternatives to lawsuits. I also urge my colleagues to oppose this very restrictive rule and this bill. It is just tort reform under another name. It will hurt ordinary citizens and small businesses who may find themselves facing some very, very serious problems in the millennium.

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

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say that we have just begun the battle of the Times.

□ 1100

The New York Times, which is in a great part of the country, very nice part of the country, it is a State that is well represented by my colleague from upstate, has come out with an editorial which is criticizing this bill. I am very proud that this morning's Los Angeles Times, which is actually the place where most of the work is going to be done that will solve the Y2K problem for the American people, has editorialized strongly in support. So when it comes to picking the New York Times versus the Los Angeles Times it is a no-brainer for me.

This L.A. Times editorial says it believes that protections against frivolous lawsuits are vital to dissemination of the honest information about Y2K readiness that the Nation needs. It goes on, in particular, the Congress must set limits on damages, encourage or mandate mediation as an alternative, and set grace periods giving companies time to fix Y2K problems, and there must be penalties in place for those who institute spurious lawsuits. All of these provisions are intact in the Y2K Readiness Act that we are going to be considering today.

So, Mr. Speaker, comes between those two newspapers, it is an easy call for me.

Mr. Speaker, I insert the LA Times editorial for the RECORD:

[From the Los Angeles Times, May 12, 1999]

THE BUG'S LEGAL BITE

What figures to be the most costly aspect of the so-called year 2000 bug? Well, it could be an onslaught of Y2K-related lawsuits, many of which might use the Y2K hook to seek damages for frivolous or unrelated problems. That, should it come, could well surpass the costs of real Y2K problems. Clearly, temporary liability protections should be in place.

The computer glitch involves short-sighted programming in which two digits were used to denote a year. What will happen when the 99 that designates the current year rolls over to 00? If computers think it's 1900, not 2000, serious problems could arise, and many of them would surely find their way into the courts.

Congress is awash in bills intended to protect businesses against Y2K-related lawsuits. This is serious stuff. A rash of suits by aggrieved customers and suppliers could damage the economy. The bills in Congress set forth a number of protections, from caps on punitive damage awards and required mediation to grace periods to allow defendants the time to fix the problem—anything from disrupted supply to computer crashes. The California Legislature too is looking for legal solutions.

Unfortunately, the strongest congressional bills, which were by no means perfect to begin with, have been greatly watered down or will be. Generally, the legislation is opposed by public-interest groups and trial lawyers and others who fear it as a back-alley path to permanent limitations on the right to sue. They worry that legitimate lawsuits could be crippled.

The Times believes that protections against frivolous lawsuits are vital to dissemination of the honest information about Y2K readiness that the nation needs. President Clinton and Congress pushed through legislation designed to encourage large businesses to own up to their Y2K problems, but its success has been mixed at best. As of February, the Securities and Exchange Commission reported, companies had filed only limited information on their Y2K readiness.

Every business relies on others. True Y2K readiness extends to a company's suppliers and vendors. Currently, when businesses ask associated companies whether they are prepared for the year 2000 glitch, they are too often greeted with foot-shuffling silence.

For obvious reasons, many companies are unwilling to talk. If a supplier is inclined to acknowledge that it is not or might not be ready, it is deterred because its vendors surely will look for another source. If a supplier claims it is Y2K-ready and it turns out that it wasn't, the supplier figures it will be sued. Unless strong protections against frivolous lawsuits are in place, this stalemate will continue and companies will lack the confidence they need to work with those that are not fully prepared.

The Congress must set limits on damages, encourage or mandate mediation as an alternative and set grace periods giving companies time to fix Y2K problems. And there must be penalties in place for those who institute spurious lawsuits. The Congress has enough options before it to fashion comprehensive and fair legislation.

These bills should not represent a long-term abrogation of legal rights. Y2K liability protection is a necessary short-term fix for a once-in-a-modern-civilization problem, and new laws must have a strict time limit. Proper legislation can and should prevent billions of dollars in unnecessary lawsuits.

Mr. DREIER. Mr. Speaker, with that, I yield such time as he may consume to the gentleman from Buffalo, New York (Mr. REYNOLDS), my friend and very able member of the Committee on Rules who is going to tout the arguments of the Los Angeles Times.

Mr. REYNOLDS. Mr. Speaker, to my colleagues, the gentleman from California (Mr. DREIER) and the gentleman from Massachusetts (Mr. MOAKLEY), I must say that editorials are supposed to be thought-provoking, and while I am a daily reader of the New York Times and their editorial pages have given me great opportunities to reflect on their comments and some of my views, it is true that the gentleman from California (Mr. DREIER) has pointed out the bug's legal bite which appeared in today's in Los Angeles Times has also given me thought-provoking aspects of a message that I think the gentleman has outlined. But I think the first paragraph really sets the tenor for my cosponsorship and support of this legislation, what figures to be the most costly aspect of the so-called Year 2000 bug.

Mr. Speaker, it could be an onslaught of Y2K-related lawsuits, many of which might use the Y2K hook to seek damages for frivolous or unrelated problems. That, should it come, could well surpass the cost of real Y2K problems. Clearly, temporary liability protections should be in place.

It is clear to me that uncertainty must be the first word in Y2K discussions. No one is certain what will happen in our digitally-interconnected world should some computers and electronic machinery fail to deal with the year 2000. The threat of Y2K legislation, replacing coordination and teamwork with the threat of adversarial litigation is hampering the private-sector effort to solve the Y2K problems by adding another whole layer of uncertainty to Y2K planning and discouraging cooperation.

H.R. 775 is focused on replacing the adversarial blame game with the kind of private-sector cooperation needed to get Y2K problems solved. The bill enjoys bipartisan support and is backed by a very broad coalition of private sector groups, the private sector coalition, far beyond high-tech companies that produce computers and software. Instead, it includes industries, big businesses and small that use these products and see themselves as potential plaintiffs as well as potential defendants.

Finally, the threat of lawsuits is not driving companies to solve their Y2K problems. Instead, business simply wants to be in business in the year 2000. There is no greater incentive for business to find Y2K solutions than next year's bottom line. Legal uncertainty is a hurdle that stands in the way.

In summary, Mr. Speaker, this legislation reduces excessive litigation; it encourages mediation and for businesses to solve its problems; and, finally, it protects everyone's right to a day in court.

Mr. Speaker, the rule that is before us is fair, it is bipartisan, it gives a clear opportunity for debate today. I urge passage of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for yielding this time to me.

Mr. Speaker, as we debate this particular legislation, the House Committee on Science meets today and announces that the Y2K will not affect our satellite system. That is good news. But we also recognize that the Y2K is a viable concern for most Americans. In fact, throughout our districts we are holding Y2K hearings and meetings to inform our constituents of the impact of Y2K.

So, I am appreciative of the fact that we are debating this question, and might I say to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules and my friend, I am certainly appreciative of the wisdom of the Committee on Rules and his generosity in making one of my amendments in order. I believe, however, that we have a serious problem with this legislation.

As a member of the Committee on Science, I heard hearings in that committee and, as well, in the House Committee on the Judiciary, and much of the testimony opposed this bill. Although some of you have disagreed with the New York Times editorial, which opposes this bill also, I think one sentence is really relevant to this legislation. It states that this legislation or these provisions in this legislation ''would curtail or even suspend a basic protection, the right to sue that consumers, that businesses have long enjoyed.''

The N.Y. Times opinion is not saying that it prevents litigants from being litigious and frivolous. It says that they will be denied the basic protection of the right to sue; and, frankly, Mr. Speaker, that is what is wrong with this legislation. We are not talking about one big business versus another. We are actually talking about hospitals and supermarkets, utilities and small businesses which are forced or may be forced to shut down if they need to sue over their Y2K problem and this bill tip the scales of justice against them. They are going to be less able to pursue their problems in terms of litigation.

I am concerned about this rule. I wish it was an open rule because two of my amendments were denied. One of those amendments was an important one that I drafted, which would have sunsetted the provisions of the bill after 2 years in line with the statute of

limitations in most States, including my home State of Texas. If this bill is designed to bring certainty to our legal system, then the best thing we can do is to make certain that its provisions will be stricken from the books after a predetermined amount of time. We should not allow its provisions to be borrowed or referenced by new statutes passed by this House several years down the line. This is not automatic tort reform. This is especially true of some of the more extreme provisions in this bill that affect class action status, put caps on punitive damages and eliminate joint and several liability.

Let me refer my colleagues to the remarks by Mr. Thomas Donohue that this is, in fact, a special case bill, meaning that it is based on a unique problem posed by the Y2K bug. Because of that, it is reasonable that it should be sunsetted. The President and CEO of the United States Chamber of Commerce as I mentioned, the main proponents of the bill, have testified that this bill is different from others simply because of its magnitude. When questioned by a Congresswoman at our science hearing earlier this year, he stated that ''this bill is different because everybody is in the same boat at a very, very challenging time. It is choppy waters. We look for a way not to upset the very fine balance in our economy. I think that needs special consideration.''

So, Mr. Speaker, the emphasis on special consideration I think argues for the point that a sunset provision is a viable provision, it is a fair provision. It says we have a problem dealing with Y2K, the year 2000, but this bill is narrowly focused on that and does not then characterize the whole legal justice system, and should not have extended life.

We should take Mr. Donohue's testimony at its face value. This problem is a temporary and special one, and therefore we should ensure that none of the dangerous pro-defendant provisions in this bill that unbalances the scale of justice outlives the Y2K bug.

A second amendment that I would have liked to have offered was an attempt to bring equity back to the table in this difficult and contentious time. During the Committee on the Judiciary's sole hearing on this bill just a few weeks ago, I noted there was a series of provisions that heavily tipped the delicate balance of justice to defendants. Many of these provisions are procedural in nature.

My amendment would remove one of the procedural obstacles that remains for plaintiffs in the current version of this bill, the provision that deals with the ability to collect punitive damages. Under section 304 a plaintiff must prove by clear and convincing evidence that the conduct of the defendant was reckless, indifferent to the rights of others and that the defendant's behavior was the proximate cause of the plaintiff loss.

Mr. Speaker, my amendment does not change the two prongs that the plaintiff must prove to gain access to punitive damages. It does change the procedural standard that must be met in order for them to win their case. The change is from the heightened standard of clear and convincing evidence to the common standard used in other cases, preponderance of the evidence.

Mr. Speaker, I started out by saying this is a special case piece of legislation. In addition, it deals with the everyday citizen, the supermarket owner, the hospital worker, the small business owner. Why are we putting an onerous burden of clear and convincing evidence on the guy that just needs his supermarket cash register to work.

Like one of the witnesses said: ''My grocery store shut down when I had a Y2K problem.'' Are we going to put the burden of clear and convincing evidence on this small business person who is simply trying to make a living?

Mr. Speaker, I wish the rule was an open rule. I thank the chairman of the Committee on Rules for his generosity in allowing one of my amendments in. However, I oppose the rule because this is an important issue that should be addressed more deliberatively and should not be as imbalanced against the consumer as H.R. 775 is.

Mr. Speaker, I rise to speak in opposition to this rule, which sets the debate for H.R. 775, the Year 2000 Readiness and Responsibility Act of 1999.

This is an important bill that will help us transition into the Year 2000. It is a dangerous bill because its provisions are far reaching, perhaps far-more-reaching than is demanded by this problem. Perhaps because this bill is not the result of an honest attempt to remedy the Y2K problem, but rather an attempt to gain the favor of the high tech industry. What is important to note, however, is that this bill does much more than what the high-tech community needs, and far more than what they have asked for. If we are to tackle the Y2K bug in earnest—and pass a meaningful Y2K bill, we need a full and robust debate under an open rule. Therefore, I would like to urge my colleagues to reject this rule.

I also oppose the recommended rule because a great number of solid and deserved amendments were not made in order. One of those amendments was an important one that I drafted which would have sunsetted the provisions of this bill after two years—in line with the statutes of limitations in most states, including my home State of Texas.

If this bill is being designed to bring certainty to our legal system, then the best thing we can do is make certain that its provisions will be stricken from the books after a pre-determined amount of time. We should not allow its provisions to be borrowed or referenced by new statutes, passed by this House several years down the line. This is especially true of some of the more extreme provisions in this bill that affect class action status, put caps on punitive damages, and eliminate joint and several liability.

Additionally, by adding a sunset provision to this bill, we could have encouraged further remediation as we transition into the year 2002. Defendants who, up until December of 2001, had still not fixed an existing Y2K defect, would have known that they must act quickly to remediate the problem before they could no longer invoke the protections of this bill.

This is supposed to be a ''special case'' bill, meaning that it is based on the unique problem posed by the Y2K bug. Even Mr. Thomas Donohue, the President and CEO of the United States Chamber of Commerce, whom are the main proponents of the bill, has testified that this problem is different from others simply because of its magnitude. When questioned by Congresswoman RIVERS at a Science hearing earlier this year, he stated that this bill is different because ''everybody is in the same boat at a very, very challenging time. It is choppy water. We ought to look for [a] way not to upset the very fine balance in our economy. I think that needs your special consideration.''

We should take this testimony as its face value—this problem is a temporary and special one, and therefore, we should ensure that none of the dangerous pro-defendant provisions in this bill outlive the Y2K bug. We should send this rule back to the Rules Committee so that we can have a meaningful debate on a sunset provision.

A second amendment that I would have like to have offered was an attempt to bring equity back to the table in this difficult and contentious time.

During the Judiciary Committee's sole hearing on this bill just a few weeks ago, I noted that there were a series of provisions that heavily tipped the delicate balance of justice to defendants. Many of those provisions are procedural in nature—requiring that the plaintiff overcome huge obstacles in order to win a case against an entrenched defendant.

My amendment would remove one of the most significant procedural obstacles that remains for plaintiffs in the current version of this bill—the provision that deals with the ability to collect punitive damages. Under Section 304, a plaintiff must prove by ''clear and convincing evidence'' that the conduct of the defendant was recklessly indifferent to the rights of others, and that the defendant's behavior was the proximate cause of the plaintiff's loss.

While my amendment does not change the two prongs that the plaintiff must prove to gain access to punitive damages, it does change the procedural standard that must be met in order for them to win their case. The change is from the heightened standard of ''clear and convincing evidence'' to the common standard used in other cases—''preponderance of the evidence''.

We must remember, damages that are punitive are dealt as punishment for behavior that is reprehensible. I believe that most, if not all of you would agree, that in the cases of the Produce Palace and Medical Manager, both of which were the subject of significant discussion during the Judiciary Committee's deliberations, punitive damages should have been awarded had a judgment been rendered. In both cases, vendors of computer systems were sued for selling non-Y2K compliant systems even after questioning on that issue by the plaintiffs. And in both cases, the defendants were incredibly delinquent in their responsiveness to their customer's needs, ignoring hundreds of phone calls, and in the Medical Manager case, holding back a simple ''patch'' solution that would have cleared all of the plaintiff's misery in minutes—just so that they could extort more money out of the plaintiffs.

If we are to provide a deterrent for this type of behavior, then we ought to make sure that

punitive damages are realistically achievable. This bill, as currently written, does not provide that. And under this rule, we will not have a chance to fix it.

The Y2K bug is a formidable foe for us to grapple with, I agree, but that does not mean we ought to trammel upon the rights of business-owners and individuals all over the country to defeat it. Furthermore, we should not abdicate Y2K solution providers of responsibility for their own actions, especially when they engage in egregious behavior, no matter how noble the cause.

This bill is a step in the wrong direction, and we should have every opportunity to improve it. I urge you all to reject this rule, and give this House the opportunity to show their support for each of the amendments that were offered at the Rules Committee.

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

Mr. Speaker, the gentlewoman from Texas wishes it were an open rule but thanks me for my generosity. I will take that one.

Let me say that we have just gotten a news flash, and that is the fact that the Fairfax Journal has now joined the Los Angeles Times in editorializing in strong support of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Fairfax, Virginia (Mr. DAVIS), my friend and the prime sponsor of the measure who has been our leader on this and done a terrific job.

Mr. DAVIS of Virginia. Mr. Speaker, let me also thank the gentleman for making the amendment offered by the gentlewoman from Texas in order. He can see the gratitude he gets, the vote on the rule, but we have tried to try to streamline this and make this an appropriately structured rule where both sides to this argument get their substitutes, they get their amendments in, and we can have an honest debate here on the House floor over exactly how to best remedy this Y2K situation.

Let me make a couple of comments going in:

First of all, the fastest growing part of the American economy today is our technology sector. They are leading the way in the stock market, in terms of job production, in terms of producing tax revenues, and we are threatening this area with Y2K lawsuits over something that, in many cases, these companies are doing everything they can to rectify, and sometimes it is beyond their means to control.

For example, one can have their system perfectly cleaned up, they can have tested it, it can work, and then somehow someone who they never interacted with because of the interconnectivity of this ends up connecting with them, communicating with them, and it brings their system down. And under this legislation, even though they really had nothing to do with the problem except having a computer modem where someone could talk to them, could communicate with them, they could be held liable for all of the damages that may ensue, plus punitive damages of an unlimited amount.

That is not fair. But not only is it not fair, it threatens the fastest-growing part of the American economy. In a time when our technology sector is leading the way in a world economy, we threaten to burden it down, so instead of investing their profits in new products where we can remain competitive, these products, the products would not be invested in, and, in fact, money would have to be tied up in litigation, in lawsuits, in settlements, in attorney fees.

Mr. Speaker, what that does to America on the world marketplace is it moves us down, makes us less competitive, costs Americans' jobs and will have long-term effects on the American economy. And, of course, the administration that opposes this legislation and others would find it will not be here at the time when we see what results are ensuing.

Now we have talked a little bit about these are extreme provisions I heard from the other side that we have in this provision. Some of these extreme provisions have been voted out of this House by pretty substantial margins in other legislation before by both Republicans and Democrats, but let me talk about one of the extreme provisions.

We talk in class actions. If an attorney comes forward and makes me part of a class, maybe he bought a set of toasters that malfunctions because the microchip in there was not Y2K compliant and purports to represent me. All we require is for that attorney who purports to represent me, who can settle on my behalf, cut off my access to legal system, be required to notify me so that I can have an opportunity to opt out or get my attorney if I want. That is one of the extreme provisions that they discuss from the other side because it revises existing law in some States.

It does deal in some cases a little bit differently with the Uniform Commercial Code, but we have to remember we are in an information age, and a lot of the old rules are going to fall by the wayside if we are indeed going to remain competitive.

Joint and several liability is an issue that even the administration has been willing to address. Their concern has been that if we go to proportional liability we may not have the real culprits and be able to hold them in line and the consumer may not be able to get their full damages. Under our legislation, if one causes only part of the problem, they are only held to part of the damages in this case, and I think that is fair. If one has a company and they try to come in and fix an information technology system and during that time they make it better but it is still not corrected and someone is damaged, they can be punished for trying to fix that.

□ 1115

That is having an effect today on companies coming forward and being willing to fix some of these systems because they know that just by touching a system if something should go wrong downstream they can be held under the doctrine of joint and several liability, liable for all of the damages.

As a result of that, companies who come in and try to fix problems are really putting down some very burdensome rules and regulations in terms of the systems they are trying to fix on the people who are trying to get the systems fixed and that hurts hospitals, it hurts small businesses, it hurts grocery manufacturers, and other groups like that.

That is why the National Federation of Independent Businesses support this legislation. That is why the Chamber of Commerce and any number of business organizations who are potential plaintiffs as well as defendants support this legislation, because under this legislation, if someone is damaged by a Y2K problem they get their full damages. In fact, they can get three times their damages in punitive of the actual economic harm. They can get three times that in punitive damages, or $250,000, whichever is least.

So they can move ahead and get it, but what we take away are these long-term, high end, without-cap punitive damages that some jury in some jurisdiction can bring down some of the fastest growing and productive companies that we have in this country. That is what we are trying to fix. It is a one-time problem.

The Y2K problem applies to the year 2000. We will not see this problem again for another 1,000 years, at best. That is why this does not go to the heart of tort reform and we have constructed this legislation in a way that we are not trying to rewrite tort law for any and all claims, for any and all instances. We even exempt bodily harm and death and disability and those kind of issues that pertain to this.

For product liability and the like, if someone causes the problem they ought to pay, but we should not jeopardize the fastest growing part of the American economy.

Mr. Speaker, I support the rule on this. I think it has been fair to all sides. I would be happy to support it and would urge my colleagues to do likewise.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of the Committee on Rules, for yielding me this time.

Mr. Speaker, I rise today in opposition to the rule on our debate of H.R. 775, the Year 2000 Readiness and Responsibility Act. I do this, I think, probably to the surprise of many Members on both sides of the aisle because I have the privilege of representing what I think is one of the most distinguished congressional districts in the country, the home of high technology in Silicon Valley. This is an issue that

certainly worries them and can have an overall impact and effect on them.

The Y2K liability problem certainly is a serious one. We here in the Congress have the responsibility to shape something that is both reasonable and effective, that will really touch on all of the bases that the companies and many of their customers are concerned about.

I oppose 775 for the following reasons: I believe it is overreaching and so I think that we need to pull in in several areas to make it a more effective bill that will not be vetoed by the White House; nor a response that is simply going to fail on the floor to secure the right amount of support on both sides of the aisle.

So in order to reach, I think, the ultimate bipartisan compromise on this issue, we need to look to proportionate liability, the punitive damages areas and the attorneys fees that are in the bill.

As I said, I think the bill goes too far. It would set up a rigid system of proportionate liability. The plaintiff would have to institute a separate lawsuit against every possible wrongdoer.

Now to those that look to me for some kind of leadership on these issues, I know something about proportionate liability. I shaped a bill that ultimately was supported with bipartisan broad support. I shaped something in private securities litigation reform where companies were joint and severally liable only in certain situations. Even then, it created a more proportionate way of determining the share of liability.

The cap on punitive damages in H.R. 775 is also troubling.

Thirdly, the reasonable efforts defense contained in the bill that is going to be debated is opposed strongly by the Department of Justice because it sets up a new standard for businesses to avoid lawsuits.

I applaud anyone that wants to come forward to help speak to the problem that our country faces with Y2K and the liabilities that might ensue as a result of it. I do not believe, in my best judgment, my fair judgment, that H.R. 775 answers that. I believe the other body is moving toward consensus, especially in the areas that I just outlined.

I will work with Members from both sides of the aisle. I do not think that we should advance something that we clearly know the White House is going to veto. Nor do I think simply bringing something to the floor, where we know it is going to fail here on the floor, is the answer. We really need something that is reasonable and effective and I stand ready to do that. For the reasons that I outlined, and others that I did not, I will not only oppose the rule but I oppose 775.

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

Mr. Speaker, as I said, just to quote the New York Times editorial, April 26 of this year, this legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action. A political crisis is no time to abrogate legal rights.

Mr. Speaker, I think that says it all. Also, the Attorney General of the United States is going to recommend to the President of the United States to veto this bill if it is passed in its present form.

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

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is very important legislation. We have gone through, over the past several years, securities litigation reform which was very, very critical, but I happen to believe that dealing with this Y2K issue is something that not a lot of people are focused on but quite frankly needs to be addressed, because the ramifications are overwhelming.

We have our colleagues here in the House, the gentleman from California (Mr. HORN) and the gentlewoman from Maryland (Mrs. MORELLA), who are working on the governmental involvement with Y2K. This is a measure that we are going to be addressing here today that impacts the private sector primarily, but obviously it has an impact that will be very, very far-reaching.

Now, as we have listened to this debate, some are trying to argue that this is special interest legislation, special interest legislation which is designed to simply help those who created some sort of problem.

Nothing could be further from the truth. We have to recognize that this legislation is being supported by those who will be both plaintiff, potentially plaintiff, and defendant.

If we look at the organizations that have come out in support of this measure, they are not organizations that are simply in the business of trying to find a solution. They are the organizations which are potentially impacted by it, groups like the National Federation of Independent Business; the Chamber of Commerce; the National Association of Manufacturers; one of the largest organizations, which we all want to address, the League of Cities, they potentially could be imposing lawsuits on this thing.

We have the National Retail Federation, the National Restaurant Association, and actually we have over here the list. My eyes glazed over when I started to look at it, because we have energy companies all over this Nation, we have organizations that are supportive of this measure.

So if there is, in fact, a special interest it is the interest that is opposed to this measure.

My brother-in-law is a trial lawyer in Chicago, Illinois. I will say that we often have interesting family discussions because while I have been supportive, and I want to make sure that everyone has a right to their day in court and there is nothing in this legislation that denies their day in court, but the colleagues of my brother-in-law from around the country are unfortunately in the process of developing what is really a cottage industry, a cottage industry getting ready to strike.

Our goal here is very simple. We want to mitigate rather than litigate. We want to take care of this problem before it takes place. There is so much common sense to that.

This is a one-time effort. We are not changing this in perpetuity. It is a one-time effort so that we can deal with this Y2K problem, so that the everyday lives of people can continue; so that they can make telephone calls, they can make sure that the flow of their electricity continues. We want to do it as early as possible, and that is why this is a bipartisan measure.

I know some people have tried to describe it as partisan. Upstairs in the press gallery, my colleagues, the gentleman from Virginia (Mr. DAVIS) and the gentleman from California (Mr. COX) joined me on the Republican side, and on the Democrat side we have the gentleman from Virginia (Mr. MORAN), my fellow Californian, the gentleman from California (Mr. DOOLEY), the gentleman from Alabama (Mr. CRAMER), three Republicans and three Democrats moving ahead with this.

We have had consistent opposition from the administration until we received the news this morning that they are willing to work with us on it.

So it is a very important measure. I am proud of the rule. As I said, we have made in order amendments from the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, and he is joined by the gentleman from Virginia (Mr. BOUCHER), and my fellow Californian, the gentlewoman from California (Ms. LOFGREN).

We have also been able to make in order amendments that were proposed by the gentleman from New York (Mr. NADLER), and by our friend, the gentlewoman from Texas (Ms. JACKSON-LEE). So of the 7 amendments we made in order of the 17 that were filed, 5 of them have been offered by Democrats.

This stresses the fact that we want to have a full debate, allowing for consideration of amendments from both sides of the aisle, but when it gets to the end I hope that we will pass very positive legislation which will ensure that we can keep the lives of the American people going on track just as smoothly as possible.

I urge support of the rule.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

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

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the

point of order that a quorum is not present.

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 188, not voting 9, as follows:

[Roll No 123]

YEAS—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thune
Tiahrt
Toomey
Traficant
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—188

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Skelton
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tanner
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—9

Barton
Brown (CA)
Engel
McIntosh
Napolitano
Peterson (PA)
Scarborough
Slaughter
Thornberry

□ 1147

Mr. MALONEY of Connecticut changed his vote from ''yea'' to ''nay.''

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

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 775.

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

There was no objection.

YEAR 2000 READINESS AND RESPONSIBILITY ACT

The SPEAKER pro tempore. Pursuant to House Resolution 166 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 775.

□ 1152

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

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

As we all know, the end of the millennium is rapidly approaching, and rather than looking ahead to the promise and possibility of the 21st century, Americans are approaching it with concern.

They are fearful because January 1, 2000, will bring with it the Y2K computer bug, a result of the decision made in the 1960s by computer programmers to design software that recognized only the last two digits rather than the full four digits of dates in order to conserve precious computer memory.

When the clock turns from December 31, 1999, to January 1, 2000, some computers will interpret ''00'' to mean that the date is 1900 rather than 2000. With dates being critical to almost every layer of our economy and across vast numbers of industries, systems that are noncompliant will disrupt the free flow of information that forms the underpinnings of our Nation's economy.

Many Y2K computer failures could occur weeks and months before January 1, 2000, and the barrage of Y2K lawsuits has already begun. CNETnews.com has reported over 80 Y2K lawsuits already filed, with 790 demand letters for new Y2K suits issued.

These legal obstacles are preventing good-faith efforts toward fixing Y2K computer problems. We are fighting the clock; we should not also be fighting an unnecessarily hostile legal environment.

It has been estimated that Y2K litigation could cost $2 to $3 for every dollar spent on actually fixing the problem. Y2K litigation cost predictions range from $300 billion to $1 trillion,

compared to just $15 billion for 1990's asbestos suits and $18.4 billion for Superfund suits.

These enormous costs could cripple our high-tech sector, diverting billions into litigation that should go to work force training, research and innovation and global competition.

Fear of lawsuits is stifling efforts to fix the Y2K problem. Corrective efforts by software engineers must be scrutinized and pre-approved by corporate legal divisions. Software consultants think twice before offering help for fear of incurring complete, joint and several, liability for systems they try to fix. Small business entrepreneurs face the impossible choice between spending funds for expensive Y2K fixes or saving cash for the potentially bankrupting litigation to come.

The Y2K glitch is not a partisan issue. It is a problem that could impact all Americans. Congress must act to address the problems that are currently discouraging businesses from addressing the Y2K problem and that will ultimately harm consumers.

The legislation we are considering today will continue the efforts which we initiated with the administration in the 105th Congress through the passage of the Year 2000 Information and Readiness Disclosure Act that furnished the first steps towards facilitating year 2000 remediation and testing.

Mr. Chairman, H.R. 775 is designed to implement a reform framework that will encourage a fair, fast and predictable mechanism for both plaintiffs and defendants for resolving Y2K disputes, ensuring that litigation will become the avenue of last resort, rather than the first option for settling institutes.

While it is estimated that American businesses have poured hundreds of billions of dollars into making the transaction to the year 2000, the simple reality is that some problems will go unresolved because of fear of litigation.

A basic premise of the bill is that contracts between suppliers and users will be fully enforceable in a court of law. All economic losses suffered by an individual or business as a result of a year 2000 failure, provided that their duty to mitigate damages was fulfilled, will be compensable. Claims brought by individuals or businesses based on personal injury are outside the scope of this legislation.

Further, the Act creates a pre-filing notification period intended to encourage potential plaintiffs and defendants to work together to reach a solution before they reach the courtroom. The pre-filing notification period requires potential plaintiffs to give written notice identifying their Y2K concerns and provide potential defendants with an opportunity to fix the Y2K problem outside of the courtroom.

□ 1200

After receipt of this notice, the potential defendant would have 30 days to respond to the plaintiff stating what actions will be taken to fix the problem. At that point, the potential defendant has 60 days to remedy the problem. If the defendant fails to take responsibility for the failure at the end of the 30-day period, the potential plaintiff can file a Year 2000 action immediately. If the injured party is not satisfied once the 60 days have passed, he or she still retains the right to file a lawsuit.

There are also provisions encouraging alternative dispute resolution and offers in compromise language for nonclass-action suits. As a result, we expect that there will be more attention given to Y2K remediation and an elimination of many Y2K lawsuits.

Also included are provisions that apply a proportionate liability standard to damages caused by multiple actors, some of whom may not necessarily be parties to a Year 2000 action. A defendant found to be only 5 percent liable in causing a Year 2000 problem would only be responsible for 5 percent of the damages, not 100 percent liable.

Furthermore, the legislation minimizes the opportunities for those who may try to exploit the unknown value of potential Y2K failures and pursue litigation as a first resort rather than permit the parties to resolve problems.

This bill contains provisions that will make sure that businesses are confident that they can spend their dollars fixing the Y2K problem rather than reserving those dollars for costly lawsuits that will increase costs for consumers, push small innovative businesses into extinction, and endanger, and in some instances eliminate, many American jobs.

The bill grants original jurisdiction to Federal District Courts for any Year 2000 class action where certain diversity requirements are met. Punitive damages in a Year 2000 action are capped at $250,000, or three times the amount of actual damages, whichever is greater, except for businesses with fewer than 25 employees, including State and local government units or individuals whose net worth is no greater than $500,000, wherein punitive damages are capped at the lesser of $250,000, or three times the amount of actual damages.

Since 1996, there have been more than 50 bipartisan hearings in the Congress examining a wide-ranging array of issues that are directly related to the Y2K challenge that is facing our global economy. We have listened to computer users and to industry, and what we have consistently heard is that small and large businesses are eager to solve the Y2K problem. Yet many are not doing so primarily because of the fear of liability and lawsuits. The potential for excessive litigation, and the negative impact on targeted industries are already diverting precious resources that could otherwise be used to help fix the Y2K problem.

My substitute aims to eliminate those fears and hasten the repair of Y2K problems while we still have time to resolve them. I should say the bill that is now on the floor. I urge my colleagues to support this important legislation.

Mr. Chairman, I provide for the RECORD a letter dated May 10, 1999, to the chairman of the Committee on the Judiciary from the chairman of the Committee on Commerce regarding H.R. 775:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 10, 1999.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR HENRY: I am writing with regard to H.R. 775, the Year 2000 Readiness and Responsibility Act.

Although the Committee on Commerce did not receive a named additional referral of H.R. 775 upon introduction, the Speaker has nevertheless granted my Committee a sequential referral of the bill. This sequential referral results from provisions in the introduced legislation within the Commerce Committee's jurisdiction pursuant to Rule X of the Rules of the House of Representatives. As you know, during the markup of H.R. 775, your Committee adopted amendments which eliminate the Commerce Committee's jurisdictional concerns over these provisions.

Because of the importance of this legislation, I recognize your desire to bring it before the House in an expeditious manner. I will therefore agree to discharge the Commerce Committee from further consideration of H.R. 775. By agreeing to waive its consideration of the bill, however, the Commerce Committee does not waive its jurisdiction over H.R. 775. In addition, the Commerce Committee reserves its right to seek conferees during any House-Senate conference that may be convened on Y2K legislation. I ask for your commitment to support any such request with respect to matters within the Rule X jurisdiction of the Commerce Committee.

I request that a copy of this letter be included as part of the record during consideration of the legislation on the House floor.

Sincerely,

TOM BLILEY,
Chairman.

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

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

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

Mr. GEPHARDT. Mr. Chairman, the technology industry has been a prime driver in the robust economic growth that we have seen in the last several years. I think it is our responsibility to see that the Y2K problem does not slow down this engine of growth in our economy.

Democrats have put forward a substitute bill cosponsored by the gentlewoman from California (Ms. ZOE LOFGREN), the gentleman from Michigan (Mr. JOHN CONYERS), and the gentleman from Virginia (Mr. RICK BOUCHER) which addresses the Y2K litigation problem in a responsible, sensible, and adequate manner. The Clinton administration supports this substitute.

We need to do something but we do not need to take steps that will dismantle key protections for consumers

and small businesses that is represented in H.R. 775. The Lofgren-Conyers-Boucher substitute is a responsible alternative that would allow businesses to take the necessary steps to enhance readiness and assist customers to deal with the Y2K bug. The Democratic substitute would create incentives for Y2K compliance, weed out frivolous Y2K claims while allowing meritorious ones to go forward, and encourage alternatives to litigation.

I applaud the gentlewoman from California (Ms. ANNA ESHOO), who is a key leader on technology issues, who understands that H.R. 775 is not the solution to the problem and who is trying to find a compromise that will provide the protections that both industry and consumers deserve.

Some Republicans are using the sledgehammer approach to this issue. Instead of trying to fashion a responsible solution to a real problem, they are trying to create a divisive issue where one need not exist. We do not need a campaign issue, which I am afraid is the way some of my Republican colleagues are approaching the problem. We need a real bipartisan solution that the President will sign.

We can come up with a better way than H.R. 775. Let us address the problem, not make it worse. Vote against H.R. 775 and support the common sense Lofgren-Conyers-Boucher substitute.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS).

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

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Virginia (Mr. GOODLATTE), the manager of this bill, for his courtesy in allowing me to speak at this time.

Mr. Chairman, I rise to urge that the words of the minority leader, the gentleman from Missouri (Mr. GEPHARDT), be considered.

The problem, essentially, is that the committee-passed version of this bill goes way beyond the stated needs of the high-technology community and is probably being used as a precedent for more broad-ranging tort reform.

The problems are these: The bill eliminates the possibility of damage recovery whenever a defendant exercises ''reasonable efforts'' to fix a computer defect, even if his efforts are unsuccessful.

Secondly, the limits and caps on punitive damages are unnecessary and unrequired. We put caps on officers' and directors' liabilities. We federalize class actions. We eliminate joint and several liability and then further mandate a loser-pay mechanism.

I want to suggest to my colleagues that the wave of 80 lawsuits already filed is not a flood of litigation that we need to be unduly concerned about.

I also want to say that I have regretted that the amendment of my colleague, the gentleman from Michigan (Mr. EHLERS) was not put in order. It cut off any claims against Y2K compliance from 1995 forward, because the damage has been known for many, many years. The potential damage. I think this has been overmagnified.

I want to praise the gentlewoman from California (Ms. LOFGREN) and my colleague, the gentleman from Virginia (Mr. RICK BOUCHER) for the work they have done in helping carve out a reasonable substitute that will escape administration veto.

Now, inadvertently, the bill eliminates incentives to remediate Y2K problems and the bill now sweeps in millions, potentially, of consumers into the Y2K litigation relief package. So, please, let us all be as reasonable as possible.

We are proud to support the high-tech community in their problems, and we want to work them out, but let us not overdo it. Support the substitute and let us hope, then, we will get a bill that will pass administration muster.

Again, Mr. Chairman, I thank the gentleman from Virginia and I compliment the gentlewoman from California (Ms. LOFGREN) that is managing the bill on our side.

As presently written, ''The Y2K Readiness and Responsibility Act,'' which I prefer to call the ''Y2K Industry Overreaching Act,'' is nothing more than another poorly crafted product liability reform effort, disguised as legislation to address the Y2K problem. Much of the bill is left over from the discredited ''Contract with America,'' which has already been rejected by Congress and the American people.

I am not averse to legislation that specifically and narrowly addresses the problems faced by the high tech community. However, the bill reported by the committee goes well beyond reasonable reform. In fact, Assistant Attorney General Eleanor D. Acheson has testified that ''. . . this bill would be by far the most sweeping litigation reform ever enacted. This bill would harm technology users, and is bad for consumers and small businesses. Worst of all, instead of creating positive incentives to fix problems, it creates new reasons to avoid remediation.

First, the legislation would harm technology users because by providing across the board caps and limitations on liability, H.R. 775 will make it more difficult for businesses suffering computer failures to obtain compensation. Kaiser Permanente has written that the legislation ''unfairly prejudices (or completely bars) the ability of the health care community to recover costs associated with any potential personal injury or wrongful death award from the entity primarily at fault for the defect that caused the injury.'' Those businesses who have had the foresight to cure their own Y2K problems will also be negatively impacted, since the bill will allow their competitors to obtain the same legal benefits without incurring remediation costs.

The legislation is also bad for consumers and small businesses. Even though the Y2K problem has been overwhelmingly described as a business to business issue, H.R. 775 sweeps in tens of millions of individual consumers with little opportunity to protect themselves by contract. Further, the ''loser pays'' provision is totally inconsistent with the notion of equal justice and will also work to the significant disadvantage of individuals and small businesses. This is because in order to bring their case to trial, an individual or small business must risk reimbursing a large corporation for its legal fees. Under this provision, if a harmed party guesses wrong by a mere $1, even if he or she wins the case, they could be liable to pay the wrongdoers legal fees.

The legislation also eliminates incentives to remediate Y2K problems. The ''reasonable efforts'' defense is so broad it would even cover intentional wrongdoing or fraud, so long as the misconduct was eventually papered over by any sort of post-hoc reasonable effort. Even if a defendant takes minimal steps to remedy a Y2K problem, it will serve as a complete defense against a tort action, thereby undercutting incentives to prepare for and prevent Y2K errors. In addition, the bill's punitive damage restrictions provide the greatest amount of liability protection to the worse offenders and those who have done the least to solve their Y2K problems, while the limitations on directors and officers liability will protect irresponsible and reckless behavior.

Given the evidence we have so far, it is impossible to justify such a complete reworking of our state civil justice system to accommodate a single industry. I would remind the Members that a recent New York Times article noted that ''so far the cases offer little support for the dire predictions that courts will be choked by litigation over Y2K.'' Even high tech executives have questioned the magnitude of the problem, with Jim Clark, the co-founder of Netscape Communications and Silicon Graphics stating, ''I consider [Y2K] a complete ruse promulgated by consulting companies to drum up business . . . the problem is way overblown [and is] a good example of press piling on.''

However, I do believe it is possible to achieve a reasonable middle ground on this issue. Democrats have a long track record of working with the high tech community in order to maintain American leadership in information technology and preserve and foster American jobs. We have been out front in supporting copyright reform, patent reform, encryption reform and state tax reform, to name but a few recent initiatives. Just last Congress we strongly supported the Readiness Disclosure Act, which protected high tech companies from Y2K disclosure liability.

We are ready, willing and able to work with the interested parties on the Y2K problem as well—but only if all sides are willing to be more realistic and practical in their goals. A substitute Ms. LOFGREN, Mr. BOUCHER, and I plan to offer today will be a good faith effort to achieve this goal. But I cannot support the bill as it is presently written, and I must urge a No vote.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

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

Mr. DOOLEY of California. Mr. Chairman, I rise in strong support for H.R. 775, the Y2K Readiness and Responsibility Act. The Y2K transition presents a very unique set of challenges, and that is why I am pleased to be a cosponsor of this legislation which has developed a very specifically and

narrowly crafted piece of legislation targeted to address this one-time situation.

H.R. 775 embodies a few key principles: Accountability, fairness and predictability. It represents a strong bipartisan effort targeted at addressing the potential Y2K challenges facing our Nation's businesses, consumers and public agencies by providing incentives and resources to ensure that businesses continue with their mitigation efforts. The bill also develops a roadmap for navigating potential Y2K glitches that may occur after December 31, 1999.

The reason we need to do this is because some people have estimated that it might cost over $50 billion to fix Y2K problems. We need to continue to see these efforts move forward, but we also need to have a process put in place to ensure that we can resolve disputes should they occur.

Since cosponsoring this legislation, I have had the opportunity to meet with constituent groups and business leaders representing all sectors of our economy, including representatives from the financial service sector in New York and high-tech leaders in Silicon Valley in Seattle. And whether I was talking to small business owners or consumers, technology executives or Wall Street traders, they all delivered the same message and expressed the same concerns regarding Y2K challenges: First, they are committed to fixing any potential problems associated with Y2K and are investing all necessary resources to prevent Y2K failures.

Second, they want to be treated fairly. Many of them are both potential plaintiffs and defendants. They want assurances that potential problems will be fixed quickly and with minimal disruptions. They also want to ensure that they will be accountable for remedying their share of potential problems that develop and not expected to cure problems which they have no responsibility for.

And third, they are looking for some level of predictability. Businesses and consumers alike are troubled by the current atmosphere of uncertainty and are looking for a predictable process to remedy potential Y2K problems and to mediate Y2K disputes.

The high tech industry, which has been the driving force in our nation's unprecedented economic growth, is solidly supporting this legislation. Every major technology association, including: the Information Technology Industry Council; the Information Technology Association of America; the Semiconductor Industry Association; the Software Information Industry Association; the Business Software Alliance; the Telecommunication Industry Association; The American Electronics Association; the Computing Technology Industry Association; Technology Network; the National Association Computer Consultant Business; and the Semiconductor Equipment and Materials International have endorsed H.R. 775. These associations represent a broad section of companies, ranging from the smallest start-ups to industry leaders, but they are unified in support of our legislation because it will encourage mitigation above litigation, and will ensure the continued robust growth of the U.S. economy.

I am also concerned that some may resort to litigation alleging Year 2000 failures against parties that truly bear no responsibility for any Y2K failure in a consumer product. I know that sometimes plaintiffs will sue parties for their deep pockets, and even when there is no liability, defendants wind up absorbing the cost of the litigation. I believe the legislation before us takes sound steps to curb this problem. In particular, it seems to me that when a retail seller or lessor of a computer product does no more than sell the product in the packaging in which it was received, and does not do anything to that product that affects the Year 2000 compliance, that seller or lessor should not be subject to liability in a Year 2000 case. I believe that the language of the legislation addressing the case where the defendant has sole control of the product, Section 301(1), properly provides for such a result.

Make no mistake. The Y2K Readiness and Responsibility Act holds businesses and individuals responsible for their products and their actions. It ensures that individuals and companies who experience Y2K problems have their problems fixed as quickly and orderly as possible, and that they recover any economic loss that results from Y2K failures. There are no limits on economic damages, so plaintiffs are eligible to receive all potential economic losses resulting from Y2K problems.

Like the securities litigation reform legislation that was enacted in the last Congress, the Y2K Readiness and Responsibility Act makes sure people are responsible for the share of any Year 2000 problem they cause, not problems caused by others. The Y2K Readiness and Responsibility Act would assign proportional liability for Y2K problems and failures.

Our legislation encourages mitigation and remediation over litigation by creating a 90 day cure period to fix the problem before resorting to litigation. The legislation would require the submission of a written notice outlining the Y2K problem, give the defendant 30 days to propose a remedy to the problem, and would allow the plaintiff to sue if a plan had not been put forward within the 30 day period or within 90 days if they were not satisfied with the defendant's remediation offer. In addition, the bill promotes the use of Alternative Dispute Resolution.

Some have argued that there is no demonstrated need for the legislation. In fact, Y2K litigation is already on the rise. According to a recently published story in Time magazine, the filing of Y2K lawsuits has increased dramatically with at least 78 suits filed to date and nearly 800 legal disputes in the process of formal negotiation. Lloyds of London insurance has projected that worldwide claims could exceed $1 trillion, which would prove to be a considerable drain on our strong economy by diverting resources from investment, research and income growth.

We all hope that when the New Year comes that the investment in Y2K fixes will have paid off and that we will be faced with relatively few problems. The Y2K Readiness and Responsibility Act simply establishes a set of ground rules to minimize the potential effects of Y2K problems of businesses and consumers alike if failures do occur.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BOUCHER).

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

Mr. BOUCHER. Mr. Chairman, I thank the gentlewoman from California for yielding me this time.

Today, Mr. Chairman, we will debate the approach that should be taken by the Congress to address the problems associated with the Y2K computer transition. These problems are real, and those on this side of the aisle share the concerns of the technology community that an addressing of these concerns by the Congress should be provided.

I think the national interest will be well served through the adoption by the Congress of a framework through which Y2K problems can be presented and repairs made. Where repairs cannot be made, that framework should lead to the provision of appropriate damage payments.

As we build that framework for the Y2K transition, it is important that we keep our focus on the actual unique circumstance that has been presented to the Congress. We must avoid the temptation to use the Y2K problem for the creation of a template to enact overly-broad legislative restrictions on litigation that would then be applied by future Congresses in other subject matter areas.

I would ask the Members to bear in mind that we have a limited amount of time within which to pass this measure. For most legislation we have a longer time horizon, but this measure will only carry the protections we hope to extend if it is in place before the end of this year.

Given the press of appropriation bills, which are immediately pending, we really have a very narrow window within which to act. And to act within that narrow time calls for a narrow measure, one that meets the legitimate needs of the companies that will be the subject of Y2K suits and one that is limited just to those legitimate needs.

I have been pleased to work closely over the course of the past month with the gentlewoman from California (Ms. LOFGREN) and the gentleman from Michigan (Mr. CONYERS) as we have structured a substitute that does meet those legitimate needs. Today, we will be offering that substitute.

□ 1215

Our substitute will be a major help to all of the affected parties in making the Y2K transition. It is narrowly targeted to meet the needs that have been presented. It will not impose overly broad limits on litigation. It can be signed into law within the narrow window of opportunity that is present to us.

As the Members consider H.R. 775, as reported from the committee, which, in my opinion, is overly broad, I will urge

the Members on both sides of the aisle to also carefully consider the substitute that we are putting forward and to choose that approach that is best structured to solve the actual problems that have been presented and that can be enacted at the earliest possible time. Only our substitute meets that test.

Mr. GOODLATTE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, on December 31, 1999, as that big ball comes down in Times Square, we will be faced with a very real problem that demands a real response from the business community. Knowing of these potential disasters and the time constraint with which we are faced, one would assume that businesses are now laboring feverishly to correct the problem that may result with a single-minded focus. But this has not been the case, unfortunately.

Instead of taking a more active approach to solving the Y2K problem, many businesses find themselves expending time and energy on liability issues. In large corporations, the work of software engineers has to be rigorously examined and approved by legal departments. Small entrepreneurs, on the other hand, are faced with the dilemma of funding extensive Y2K-compliant changes or saving for potentially bankrupting legislation and litigation.

Given these circumstances, American society could be confronted by an extended period of challenging technological and economic issues; and that is why I have cosponsored this legislation, H.R. 775, and why I rise today in support of its passage.

This bipartisan legislation creates incentives for businesses to address the impending Year 2000 problem by creating a legal framework in which Y2K-related disputes will be resolved. The emphasis is placed on mediation and cooperation over litigation. Businesses are encouraged to help each other solve potential problems, rather than sue over something that could have been averted.

Finally, the legislation provides entrepreneurs and small businesses with access to small business administration loans for Y2K modification projects. We must not permit a climate to foster in which businesses paralyzed by a fear of unrestrained lawsuits fail to take action that would adequately address the problem. And this bill allows businesses to focus their efforts on finding real solutions, rather than anticipating out-of-control lawsuits that only serve to aggravate the situation.

The Year 2000 Readiness and Responsibility Act is critical in helping consumers and businesses that may be impacted negatively if the Y2K problem is not resolved in a timely and efficient manner. The Congressional Budget Office indicates that this would save money for the government if we pass this and for the taxpayers. Therefore, I urge my colleagues to vote for its passage today.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. DELAHUNT. Mr. Chairman, well, here we go again, crafting public policy without a clue as to why or what we are really doing; and the American people should be aware of it.

Just last week, we passed a bankruptcy reform bill based on dubious assertions by the credit card industry that the bill would result in lower costs to consumers. One industry-funded study said that the bill would save the average household over $400 per year; and this figure found its way into every witness statement and ''Dear Colleague'' letter, as though it were an established fact.

It was also routinely cited in press accounts, even after the study was flatly contradicted by a chorus of consumer advocates and bankruptcy experts, even after the Congressional Budget Office and the General Accounting Office were unable to substantiate the figure, even after every witness at a subcommittee hearing admitted that corporate cost savings would not be passed on to consumers in the form of lower interest rates.

And today we are at it again. We are considering legislation that would exempt large businesses from any liability for Year 2000 failures for which they are, in fact, responsible. And, once again, we are presented with a headline-grabbing assertion, ''pass this legislation or American companies will face $1 trillion in litigation costs.''

Well, $1 trillion is serious money, Mr. Chairman. But where is the evidence? Where does that estimate come from? I asked that question repeatedly in committee; and I never received an answer, never. But, later on, I asked one of our witnesses who looked into the matter; and I want to read into the RECORD his account of where that number came from.

The one-trillion-dollar figure emanated from the testimony of Ann Coffou, Managing Director of Giga Information Group, before the U.S. House of Representatives Science Committee on March 20, 1997, during which Ms. Coffou estimated that the Year 2000 litigation costs could perhaps top $1 trillion. Ms. Coffou's estimate was later cited at a Year 2000 conference hosted by Lloyds of London and immediately became attributable to the Lloyds organization rather than the Giga Group.

Obviously, those who want to use the trillion-dollar estimate for their own legislative purposes prefer to cite Lloyds of London rather than the Giga Group as the source of this estimate. There has been no scientific study and there is no basis other than guesswork as to the cost of litigation. This so-called trillion-dollar estimate by the Giga Group is totally unfounded but once it achieved the attribution to Lloyds of London, the figure became gospel and is now quoted in the media and legislative hearings as if this unscientific guess by this small Y2K group should be afforded the dignity of scientific data.

A guess, Mr. Chairman. That is what this legislation is based on, a guess, a guess that has acquired the status of an accepted fact through nothing more than repetition.

Now, I know this is old fashioned, but before we proceed to confer blanket immunity on those who fail to act responsibly, I think we should have something more than a guess. And before we deprive consumers and small businesses of compensation for the losses they will sustain if their computers do not work, I think we should have something more than a guess. And before we override centuries of common law, both at the State and Federal level, both substantive and procedural, I think we should have something more than a guess.

We are told that this bill is necessary to encourage businesses to take the necessary steps to avert or minimize the Year 2000 problem. The Lofgren-Boucher-Conyers substitute does just that. Yet the underlying bill, by removing the threat of liability, discourages and undermines the incentive that companies have to do so to bring their problems into compliance. And it is the American people who will be left holding the bag on January 1.

The bill discourages compliance. It benefits the large multinational corporations, to the detriment of small business and the individual consumer. This bill ought not to pass, and I urge support for the substitute offered by the gentleman from Virginia (Mr. BOUCHER), by the gentlewoman from California (Ms. LOFGREN), and by the gentleman from Michigan (Mr. CONYERS), the ranking member on the committee.

Mr. GOODLATTE. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. DAVIS), the author of the bill.

Mr. DAVIS of Virginia. Mr. Speaker, just to clear a couple things up, small businesses support this legislation. The National Federation of Independent Businesses is scoring this as a key vote. They represent both potential plaintiffs and defendants in these actions.

Secondly, nothing here we are doing disallows a consumer or an injured party from suing for full damages. What they do not get are massive punitive damages. They can get up to $250,000 in non-economic damages and three times actual damages. But they are not barred, as some State legislatures do, from collecting damages. Some States treat this almost as an act of God where they get nothing. So I think that clarification is important.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

(Mrs. BIGGERT asked and was given permission to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Chairman, I rise to speak today in favor of House Resolution 775, the Year 2000 Readiness and

Responsibility Act; and I commend the gentlemen from Virginia for their leadership on the Y2K liability issue.

In my former life in the Illinois State Legislature, I also drafted a liability bill for the Year 2000. When I came to Congress, I thought I had left Y2K behind. However, as they say, the more things change, the more they stay the same.

As the Vice Chairman of the Subcommittee on Government Management, Information and Technology, I have participated in a series of hearings on Y2K compliance at Federal agencies. I believe that, largely because of congressional attention, our Federal agencies will be ready for the Year 2000 date change. But will our Nation's small and large businesses be ready?

Many of our Nation's lawyers are gambling that they will not. Dozens of Y2K-related lawsuits already have been filed in the United States, and estimates of the total costs associated with the Y2K litigation approach $1 trillion. Comparatively, the total annual direct and indirect costs of all civil actions in the United States is estimated at $300 billion.

The Y2K computer date change will affect every business, consumer, local government and school. When we wake up on January 1 of the year 2000, we need the continued computer capacity of water and sewage plants, utilities, gas stations, pharmaceutical companies, hospitals and local traffic lights.

Absent this bill, I strongly believe that the threat of Y2K liability has the potential to discourage effective actions on Y2K compliance. We must, instead, encourage plaintiffs and defendants in Y2K legal actions to work together to find solutions to the Y2K problem. The bill encourages Y2K fixes but discourages Y2K lawsuits by encouraging alternative dispute resolution, placing limitations on damages and requiring pretrial notice.

American businesses are already investing up to $1 trillion to ready their computers so that we can enter our new millennium as smoothly as we leave the old. Instead of preparing for liability, small businesses especially need to work together, share information and solve Y2K problems before the end of the year. For, as we all know, the year 2000 will not wait.

I urge my colleagues to support this legislation on behalf of workers, consumers and businesswomen and men.

Mr. BOUCHER. Mr. Chairman, I ask of the Chair the amount of time remaining for both sides?

The CHAIRMAN (Mr. LAHOOD). The gentleman from Virginia (Mr. BOUCHER) has 15 minutes remaining. The gentleman from Virginia (Mr. GOODLATTE) has 13½ minutes remaining.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, I represent the Central Texas area, where high technology has really provided the engine for the unprecedented economic growth that we have experienced.

I want to support reasonable legislation that will benefit that industry and our community, but I really do not believe that this is it. I have the greatest respect for my colleague (Mr. DAVIS of Virginia), with whom I am in general agreement on technology issues. But on this particular issue, I believe that there is a bit of overreaching that gets us into some really serious problems.

□ 1230

The exclusion by the Committee on Rules in this debate of the amendment by our Republican colleague Mr. EHLERS and of several proposals by the gentleman from Virginia (Mr. SCOTT) suggests that the debate is designed to force an up or down vote on a version of this bill that does much more than is necessary to protect the technology community.

As a former State court judge, I am particularly concerned by the unequivocal rejection of provisions of this bill by the Judicial Conference of the United States. That is a body composed largely of Federal judges appointed by Presidents Reagan and Bush. This bill takes what the Judicial Conference describes as a ''radically different approach'' with ''the potential of overwhelming Federal resources and the capacity of the Federal courts to resolve not only Y2K cases, but other causes of action as well.''

The United States Department of Justice has likewise opposed this extreme measure, noting that ''even a defendant who recklessly disregarded a known risk of Y2K failure could escape liability.'' The Department of Justice also opposes this bill because it ''would preclude federal and state agencies from imposing civil penalties on small businesses for first-time violations of federal information collection requirements.''

Most of the reasonable provisions of this proposal, and there are a number of reasonable provisions, are so reasonable that they are already the law in Texas and in most other places: penalties against anyone who brings a frivolous lawsuit, a requirement of adequate notice to someone who is going to be sued, a cooling-off period, an opportunity for a wrongdoer to cure the wrong, a duty for the victim to undertake reasonable steps to mitigate or minimize damage, and the use of mediation or alternative dispute resolution to avoid a lengthy jury trial. To the extent that there may be some deficiency in the laws of the States, the State legislatures are the place to deal with these kind of problems, and they are dealing with them.

That is why we have legislatures convene in places like Austin, Texas, where the Texas Legislature is sitting today. And only last week, the Texas Legislature unanimously sent to Governor George W. Bush a proposal that he supports that deals in a much less expansive way with this whole Y2K issue. I increasingly hear that my Republican colleagues are pretty enamored with George W., and I would just ask if he is good enough for you, why is his Y2K bill not good enough for them? Instead, by preempting Texas law, by overriding and essentially saying to the Texas legislature and our Texas governor that on Y2K, you are nuts, we are suggesting in this legislation that the good people of Texas or Florida or Minnesota or anywhere else in the country should yield to the alleged wiser wisdom of Washington. I think that that is the false premise of this bill.

As we look back over history a thousand years to the beginning of the current millennium, there were many apocalyptic visions of what might happen about this world. Today, a variety of people are approaching the new millennium with similar grave concern. Jerry Falwell, who believes the end is near, is predicting ''a possibility of catastrophe.'' There is a dark vision of the millennium at the Planet Art Network where you can get your galactic signature decoded and learn the real cause of Y2K. And there are a group of people, including some not far from where I live in Texas, that are stocking up on canned goods and bottled water, heading for the hills and abandoning the community in anticipation of all the ill that will flow in the millennium change.

Today we see the legislative view of this survivalist approach to Y2K. This is law making, which really fails to build on a bipartisan approach, but instead employs a measure that is opposed by every Democrat and one Republican and supported by every other Republican on the Judiciary Committee. Rather than trying to come together and find some true middle ground on addressing this Y2K issue, this bill really is attempting to set a precedent for undermining in other types of civil cases trial by jury, which represents one of the most valued rights shared by American citizens. This bill will encourage irresponsibility rather than responsibility; it does not represent the appropriate way to address the Y2K issue.

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

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

Mr. GOODLATTE. I thank the gentleman for yielding. My question is, the gentleman is not suggesting that the governor of Texas is opposed to this legislation, is he?

Mr. DOGGETT. I am suggesting that the governor of Texas has fulfilled his responsibility in calling for Y2K action in Texas, in building a consensus that produced a bipartisan bill approved unanimously by the legislature. If he provided such good leadership, why do we not follow that leadership in Texas instead of as your bill does, preempting, overriding and disregarding that action?

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GARY MILLER).

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

Mr. GARY MILLER of California. Mr. Chairman, I am not here today to talk about the Book of Revelation or the end of time. I rise in strong support of H.R. 775, the Year 2000 Readiness and Responsibility Act.

I want to thank the gentleman from Virginia (Mr. DAVIS), the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DREIER), the gentleman from Alabama (Mr. CRAMER), the gentleman from California (Mr. COX) and the gentleman from California (Mr. DOOLEY) for their leadership on this issue.

This bipartisan bill is our opportunity to provide critically needed protections for consumers and businesses to ensure that Y2K computer problems are addressed quickly and that precious resources are not squandered on needless litigation. To minimize the impact of the Y2K bug, American businesses are currently investing $600 billion and working diligently towards reprogramming and replacing their affected computer systems. Unfortunately there is no easy technological fix for this problem. Each computer must be meticulously fixed, tested and retested. Opportunistic individuals are only adding to an already almost insurmountable task by diverting attention and needed resources away from fixing the problem, with litigation.

To date, over 80 Y2K lawsuits have been filed and there are 790 letters demanding new Y2K litigation. It is estimated that unrestrained litigation could cost $1.4 trillion. That would only serve to line the pockets of greedy opportunists at the expense of American jobs.

H.R. 775 is a very reasonable approach to preventing an explosion of Y2K litigation. This bill favors remediation over litigation by encouraging parties to resolve their differences outside of the expensive court system through alternative dispute resolution. It also places the focus of Y2K problem solvers on a solution rather than fighting in court. At the same time H.R. 775 does not eliminate the normal legal options. Americans who suffer economic or physical injuries as a result of Y2K can still recover 100 percent of their actual damages. Many Y2K computer failures could occur weeks and months before January 1, 2000. That is why it is so important that we pass this legislation immediately and remove the legal obstacles that are preventing good faith efforts toward fixing the Y2K computer problem.

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

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

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in strong support of this legislation. We are just 200 days now away from the turn of the century. A lot of concern is being brought about what happens then. But sadly there are some folks that are, I think, unfortunately looking for ways to make money off the turn of the century. Today this bill is designed to keep that from happening.

This legislation we are voting on will reduce frivolous Y2K lawsuits by promoting remediation instead of litigation. In other words, it encourages people to work out their legitimate problems and claims outside of the courthouse, whenever possible, and still preserve the right of folks who suffer real injuries associated with the Y2K problem to file suits and to go through our judicial system when necessary. The bill also creates incentives to fix problems before they happen.

This meets what I like to call the west Texas tractor seat, common sense approach to a very real problem. I encourage my colleagues to support this legislation.

Mr. GOODLATTE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I rise in strong support of this legislation. If we expect American businesses to continue their global leadership in innovation, productivity and success to drive our economy and create new jobs, they must be given the tools to allow them to compete. One of the fundamental tools of success and competition in the American economy and the high tech community is being free from the burdens of opportunistic lawsuits which are clearly designed to harm American businesses. H.R. 775 does this by placing caps on punitive damages, creating a waiting period on lawsuit filings and establishing a loser pay system.

Unless we establish liability protections, many if not most of American businesses will be hesitant to solve any Y2K problems for fear of lawsuits. Let us do what is the right thing here, Mr. Chairman, and pass this bill overwhelmingly.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time. I will not consume all that time, but I felt it necessary to respond to the primary sponsor for whom I have great respect, the gentleman from Virginia (Mr. DAVIS), when he talks about small businesses.

I would like to point out just one particular aspect of this proposal that will hurt small businesses. This goes to the issue of economic loss. If a small business under the provisions of this bill should incur a disruption in the course of its business because of the negligence of another party because of the Y2K bug issue, that small business will not be entitled to losses such as lost profits, such as business interruption and other such consequential damages. I am not talking about frivolous lawsuits here. I am talking about lawsuits that are meritorious.

What this bill will do will disadvantage small businesses, because they do not in many cases have the financial wherewithal to take on the giants. Clearly the damages that they will be seeking is because their business will be hurt, in many cases will be devastated, and in many cases might very well end up in bankruptcy. So maybe the NFIB is scoring this, but I suggest a careful reading of this language will show that this bill harms small business as well as the consumer.

In addition, for those that have meritorious claims, we have changed the standard, we have changed the burden of proof on small businesses in their attempt to recover their legitimate and valid remedies. We have changed it from a mere preponderance of the evidence to now a totally different standard, one that is more akin to the criminal law. It is just a short way from beyond a reasonable doubt, and, that is, clear and convincing evidence.

Let me suggest that the substitute offered by the gentleman from Virginia and the gentlewoman from California and the ranking member will address the issues that they are concerned about.

Mr. GOODLATTE. Mr. Chairman, I yield myself 45 seconds. I have some bad news for the gentleman from Massachusetts. The provisions of the Conyers-Boucher-Lofgren substitute related to economic losses are very similar. In fact, ours are more limited than theirs are with regard to that position. In addition, the White House in a letter that they submitted yesterday, signed by Bruce Lindsey and Gene Sperling, states,

> Many States have legal rules limiting the recovery of economic loss damages in certain tort lawsuits. These rules are designed to bar parties to contracts from avoiding contract limitations on liability by suing in tort. We would support statutory recognition of this rule as a way to limit frivolous Y2K claims, provided that the rule is limited appropriately so that it would not effectively prevent recovery in cases of fraud.

Ours is more limited than theirs.

□ 1245

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. DAVIS), the principal sponsor of this legislation and my good friend.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding this time to me, and I have great respect for my colleagues on the other side in trying to get together on this issue because I think they recognize, and even the White House has come to recognize just in the last couple of days, that the fastest growing segment of the American economy, our technology sector, is jeopardized by an occurrence of an infusion of litigation on Y2K liability in this.

This is complicated. We can have a computer system that is Y2K compliant, but because it is so interconnected to other areas, even when we test it we will end up talking to other areas over the long term. We could not test that it could disrupt that system.

A clear and convincing standard is needed, frankly. I would make that argument as opposed to the old preponderance of the evidence where somebody is hurt and somebody pays.

That is what makes this so unique. That is why we are not trying to rewrite tort law in its entirety.

Mr. Chairman, I just address a few of the issues that have been raised on the other side.

We have heard the usual arguments about a sledgehammer approach, about extreme measures, but these are approaches that this House has voted for before, Members of both parties. We talked about a real bipartisan solution. What that means is something the President will sign, something the Trial Lawyers Association will agree to, something that they can try to please everyone.

But that does not solve the problem. The problem of those solutions is it does not get to the heart of what American companies are about to face. We are in a borderless economy, worldwide economy, today. Fastest growing segment of our economy: the technology sector that is jeopardized by lawsuits; and this jeopardizes whether it is a trillion dollars or whether it is tens of billions of dollars, which is what asbestos is. These are profits that could be channeled into new products to continue to keep American companies competitive in the global market place, and instead they are going to be bogged down in protracted litigation, in attorneys' fees and settlement costs that do not need to be.

Under our legislation, everybody who is injured gets their damages. They can prove it, they get their damages. They can even get three times their economic loss in punitive damages, or $250,000, whichever is the most. We are not depriving anyone of anything.

The gentleman from Michigan made a comment that reasonable efforts by the defendant will bar the incurrence of damages. That does not happen at all. It just caps punitive damages. It just takes away a doctrine, joint and several liability, that in this very interconnected world where we have embedded chips and the like and it is very difficult to place, allocate, blame, will not bring down large companies because they happen to have the deep pockets and because somebody else might have messed up a problem 25 years ago and they cannot find them today.

Even the administration in their letter recognizes that perhaps some use of proportional liability may be appropriate in this as long as the defendant could get full damages from the defendants that they could find. The language: We have to escape an administration veto.

We are not running cover for anybody here. We are trying to pass legislation. If we have this language, we never would have gotten the securities litigation damage where this House overrode an administration veto, or just a couple of years ago. What we want is commonsense litigation against the heart of this problem, and that is we are taking the fastest growing part of our economy, we are putting it in jeopardy, and what that does on the worldwide marketplace wherein other countries, they do not face the litigious society that we do here, where they can continue to grow and prosper and produce jobs and keep the economy humming.

Ironically, many of the individuals who oppose this legislation in the administration will not be here when we see the results of not enacting this legislation down the road. They will be blaming people who are then in office because of legislation that is passed today.

Our job is not to necessarily escape an administration veto, particularly in a bill that goes through the House for the first time. We overrode the administration on securities' legislation. We are not going to let the trial lawyers or any single interest group write this bill. Our job is not to provide cover to any political entity in this. It is to write a commonsense bill that gets the job done.

Small businesses are both plaintiffs and defendants in this. Small businesses are hurt if they cannot sue and get damages under the instances described by the gentleman from Massachusetts, but they can sue here and get full damages. They get their economic damages. They can get a modicum of punitive damages as well.

That is why the National Federation of Independent Business, the largest small business organization in the country, endorses this legislation. That is why the U.S. Chamber of Commerce, made up of large and small organizations, endorse this legislation. That is why I asked unanimous consent this be placed into the RECORD.

The credit unions now endorse this legislation, H.R. 775, because they are small businesses that recognize that, without this kind of relief, their businesses can be brought down, they can go bankrupt, and their customers and their employees are then out on the street.

I also will put into the RECORD a number of Chambers of Commerce and business entities and local groups from National League of Cities on.

CUNA & AFFILIATES
Washington, DC

MEMORANDUM

To: Governmental Affairs and Political Specialists.
From: Richard Gose and Karen Ward.
Re: Late Breaking News on Y2K and Gaps Conference Call, Wednesday, May 12th
Date: May 11, 1999.

LATE BREAKING DEVELOPMENT—HOUSE TO VOTE ON Y2K LIABILITY LEGISLATION TOMORROW, MAY 12TH

Today, the House Leadership decided to put H.R. 775, the Year 2000 Readiness and Responsibility Act, on the floor May 12th. According to the Rules Committee, the legislation will be considered under a ''modified closed rule.'' Six amendments will be voted on—CUNA urges Yes votes on three amendments: Davis (VA) which defines the types of damages recovered under the bill and changes the effective date of the legislation to January 1, 1999; Moran (VA) which exempts all claims arising from a personal injury suit; Jackson-Lee (TX) which clarifies language regarding notification; and a Yes vote for final passage.

Due to the very technical nature of this legislation, we feel that it would be most appropriate for league staff and only selected credit union leaders to lobby their legislators for passage of this bill. Any calls that can be placed to House members' offices tomorrow morning would be very helpful.

GAPS CALL ON SENATE BANKRUPTCY VOTE

As you saw in this afternoon's Call to Action, bankruptcy reform is headed for a floor vote in the Senate possibly, as soon as next Monday. We will be holding a GAPS call tomorrow, May 12th at 1:30 pm Eastern Time to discuss our lobbying and grassroots strategy for this bill. We hope that you will be able to join us for this call which we expect to be relatively brief, with the first half used for an update from our lobbying team and the second half reserved for questions and discussion.

The call-in number for the call is: 1–888–243–0810.

The confirmation number is: 1551181.

MAY 11, 1999.

Hon. _____ _____
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE: As leaders of America's information and high technology industry associations—representing a broad cross-section of companies, ranging from the smallest start-ups to the industry leaders—we are writing to express our strong support for HR 775, bipartisan legislation, to provide a framework under which year 2000 (Y2K)-related disputes can be resolved without costly lawsuits.

Our industry wants Congress to pass and the President to sign legislation that will encourage all businesses to continue efforts to fix, rather than litigate, Y2K-related problems. H.R. 775 creates powerful incentives for companies to remediate Y2K problems, while preserving the rights of those who suffer real injuries to pursue legal recourse. It is essential that everyone in the supply chain of the American economy work together to prevent the unique situation of the century date change from triggering chaos in our legal system and the entire economy.

Congress, the White House and the business community worked together last year to unanimously enact the Year 2000 Information and Readiness Disclosure Act. That important legislation has helped encourage information-sharing to enhance Y2K readiness throughout all sectors of the American economy. H.R. 775 will provide additional tools

and incentives to enable businesses and their customers to concentrate their efforts, attention and resources on preventing year 2000-related problems.

The companies we represent, together with their customers and suppliers, support HR 775 legislation to ensure the continued robust growth of the American economy, through an investment in remediation not litigation efforts.

Sincerely,

Rhett B. Dawson, President, Information Technology Industry Council (ITI).

Harris N. Miller, President, Information Technology Association of America (ITAA).

George Scalise, President, Semiconductor Industry Association (SIA).

Ken Wasch, President, Software Information Industry Association (SIIA).

Robert Holleyman, President, Business Software Alliance (BSA).

Matthew Flanigan, President, Telecommunications Industry Association (TIA).

William Archey, President, American Electronics Association (AEA).

John Venator, President, Computing Technology Industry Association (CompTIA).

Reed Hastings, President, Technology Network (TechNet).

Don McLaurin, President, National Association Computer Consultant Business (NACCB).

Stanley Myers, President, Semiconductor Equipment and Materials International (SEMI).

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I think it is important to state for the RECORD when the gentleman speaks that a litigant in a suit when punitive damages are awarded under the provisions of this bill does not receive those punitive damages, that it goes to a special fund.

Now, if I am misstating the language of the bill, maybe the gentleman can educate me.

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

Mr. DELAHUNT. I yield to the gentleman from Virginia.

Mr. GOODLATTE. As a part of the self-executing rule that was just passed by this House those provisions were taken out.

Mr. DELAHUNT. Mr. Chairman, I am very pleased to hear that.

Mr. GOODLATTE. Maybe that would have changed the gentleman from Massachusetts' vote on the rule, had he known that.

Mr. DELAHUNT. Mr. Chairman, it would not have changed my vote on the rule, but it certainly takes a bill from being very bad to simply bad.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of the Committee on the Judiciary.

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

Mr. BRYANT. Mr. Chairman, I rise in support of H.R. 775 and certainly want to commend both sides of this debate and certainly the level of the debate. I think it simply shows that, in both cases, reasonable minds can disagree.

I think we all recognize the potential problem out there with Y2K litigation, the uniqueness that it would provide to us all, the challenge here, and I think that is why many of us want to look to a special bill here that would give incentives to people rather than go the traditional adversarial route in the courts and bog down in litigation and get into that adversarial situation where neither side does anything for awhile until the court system operates.

We, many of us, feel the need to have this procedure that would encourage people to settle, to work quickly to get the computer systems and networks back up, to get our commerce system to the extent that it has been slowed down back up to full speed.

As my colleagues know, it has been mentioned that 98 percent of the businesses in this country are small businesses. What we are also failing to mention here, though, is that these small businesses employ 60 percent of the work force. We are talking about a lot of people here and an awful lot of jobs at stake, and that is why these issues of alternative dispute resolution, of new forms of offers of judgment where people, if they do not better their offer of judgment, then they have to pay the other side's attorneys' fees. Whether the cooling off period that we provide here, these are all very solid legal procedures that would encourage people to sit down and work it out in a businesslike manner.

There is provision in this bill for fair compensation, but, on the other hand, there is provision in this bill for remedial action, which is what we have talked about all along and, again, due to just the special circumstances that we could be facing on January 1, Year 2000, because of the uniqueness of this potential legal matter and because of the possible ramifications across our society and, again, 98 percent of the small businesses and 60 percent of the work force.

I would ask that this not be a business-as-usual situation.

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

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

Mr. Chairman, I urge my colleagues to support this important legislation. We have the reforms in it that were contained in the Contract with America 4 years ago, including caps on punitive damages so that no one unelected jury in some part of the country can give a multi-million-dollar award that can wipe out a business, change national public policy without the Congress or other State legislative bodies having the ability to do that. We limit the effect of joint and several liability by making it proportionate liability so that if one is 1 percent at fault they are not held responsible for a hundred percent of the damages in a case which is under current law. We change that so that if one is 1 percent at fault they only pay 1 percent of the liability.

In addition, we have reforms here of class action lawsuits so that one cannot go forum shopping in a particular State, to a particular county, to a particular court, to a particular judge that may be favorable to bringing what is otherwise a frivolous class action lawsuit. There are States in this country that have certified a great many nationwide class action lawsuits; in fact, more than the entire Federal judiciary has certified in some years, and that reform is badly needed.

This legislation encourages parties to get together, work out their problems, solve the Y2K problem without first filing a lawsuit; and they do that by encouraging alternative dispute resolution. We do that by discouraging the filing of frivolous lawsuits because, if we do that, they may wind up paying some of their opposing side's attorney fees if their suit is deemed nonmeritorious. And I encourage my colleagues to support this legislation and to oppose the amendments that are going to be offered by the gentleman from New York (Mr. NADLER) and the gentleman from Virginia (Mr. SCOTT) which we will address shortly.

Mr. BLILEY. Mr. Chairman, I rise in support of H.R. 775, the Year 2000 Readiness and Responsibility Act. With just over seven months to go until the new millennium, it is important for the Congress to move forward with this legislation. This year, the Commonwealth of Virginia enacted its own legislation on Year 2000 problems. As the bill we have on the floor today goes to conference, I will be watching to see whether the provisions of Virginia's Year 2000 law will remain operative.

I thank the sponsors of the bill for their hard work.

Mr. COX. Mr. Chairman, whatever its other consequences, the Y2K bug may crash the nation's justice system—not for days or weeks but for years. Our justice system, already plagued by intolerable delays and expense, could be submerged under a deluge of cases—both meritorious and frivolous—sparked by Y2K. Though estimates of legal liability have ranged as high as a trillion dollars (Lloyd's of London), no one can confidently predict the scale of the liability crisis because no consensus has developed—even among the best informed experts on the subject—about how serious and widespread the underlying Y2K problems will be.

The scale of the legal problem can be guessed at by the scope of remediation efforts: The Gartner Group, a consulting firm, has estimated costs of $400–600 billion worldwide to fix the problem. Federal Express will spend $500 million; Citibank will spend $600 million; Merrill Lynch has 80 people working in shifts, 24 hours a day, seven days a week.

These efforts are focused on two main problems: first, the potential inability of programming in both software and hardware to accurately process date-related codes after 2000 because, to conserve memory, programmers in the past used a two-digit rather than four-digit date field; and second, the potential inability of embedded chips in every sort of mechanical device imaginable to function accurately because they, too, use two-digit date fields.

Even the best-informed Y2K experts differ as to the scope of the problem and the success of the massive public and private remediation efforts now going on around the world.

We can be sure, however, that our Dickensian legal system, which cannot address even 20th-century legal problems, will be wholly unequal to dealing with the millennium bug.

Fear of the impending litigation is already seriously impeding remediation of Y2K problems, causing businesses to limit their own internal reviews and external disclosure and cooperation so that they can avoid being accused of making inaccurate statements or engaging in ''knowing'' misconduct.

Even President Clinton, who has steadfastly opposed civil justice reform and even vetoed the bipartisan 1995 law suit reform bill—it was evaded anyway, over his veto—has accepted the need for a specific Y2K reform when he signed Mr. DREIER's ''Y2K Information and Readiness Disclosure Act'' in October 1998. This bill, which I cosponsored, is designed to encourage businesses to disclose the status of their Y2K readiness (and thereby encourage cooperation on remediation) without fear that their disclosures will lead to a securities suit.

But much more remains to be done: Fear of unfair liability is continuing to chill proactive remediation efforts, and in any case Congress must put in place a framework now to control the avalanche of litigation that we can see coming.

Y2K will exacerbate all the existing flaws in our legal system. Y2K lawsuits began to be filed in mid-1997, two and a half years before the millennium, and trial lawyers are now holding workshops and symposia on how to run Y2K class actions. Unless Congress acts quickly, we will soon see the same kind of abusive class actions that led Congress to act in 1995 and again in 1998 to curb securities strike suits—but this time, on a vastly larger scale, affecting virtually every sector of the economy. Enterprising lawyers will bring meritless suits to shake down deep-pockets defendants, or will run meritorious claims for their own benefit rather than their clients'—raking off hundreds of millions and even billions of dollars in fees that should have gone to redress their clients' injuries.

In the tobacco cases, for example, billions of dollars in fees have already been diverted from tobacco victims to their counsel: in Texas, they will receive some $92,000 an hour.

Tobacco lawyers fees in just two settled cases, Texas and Minnesota, amount to $2.8 billion; attorney's fees under all existing state contingent-fee contracts have been estimated to run to $14–19 billion; private tobacco suits have been estimated to generate more than $30 billion in lawyers' fees, and could soon average $3–8 billion a year.

Our legal system does no better at handling non-class action, business-to-business litigation, which the millennium bug will also generate in vast quantities. Lawsuits between software and hardware vendors and their customers will be only the top level of Y2K litigation that could cascade through every economic relationship in the economy.

It's vital that Congress act now to set sensible limits on this potential avalanche of litigation.

H.R. 775, the Year 2000 Readiness and Responsibility Act, was introduced in late February 1999 by Republican Representatives DAVIS, DREIER, and COX and by Democratic Representatives MORAN, CRAMER, and DOOLEY. This balanced, pro-consumer legislation will help remove the current disincentives to proactive remediation of Y2K problems. It will help people by focusing on fixing the Y2K problems in advance—not affixing blame for them afterwards.

If failures occur, its innovative procedural reforms will encourage constructive alternatives to long, drawn-out lawsuits. It strengthens pleading standards to help winnow out meritless cases. It adopts the Fair Share Rule of proportionate liability for year 2000 claims. It sets reasonable parameters for punitive damages. And it adopts important pro-consumer class-action reforms in Y2K cases. I'm delighted to have cosponsored this important, common-sense reform, which will help consumers and preserve our country's high-tech edge in the global economy.

Mr. CRAMER. Mr. Chairman, the year 2000 is only a little over 7 months away.

We've all heard the dire predictions—airplanes will fall out of the sky, or the nation's power grid will go down, or the world's financial markets will crash. Our nation's business community has heard these predictions as well. That's why as we get closer and closer to the year 2000, the business community is accelerating its already massive effort to bring their computer systems into Y2K compliance. And Mr. Chairman, it is a massive effort. It has been estimated that by the time all is said and done, American businesses will have spent $50 billion on addressing Y2K problems.

However, Mr. Chairman, we must all admit that despite their best efforts, and despite the extraordinary amount of money invested in bringing their computer systems up to speed, something, somewhere will go wrong. It's inevitable. Today our world economy is so interdependent and tied to computers that a major Y2K failure almost anywhere in the world has the potential to result in minor or major disruptions everywhere.

Mr. Chairman, when this day comes we must have in place an effective legal framework for dealing with all the litigation that will surely result from these expectant Y2K failures or disruptions. The Y2K special committee in the Senate has stated that litigation could cost as much as one trillion dollars. I don't know about my colleagues, but I would like to see our nation's business community spend their resources on fixing the problem rather than litigating it. Indeed, despite the fact that we are 7 months away from the year 2000, more than 80 Y2K lawsuits have already been filed. Can you imagine how many frivolous lawsuits will be filed once we've had the first failure or disruption?

That is why I am supporting H.R. 775. This bill sets in place an effective legal framework that will sift through the frivolous lawsuits while allowing the meritorious lawsuits to precede. H.R. 775 encourages a fast, fair and predictable mechanism for resolving Y2K related disputes. It encourages resolutions outside of the courtroom so that problems can be fixed quickly.

What this bill will not do, as some of my colleagues will argue it does, is encourage people not to fix the problem. In fact, there are no protections for people or businesses that act irresponsibly or negligently in preparing for the Y2K problem.

This bill makes sure that businesses that attempt to fix their Y2K problems are not unfairly punished by being exposed to frivolous lawsuits. But, it still holds people accountable if they are negligent or irresponsible. If someone intends to sue a company for damages related to Y2K, the bill would give the company 90 days to fix the problem before a lawsuit could be filed. In addition, defendants would only be liable for their portion of the damages—if the court says a company is responsible for 10 percent of the problem, then the company pays 10 percent of the damages.

I represent a high-tech district in the state of Alabama where the Y2K issue is at the forefront of a lot of people's minds. State officials in Alabama have recently announced that our state is behind schedule on the Y2K problem. Businesses in my District are concerned, not with the possibility of experiencing Y2K failures—because the large majority of these businesses have made the good-faith effort to commit the resources necessary to reach compliance—but rather these companies are concerned with the threat of frivolous lawsuits. In a recent letter to me, one company wrote, ''At very considerable expense to us, our company has gone to great lengths to make sure that we are Y2K compliant, but we do expect problems will be passed on to us. A mountain of litigation could create untold amounts of time and expense which could be the hole that 'sinks the ship' ''.

Mr. Chairman, the American people are looking for leadership on this issue—not just empty rhetoric. H.R. 775, is a responsible step in the right direction. It allows our legal system to work as it should—meritorious lawsuits will precede and frivolous lawsuits will be stopped.

Mr. Chairman, as I said earlier, the year 2000 is only a little over 7 months away. The clock is ticking and time is running out. It's time for this Congress to act and provide the protection that our business community needs. We need to create an environment where responsible firms can concentrate on solving their Y2K problems, rather than spending their time working on legal defense strategies. H.R. 775 does this.

Therefore, I urge my colleagues to support passage of H.R. 775.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to express my opposition to the passage of H.R. 775, the Year 2000 Readiness and Responsibility Act. I will vote ''no'' on final passage because H.R. 775 rewards companies' inadequate response and irresponsible behavior in light of the Year 2000 computer problem. This bill is more appropriately characterized as tort restructuring legislation, limiting the basic right of wronged parties to find redress through the legal system.

Computer technology facilitates virtually all the activities that pervade our daily lives. The threat of computer failure in relation to the Year 2000 problem has been looming over our heads for many years. In previous sessions, Congress focused on means to overcome this defect and provided funding for emergency situations that may arise. These are positive, constructive ways of handling this critically important issue. On the contrary, the legislation before us merely places the burden of counteracting difficulty caused by computer technology malfunctions on the consumer, rather than the manufacturer. This is a patently unfair proposition.

H.R. 775 strikes at the heart of tort law, removing basic rights which secure redress for wronged individuals. The most untenable portion of H.R. 775 is the establishment of the ''reasonable efforts'' defense. According to the

bill's provisions, even if a defendant company was grossly negligent or intentionally at fault, as long as they make ''reasonable efforts'' to solve the problem the defendant bears no liability for the defect.

Instead, the consumer bears the burden for the defective product. This holds true despite the extent of the plaintiff's resultant damage. Small business owners, Mom and Pop stores, struggling entrepreneurs, these are the individuals who will lose if H.R. 775 becomes law.

Although technology producers have known about the Y2K computer glitch for many years, H.R. 775 severely limits punitive damages for Y2K defects. Why do technology producers merit this special benefit when they are presently on notice that their products could contain flaws and have the opportunity to rectify them now? Situations may exist where it is financially prudent for companies to ignore their products' Y2K defects. Why, then, should we release these companies from punitive liability for their intentional omissions?

In addition, H.R. 775 removes the right to claim joint and several liability. If a plaintiff maintains that a product created by several defendants is faulty, the plaintiff must pursue each defendant individually to prove their percentage of responsibility instead of shifting this burden to the defendant. This section of the bill makes people harmed by Y2K glitches less likely to recoup their losses and deprives them of a fundamental, legal benefit.

Representatives CONYERS, LOFGREN, and BOUCHER offered a substitute bill which balances the interests of economic stability and a consumer's right to redress. The Conyers amendment sought to curb frivolous, damaging lawsuits, but did not do so at the expense of a plaintiff's essential rights. It established a ''cooling off'' period to allow parties to settle their differences outside of court, relieved defendants of joint and several liability if they were responsible for only a small portion of the defect, and encouraged alternative dispute resolution. It left the basic tenets of tort law unchanged while providing special rules for this unique, critical situation. I supported the Conyers, Lofgren, Boucher substitute. I cannot support the extant H.R. 775.

Mr. POMEROY. Mr. Chairman, I am voting today against H.R. 775, the Year 2000 Readiness and Responsibility Act, and am voting in favor of the Conyers substitute.

Both alternatives fall short of providing the proactive measured relief warranted on this unique issue, but the flaw in H.R. 775 is fatal in its character, while the Conyers substitute offers a platform for further refinement in conference committee.

The fatal flaw in H.R. 775 is the ''loser pays'' provision which holds a litigant liable to pay the other side's attorneys' fees if the plaintiff rejects a pre-trial settlement offer, and then ultimately secures a less favorable verdict from the court.

The ''loser pays'' provision (Section 507) is drastic overkill which could actually discourage companies from fixing their computer systems in advance of the problem. The ''loser pays'' provision will create a particular problem for small businesses and middle income victims of Y2K failures because these groups have far less financial resources than large defendant corporations and cannot afford the risk of paying a large corporation's legal fees based on the outcome of a trial.

In effect, the possibility of an adverse verdict will deter small businesses from pursuing even the most egregious claims to court. The provision is so onerous that it would even apply to a harmed party that prevails in a Y2K action so long as they obtain less than a pretrial settlement. This would have the perverse effect of rewarding a negligent or reckless defendant and punishing an innocent victim.

I do not believe, however, the Conyers substitute does enough to address joint and several liability exposure. I am concerned that many high technology firms will be held accountable for an entire damage award simply because they played some small role in designing a system several years ago, even when the principal party responsible makes little or no effort to update their systems into Y2K compliance. H.R. 777's proportionate liability provision makes a defendant liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that company, and if amended to address responsibility for orphan shares, represents reform I could support.

Mr. Chairman, I truly hope that we can address these outstanding issues and work together to strike the proper legal balance that addresses the Y2K liability question. Unfortunately the vote today does not represent an acceptable package. I vote ''no'' and hope further legislative activity on this issue will create an appropriate response that I will be able to support.

Mr. PACKARD. Mr. Chairman, as we prepare to enter the new millennium, this is a time of anxious anticipation for what the next century will bring. However, as eager as we may be for the new millennium, we are also apprehensive over problems that may be looming around the corner with the Year 2000.

We only have 233 days left until the computer-related doomsday commonly known as the Y2K problem strikes. The Y2K Computer problem derived from the time when the first computers were developed, and programmers decided to denote a year using two digits instead of four. In other words, without a solution to this problem, computers may read all dates as ''1900'' instead of ''2000'' which could cause mayhem around the world. Just think about all the normal daily activities that will be affected, airlines reservations, ATM accounts, e-mail, even your VCR.

Not surprisingly, the Y2K computer problem has spurred several lawsuits. It has been reported that for every $1 spent trying to fix this glitch, $2–$3 are spent on litigation. This sends a clear message that this system is in desperate need of repair. It is absurd that we spend more money battling lawsuits rather than fixing the problem.

The Year 2000 Readiness and Responsibility Act will curb the costs of litigation associated with the Y2K computer problem. H.R. 775 will establish a $250,000 limit on punitive damages awarded in Y2K lawsuits, and mandate a 90-day waiting period before potential plaintiffs may file a Y2K claim to allow businesses to correct the problem. This is important legislation, which will allow experts who can fix the Y2K computer problem to actually do so without fear of liability for other problems they did not create.

Mr. Chairman, I think it is clear the time has come to focus our efforts on solving this obstacle, not creating additional costly hurdles. We need to fix Y2K related problems, rather than litigate them. I urge my colleagues to support H.R. 775 and fix this broken system.

Mr. SHAYS. Mr. Chairman, I strongly support H.R. 775, the Year 2000 Readiness and Responsibility Act. This bill is a balanced approach to prevent a slew of frivolous lawsuits from being visited upon businesses who made a good faith effort to fix their Y2K problems, while at the same time holding truly negligent businesses responsible for not correcting theirs.

The extent of the Y2K problem won't be known until January 1, 2000. But there's one thing we can already be certain of: lawyers are lining up to sue everyone whose operations are even slightly hampered by the computer bug.

Today, companies in my district, and all over this country, are working overtime to fix their Y2K problems. Let's face it: they're doing so because it is in their economic self-interest. No company wants to lose business because of an inability to fix a computer bug. And no company wants computer systems that cannot operate in the next millennium.

But even while companies take proper steps to fix their computer glitches, problems may still arise, and that is why this legislation is necessary.

H.R. 775 takes a number of common sense steps to reduce the number of law suits that stem from computer problems. The bill limits punitive damages to the higher of $250,000 or three times the amount awarded for compensatory damages, in addition to allowing for the recovery of 100 percent of economic damages.

The bill also mandates a 90-day waiting period before potential plaintiffs may file a Y2K claim to allow businesses time to correct the problem, makes defendants liable only for the proportion of the judgment for which they are at fault, and creates a ''loser-pays'' mechanism when a plaintiff rejects a settlement offer higher than the amount eventually awarded by the court.

Today's economy is growing rapidly. But we mustn't lose sight that the quality of life of all Americans would be negatively affected if we allow the Year 2000 bug to impose excessive financial costs on American businesses.

On May 6, Federal Reserve Chairman Alan Greenspan stated that our nation's ''phenomenal'' economic performance can be credited in large part to leaps in technology, which have made our economy more efficient. The lawsuits that would result if we don't pass this bill will substantially hamper our nation's economic progress. Fear of litigation and its excessive costs will prevent U.S. companies from realizing their economic potential, and that means less jobs for all Americans.

H.R. 775 is vital to American businesses, which pay taxes and create jobs. It will allow them to use their resources to fix their Y2K problems—not fend off frivolous law suits.

We need solutions—not lawsuits. We need to pass this bill.

Mr. CONYERS. Mr. Chairman, I insert the following correspondence for printing in the RECORD:

APRIL 19, 1999.

DEAR REPRESENTATIVE: The undersigned organizations are writing to alert you to serious problems in proposed Year 2000 (Y2K) legislation that could result in far-reaching environmental consequences. the Y2K liability bill sponsored by Representative Tom Davis (H.R. 775) threatens to remove important incentives for companies to fix potentially devastating Y2K computer processing

problems before they occur. The bill also would undermine the ability to individuals and communities injured by Y2K environmental accidents to seek full redress in the courts. We ask you to vote against this bill and any similar legislation which would remove incentives and shield companies that have failed to fix their Y2K problems from legal accountability for any environmental damage.

Y2K processing problems in mainframe computers and embedded chip systems have the potential to harm the environment and affect public health. Although the full extent of environmental problems that may result from Y2K failures is not known, the Environmental Protection Agency has said that ''[d]evastating effects could occur through such problems as accidental contamination of drinking water, the release of harmful pollutants into the air, and the inappropriate distribution of chemicals and toxins into the community.'' A recent report from the U.S. Chemical Safety and Hazard Investigation Board stressed special concern that the Y2K readiness efforts of small to medium-sized chemical facilities are ''less than appropriate.''

We join the House of Representatives in encouraging companies whose computer failures could harm the environment to act now to make their systems Y2K compliant, but we believe the proposed bill would have the opposite effect. Rational businesses facing potential liability for environmental harm will attempt to limit their liability by implementing measures to avoid causing such harm. We believe the threat of extensive liability has already done much to induce companies to become Y2K compliant. By passing bills like H.R. 775, Congress would send the opposite message. The proposed legislation would provide the greatest rewards for inaction to those companies that have done the least to resolve Y2K issues. Passage of this bill may make environmental accidents from Y2K failures more likely, not less.

The bill defines a ''Y2K claim'' as *any* case in which a plaintiff asserts a claim for damages directly or indirectly caused by an actual or potential Y2K failure, or a defendant asserts an actual or potential Y2K failure as a defense in a civil suit. Although the bill exempts claims for physical injury to individuals, this sweeping definition would impede civil actions to recover compensation for damage to personal property and to bring citizens enforcement actions against companies that violate federal or state environmental laws by releasing pollutants into the air or water. The definition of Y2K action in the bill is so sweeping it appears that any time defendants in a civil action wish to avail themselves of the liability limitations in the bills (for example, for environmental violations or community contamination), the defendants need only assert that a computer date processing error was the cause, and procedural hurdles for plaintiffs, new legal excuses for defendants and liability limitations could automatically apply.

We urge you to oppose this bill and any others that would shield defendants from full accountability for environmental harm caused by their Y2K failures, interfere with enforcement of state and federal environmental laws and make it more difficult for individuals and communities to seek full and fair redress from Y2K-related environmental releases.

Sincerely,

STEPHAN KLINE,
Alliance for Justice.
DANIEL J. BARRY,
Americans for the Environment.
MARK SHAFFER,
Defenders of Wildlife.
COURTNEY CUFF,
Friends of the Earth.
JEFF WISE,
National Environmental Trust.
GREG WETSTONE,
Natural Resources Defense Council.
DAVID LOCHBAUM,
Union of Concerned Scientists.
ALLISON LAPLANTE,
U.S. PIRG.

CHEMICAL SAFETY BOARD PRESENTS Y2K REPORT TO SENATE SPECIAL COMMITTEE

(Washington, D.C.—March 15, 1999) Citing 'significant gaps' in awareness, surveillance and communications, members of the U.S. Chemical Safety and Hazard Investigation Board (CSB) today presented their report on potential Y2K problems among chemical manufacturers, handlers and users to the Senate Special Committee on the Year 2000 Technology Problem.

CSB Chairman and Chief Executive Officer Dr. Paul L. Hill, Jr. accompanied by Board Members and Y2K project coordinator Dr. Gerald V. Poje, presented the report to Senate Committee Chairman Robert Bennett (R–Utah). The report indicated intense efforts among the nation's large chemical producers and handlers, but warned of a lack of information on the readiness of small and medium-sized companies in the chemical industry.

''We're pleased that with encouragement from the Senate Special committee we were able to assemble a diverse group of experts from labor, industry, government and environmental groups to discuss the challenges to chemical safety presented by the Y2K technology problem,'' Hill said. ''Now it is up to those same groups to ensure that chemical safety systems work into and beyond the Year 2000.''

The report, prepared at the request of the Senate Special Committee, was the result of a collaborative effort between the CSB and industry, labor, government and environmental group representatives who met in a CSB-organized round table discussion of the problem last December.

''We want to be sure that Y2K doesn't become an explosive catalyst for system failures in the chemical industry.'' Bennett said. ''This industry is already accustomed to dealing with dangerous chemicals, and although I am hopeful there won't be Y2K-related accidents in the chemical industry, the risks are too great to chance the possibility of failures that threaten human lives.''

The following findings were presented in the CSB report:

Large chemical companies with sufficient awareness, leadership, planning and resources to address the Y2K problem are unlikely to experience catastrophic failures—unless there are widespread power failures.

There is a lack of information about small- and medium-sized chemical businesses, but readiness efforts appear to be ''less than appropriate.''

Current federal safety rules provide valuable guidance for risk management, but no specific Y2K guidelines for the chemical industry have been provided by the federal agencies, and there are no plans to do so.

The CSB recommended that the administration convene an urgent meeting of federal agencies to plan public awareness campaigns, develop local and state emergency response and preparedness plans, and contingencies for emergency shutdowns and manual operation of chemical facilities. The report also stresses the importance of preserving the national power grid and local utility continuity.

The Chemical Safety Board is an independent federal agency with the mission of ensuring the safety of workers and the public by preventing or minimizing the effects of industrial and commercial chemical incidents. Congress modeled it after the National Transportation Safety Board (NTSB), which investigates aircraft and other transportation accidents for the purpose of improving safety.

Like the NTSB, the CSB is a scientific investigatory organization. CSB is responsible for finding ways to prevent or minimize the effects of chemical accidents at industrial facilities and in transport; the Board is not an enforcement or regulatory body, but can make recommendations to the Congress and other federal agencies.

[From the Public Citizen, May 10, 1999]

SUMMARY OF H.R. 775, THE ANTI-CONSUMER, ANTI-REMEDIATION Y2K BILL

H.R. 775 unfairly limits defendants' liability for injuries to consumers and small businesses that result from computer failures due to the Year 2000 date processing problem. Rather than promoting ''readiness and responsibility,'' H.R. 775 gives special protections to corporations whose actions result in serious harm to consumers and small companies. This removes one of the primary motivating factors for the Y2K remediation efforts—the threat of legal accountability offered by a strong civil justice system.

Every section of the bill benefits corporate wrongdoers at the expense of injured consumers and small businesses. These one-sided, unfair provisions would:

Cap punitive damages at $250,000 or three times compensatory damages, whichever is greater. For individuals with a net worth of $500,000 or less or businesses or units of local government with fewer than 25 employees, the cap would be whichever amount is smaller. This provision gives the most protection to the most irresponsible companies and is a strong disincentive to quick remediation before failures occur.

Create a new and unprecedented federal standard for punitive damages in Y2K cases. The bill dictates to the States unprecedented new requirements for imposing punitive damages, mandating that punitive damages may only be assessed in Y2K cases if the plaintiff shows by clear and convincing evidence that the defendant's conduct showed a conscious, flagrant indifference to the rights or safety of others and was the proximate cause of the harm or loss at issue in the case. These requirements are in addition to any others imposed by state law for awards of punitive damages—State standards that are already very difficult for plaintiffs to meet. Taken together, these requirements could virtually wipe out punitive damages in Y2K cases. The proximate cause requirement itself is unprecedented in punitive damages law and is tantamount to a bar on these damages in cases where it is not possible to prove a direct causal link between the defendant's egregious acts and the plaintiff's injury.

Require that plaintiffs wait up to 90 days before they can file suit. Plaintiffs must give defendants notice of their intent to sue, and all defendants must do is respond to the notice in 30 days to say what measures they will take—if any—during the next 60 days to fix the problem. But there is no requirement that defects be corrected even though a plaintiff company could suffer substantial losses or go out of business during the waiting period.

Limit Recovery for Economic Losses. H.R. 775 prevents recovery for economic losses unless such losses are provided for by contract

or incidental to personal injury or property damages, in addition to other requirements already in State law. Under this provision, a small business forced to close because of Y2K failures could be left without compensation for economic losses such as lost profits or sales.

Eliminate Joint and Several Liability. The bill makes it federal policy to leave innocent consumers and small businesses injured by Y2K failures uncompensated rather than to make wrongdoers jointly pay for the full amount of the injuries they caused. This means that injured plaintiffs run the risk of remaining partially uncompensated for their Y2K economic and non-economic damages if one or more defendants is judgment-proof. The elimination of joint liability applies even to defendants that were reckless or deliberately injured consumers and small businesses.

Cap the liability of corporate officers and executives. Total liability for corporate officers and executives would be limited to the greater of $100,000 or the person's annual compensation—no matter how knowing or delinquent the corporate officers' or executives' acts were, or how many people were harmed.

Add onerous requirements for more specific information in the pleading document that initiates a case. Normally plaintiffs are required to just give notice of what product or action injured them, not provide evidentiary details backing up their allegations at the outset. Then the discovery process allows the plaintiffs' attorneys to uncover facts and evidence about the defendant's actions and state of mind. This bill requires plaintiffs to provide facts about elements such as the defendant's state of mind before the discovery process ever begins.

Allow most class actions to be removed to federal court, allowing the defendants to choose the most favorable forum. Any claim with aggregated damages of $1 million could be removed from State to federal court even if the suit is based on State law. Plaintiffs must also show that the defect was material for the majority of the class (necessitating individual contact with and assessment of each class member before bringing the case, a requirement that doesn't exist under most, if any, current State laws).

Allow defendants to disclaim implied warrants of fitness. In most States, products are warranted to be fit for the purposes for which they are sold. This bill would allow small print disclaimers and consumers probably never read to keep consumers from recovering for defective products and the losses they cause unless the enforcement of the disclaimer would ''mainifestly and directly'' contravene State law.

The unfairness of H.R. 775 is revealed not only by its one-sided, anti-consumer provisions but also by its one-way preemption of State law. Proponents of this bill say that it would standardize laws across 50 States. However, in several key areas, the bill would not standardize the law but would only preempt state laws that are more pro-consumer than the federal bill. For example, the limits of corporate officer and executive liability only overrides State laws where officers and executives are potentially liable for greater amounts; it leaves in place State laws that cap officer liability at an amount lower than in this federal legislation. The proposal is carefully crafted to provide the most protection for the industries lobbying for it, and the least for those who are injured.

MEDIA ALERT

Who: U.S. Senator Robert F. Bennett (R-Utah), Chairman, Senate Special Committee on the Year 2000 Technology Problem.

What: Tour of Sybron Chemicals Inc., Birmingham, NJ.

Field Hearing on Chemical Industry Y2K Preparedness, Trenton, NJ.

When: Monday, May 10, 1999.

Where: Birmingham, NJ—Trenton, NJ.

Plant Tour and Press Availability, 10 am., Sybron Chemicals, Inc., Birmingham Road, Birmingham, NJ.

Field Hearing, 12 noon, New Jersey Statehouse Annex, 125 West State Street, 4th Floor—Room 11, Trenton, NJ.

SCHEDULED WITNESSES

Charles Jeffress, Assistant Secretary of Labor, U.S. Occupational Safety and Health Agency (OSHA).

Dr. Gerald Poje, Board Member, U.S. Chemical Safety and Hazard Investigation Board.

Paul Couvillion, Global Y2K Director, DuPont.

Jamie Schleck, Executive Vice President, Jame Fine Chemicals, Inc., Bound Brook, NJ.

James Makris, Director, Office of Chemical Emergency Preparedness and Prevention, U.S. Environmental Protection Agency (EPA).

Charlie Martin, Jr., Site Safety Director, Hickson DanChem Corporation, Danville, VA.

Robert Wages, Executive Vice President, Paper, Allied-Industrial, Chemical and Energy Workers (PACE) International Union.

Captain Kevin Hayden, Assistant State Director of Emergency Management, State of New Jersey.

Jane Nagoki, Board Member, Work Environment Council of New Jersey.

BACKGROUND

A report release in March by the U.S. Chemical Safety Board found the chemical production industry among those vulnerable to Y2K-related problems. the report divided the potential for ''catastrophic'' events at U.S. Chemical process plants into three parts:

Failures from software or embedded chips.

External Y2K failures such as power loss.

Multiple accidents that may strain emergency response organizations.

The report found that Y2K assessments on small and medium-sized chemical facilities are ''indeterminate.''

There are approximately 278,000 facilities in the U.S. that generate, transport, treat, store or dispose of hazardous chemicals such as chlorine, propane, and ammonia.

According to the EPA, 85 million Americans live and work within a 5-mile radius of 66,000 facilities handling regulated amounts of high hazard chemicals.

Mr. BOYD. Mr. Chairman, it is estimated that the Year 2000 computer problem could generate up to $1 trillion in litigation costs. This figure is staggering, particularly when we consider the billions of dollars that companies have already invested in trying to correct the crisis before it strikes. While we certainly want to guarantee the court system is open to small businesses who have genuine claims as a result of Y2K failures, we must ensure the Y2K crisis does not lead to a flood of frivolous lawsuits which will only tie up our courts, hampering the timely consideration of legitimate cases, and inhibit our Nation's economic prosperity.

For these reasons, I support Congress' consideration of legislation to lessen the economic impact of the Y2K problem and encourage businesses to correct the problem before January 1 arrives so the court system is not bogged down with unmeritorious claims. I believe H.R. 775, the Year 2000 Fairness and Responsibility Act, addresses many of these problems, and I support this legislation because I believe it is critical for this Congress to pass legislation dealing with Y2K problems before they occur.

However, I do have concerns about certain provisions included in H.R. 775, and I hope these problems with the bill will be addressed during the amendment process in the House and in conference committee negotiations. Most notably, I do not support the Committee passed ''loser pays'' provision which would require a litigant who was offered a settlement before trial to pay the other parties' attorney fees if the trial verdict is less favorable to the litigant than the settlement conditions. In such a case, a small business who actually wins a suit against a large software provider would be forced to pay that provider's attorney fees if the final award is $1 less than the proposed settlement figure.

In addition, I feel the ''reasonable efforts'' defense which the bill establishes for the defendant goes too far in overriding current contract and tort law. It is my hope that as Congress continues to consider this important legislation, we can develop a workable compromise which addresses these legislative problems and ensures both the plaintiffs and defendants in Y2K cases are treated fairly and guaranteed their day in court.

Mr. MOORE. Mr. Chairman, I rise to explain my votes cast today on H.R. 775, the Year 2000 Readiness and Responsibility Act.

I have heard from a number of businesspeople from Kansas' Third Congressional District who are concerned over the potential for liability over Year 2000 computer failures or for the cost of remediation. I agree that we should provide incentives to make Y2K systems compliant before a problem occurs, and that we should encourage resolution of Y2K problems without litigation, wherever possible. Therefore, I support a legislative solution that discourages frivolous litigation, while ensuring that the courts remain available for legitimate claims.

I am very concerned, however, that the bill before us today goes too far. Enactment in its current form will lessen the incentive for corrective action by businesses.

I have several specific problems with the language in H.R. 775 that is before us today:

The legislation includes ''loser pays'' language providing that, if a plaintiff damaged by a Y2K defect rejects a plaintiff's offer to settle a case, and wins a verdict for even $1 less than the settlement offer, the plaintiff would be forced to pay the defendant's costs and attorneys' fees from the time of the offer. This proposal would fundamentally alter the American rule that each side should pay its own legal costs, and would impose a tremendous burden on small businesses harmed by Y2K defects.

Small businesses also often must resort to class action suits in order to pool the resources necessary to seek remediation through the judicial system. This legislation would impose federal standards on class action lawsuits excluding potential members of a class action who have been damaged by a Y2K defect from the class if they fail to respond to notices sent through the mail. The bill also adds additional burdens to our overtaxed federal court system by allowing the removal of state class action suits to federal court if the amount the defendant is being sued for is greater than $1 million.

The legislation also would limit punitive damages—assessed for the most outrageous misconduct—to the greater of three times the compensatory damages or $250,000. When the defendant is an individual with a net worth of less than $500,000 or a business with fewer than 25 employees, the arbitrary limit would be the lesser of three times the actual damages or $250,000. I am unconvinced of the need to eliminate the option of assessing a greater level of punitive damages against a defendant capable of paying such damages, if his or her conduct was so flagrantly abusive that our judicial system finds additional penalties are warranted.

Mr. Speaker, the Kansas Legislature considered, but did not enact, legislation to shield our state's businesses from Y2K liability. For this reason, I believe federal action in this area is appropriate. I supported the substitute amendment offered by Representative Lofgren, which addresses the legitimate needs of the high technology community without depriving harmed businesses and consumers of their basic rights. The Lofgren substitute encourages mediation, through a 90 day cooling off period and alternative dispute resolution procedures. It helps eliminate frivolous litigation, through special pleading requirements and mitigation of damages. It increases certainty within the legal process, by preserving the defenses of impossibility and commercial impracticability, and eliminating economic damages not covered by contract. Additionally, it limits joint and several liability.

I know that the legislation before the House today will be substantially revised before being presented to the President for his signature. The companion measure has not yet passed the Senate; both versions would then be considered, and redrafted, by a House-Senate conference committee before being submitted to the House for a final vote. I hope the final version of this measure will include the kind of moderate, common sense reforms that my constituents and I can support. I will continue to work with my House and Senate colleagues toward achievement of this goal.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendments printed in part 1 of House Report 106–134, is considered as an original bill for the purpose of amendment and is considered read.

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

H.R. 775

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Year 2000 Readiness and Responsibility Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Congress seeks to encourage businesses to concentrate their attention and resources in the short time remaining before January 1, 2000, on addressing, assessing, remediating, and testing their year 2000 problems, and to minimize any possible business disruptions associated with year 2000 issues.

(2) It is appropriate for the Congress to enact legislation to assure that year 2000 problems do not unnecessarily disrupt interstate commerce or create unnecessary case loads in Federal and State courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of the year 2000 problem.

(3) Year 2000 issues will affect practically all business enterprises to some degree, giving rise to a large number of disputes.

(4) Resorting to the legal system for resolution of year 2000 problems is not feasible for many businesses, particularly small businesses, because of its complexity and expense.

(5) The delays, expense, uncertainties, loss of control, adverse publicity and animosities that frequently accompany litigation of business disputes can only exacerbate the difficulties associated with the year 2000 date change, and work against the successful resolution of those difficulties.

(6) The Congress recognizes that every business in the United States should be concerned that widespread and protracted year 2000 litigation may threaten the network of valued and trusted business relationships that are so important to the effective functioning of the world economy, and which may put unbearable strains on an overburdened judicial system.

(7) A proliferation of frivolous year 2000 actions by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.

(8) The Congress encourages businesses to approach their year 2000 disputes responsibly, and to avoid unnecessary, time-consuming and costly litigation based on year 2000 failures. Congress supports good faith negotiations between parties when there is a dispute over a year 2000 problem, and, if necessary, urges the parties to enter into voluntary, non-binding mediation rather than litigation.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONTRACT.—The term ''contract'' means a contract, tariff, license, or warranty.

(2) DEFENDANT.—The term ''defendant'' means any person against whom a year 2000 claim has been asserted.

(3) ECONOMIC LOSS.—The term ''economic loss''—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes, but is not limited to, damages for lost profits or sales, for business interruption, for losses indirectly suffered as a result of the defendant's wrongful act or omission, for losses that arise because of the claims of third parties, for losses that must be pleaded as special damages, and consequential damages (as defined in the Uniform Commercial Code or analogous State commercial law).

(4) GOVERNMENTAL ENTITY.—The term ''governmental entity'' means an agency, instrumentality, other entity, or official of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities).

(5) MATERIAL DEFECT.—The term ''material defect'' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended. The term ''material defect'' does not include a defect that has an insignificant or de minimis effect on the operation or functioning of an item, that affects only a component of an item that, as a whole, substantially operates or functions as designed, or that has an insignificant or de minimis effect on the efficacy of the service provided.

(6) PERSON.—The term ''person'' means any natural person and any entity, organization, or enterprise, including but not limited to corporations, companies, joint stock companies, associations, partnerships, trusts, and governmental entities.

(7) PERSONAL INJURY.—The term ''personal injury'' means any physical injury to a natural person, including death of the person, and mental suffering, emotional distress, or like elements of injury suffered by a natural person in connection with a physical injury.

(8) PLAINTIFF.—The term ''plaintiff'' means any person who asserts a year 2000 claim.

(9) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages that are awarded against any person to punish such person or to deter such person, or others, from engaging in similar behavior in the future.

(10) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(11) YEAR 2000 ACTION.—The term ''year 2000 action'' means any civil action of any kind brought in any court under Federal or State law, or an agency board of contract appeal proceeding, in which a year 2000 claim is asserted.

(12) YEAR 2000 CLAIM.—The term ''year 2000 claim''—

(A) means any claim or cause of action of any kind, other than a claim based on personal injury, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, defense, or otherwise, in which the plaintiff's alleged loss or harm resulted, directly or indirectly, from a year 2000 failure;

(B) includes a claim brought in any Federal or State court by a governmental entity when acting in a commercial or contracting capacity; and

(C) does not include a claim brought by such a governmental entity acting in a regulatory, supervisory, or enforcement capacity.

(13) YEAR 2000 FAILURE.—The term ''year 2000 failure'' means any failure by any device or system (including, without limitation, any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving year 2000 date-related data.

SEC. 4. APPLICATION OF ACT.

(a) GENERAL RULE.—This Act applies to any year 2000 claim brought after February 22, 1999, including any appeal, remand, stay, or other judicial, administrative, or alternative dispute resolution proceeding with respect to such claim.

(b) NO NEW CAUSE OF ACTION CREATED.—Nothing in this Act creates a new cause of action, and, except as otherwise explicitly provided in this Act, nothing in this Act expands any liability otherwise imposed or limits any defense otherwise available under Federal or State law.

(c) EXCLUSION OF PERSONAL INJURY CLAIMS.—None of the provisions of this Act shall apply to any claim based on personal injury.

(d) PREEMPTION OF STATE LAW.—Except as otherwise provided in this Act, this Act supersedes State law to the extent that it establishes a rule of law applicable to a year 2000 claim that is inconsistent with State law.

TITLE I—UNIFORM PRE-LITIGATION PROCEDURES FOR YEAR 2000 ACTIONS

SEC. 101. NOTICE PROCEDURES TO AVOID UNNECESSARY YEAR 2000 ACTIONS.

(a) NOTIFICATION PERIOD.—Before filing a year 2000 action, except an action that seeks only injunctive relief, a prospective plaintiff shall send by certified mail to each prospective defendant a written notice that identifies, with particularity as to any year 2000 claim—

(1) any symptoms of any material defect alleged to have caused harm or loss;

(2) the harm or loss allegedly suffered by the prospective plaintiff;

(3) the facts that lead the prospective plaintiff to hold such person responsible for both the defect and the injury;

(4) the relief or action sought by the prospective plaintiff; and

(5) the name, title, address, and telephone numbers of any individual who has authority to negotiate a resolution of the dispute on behalf of the prospective plaintiff.

Except as provided in subsection (c), the prospective plaintiff shall not commence an action in Federal or State court until the expiration of 90 days after the date on which such notice is received. Such 90-day period shall be excluded in the computation of any applicable statute of limitations.

(b) RESPONSE TO NOTICE.—

(1) IN GENERAL.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall send by certified mail with return receipt requested to each prospective plaintiff a written statement acknowledging receipt of the notice and describing any actions it has taken or will take by not later than 60 days after the end of that 30-day period, to remedy the problem identified by the prospective plaintiff.

(2) INADMISSIBILITY.—A written statement required by this subsection is not admissible in evidence, under Rule 408 of the Federal Rules of Evidence or any analogous rule of evidence in any State, in any proceeding to prove liability for, or the invalidity of, a claim or its amount, or otherwise as evidence of conduct or statements made in compromise negotiations.

(3) PRESUMPTIVE TIME OF RECEIPT.—For purposes of paragraph (1), a notice under subsection (a) is presumed to be received 7 days after it was sent.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided pursuant to subsection (a) within the 30-day period specified in subsection (b) or does not describe the action, if any, that the prospective defendant has taken or will take to remedy the problem identified by the prospective plaintiff within the subsequent 60 days, the 90-day period specified in subsection (a) shall terminate at the end of that 30-day period as to that prospective defendant and the prospective plaintiff may thereafter commence its action against that prospective defendant.

(d) FAILURE TO PROVIDE NOTICE.—If a defendant determines that a plaintiff has filed a year 2000 action without providing the notice specified in subsection (a) and without awaiting the expiration of the 90-day period specified in subsection (a), the defendant may treat the plaintiff's complaint as such a notice by so informing the court and the plaintiff in its initial response to the complaint. If any defendant elects to treat the complaint as such a notice—

(1) the court shall stay all discovery in the action involving that defendant for the applicable time period provided in subsection (a) or (c), as the case may be, after filing of the complaint; and

(2) the time for filing answers and all other pleadings shall be tolled during such applicable period.

(e) EFFECT OF CONTRACTUAL WAITING PERIODS.—In cases in which a contract or a statute enacted before January 1, 1999, requires notice of nonperformance and provides for a period of delay prior to the initiation of suit for breach or repudiation of contract, the period of delay provided in the contract or the statute is controlling over the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—In any action in which a defendant acts pursuant to subsection (d) to stay the action, and the court subsequently finds that the defendant's assertion that the suit is a year 2000 action was frivolous and made for the purpose of causing unnecessary delay, the court may award sanctions to opposing parties in accordance with the provisions of Rule 11 of the Federal Rules of Civil Procedure or the equivalent applicable State rule.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

(h) SPECIAL RULE FOR CLASS ACTIONS.—For the purpose of applying this section to a year 2000 action that is maintained as a class action in Federal or State court, the requirements of the preceding subsections of this section apply only to named plaintiffs in the class action.

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION TO AVOID UNNECESSARY YEAR 2000 ACTIONS.

(a) IN GENERAL.—(1) At any time during the 90-day period specified in section 101(a), either party may request the other to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, they may also agree to an extension of the 90-day period.

(2) At any time after expiration of the 90-day period specified in section 101(a), whether before or after the filing of a complaint, either party may request the other to use alternative dispute resolution.

(b) PAYMENT OF MONEYS DUE.—If the parties resolve their dispute through alternative dispute resolution as provided in subsection (a), the defendant shall pay all moneys due within 30 days, unless another period of time is agreed to by the parties or established by contract between the parties.

(c) FORECLOSURE OF FURTHER PROCEEDINGS ON RESOLVED ISSUES.—Resolution of the issues by the parties prior to litigation through negotiation or alternative dispute resolution shall foreclose any further proceedings with respect to those issues.

SEC. 103. PLEADING REQUIREMENTS.

(a) APPLICATION WITH RULES OF CIVIL PROCEDURE.—This section applies exclusively to year 2000 claims and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal or State civil procedure.

(b) NATURE AND AMOUNT OF DAMAGES.—With respect to any year 2000 claim that seeks the award of money damages, the complaint shall state with particularity the nature and amount of each element of damages, and the factual basis for the damages calculation.

(c) MATERIAL DEFECTS.—With respect to any year 2000 claim in which the plaintiff alleges that a product or service was defective, the complaint shall identify with particularity the symptoms of the material defects and shall state with particularity the facts supporting the conclusion that the defects are material.

(d) REQUIRED STATE OF MIND.—With respect to any year 2000 claim as to which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each element of the year 2000 claim, state with particularity the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(e) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 action, the court shall, on the motion of any defendant, dismiss the complaint without prejudice if the requirements of subsection (a), (b), or (c) are not met with respect to any year 2000 claim asserted therein.

(2) STAY OF DISCOVERY.—In any year 2000 action, all discovery shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—During the pendency of any stay of discovery entered pursuant to this subsection, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically stored or recorded data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with subparagraph (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 104. DUTY OF ALL PERSONS TO MITIGATE YEAR 2000 COMPUTER FAILURES AND RESULTING DAMAGES.

Damages awarded for any year 2000 claim shall exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was, or reasonably should have been, aware, including information made available by the defendant to purchasers or users of the defendant's product or services concerning means of remedying or avoiding the year 2000 failure.

TITLE II—YEAR 2000 ACTIONS INVOLVING CONTRACTS

SEC. 201. CERTAINTY OF CONTRACT TERMS FOR PREVENTION OF YEAR 2000 DAMAGES.

(a) IN GENERAL.—Subject to subsection (b), in resolving any year 2000 claim, any written contractual term, including a limitation or an exclusion of liability, or a disclaimer of warranty, shall be fully enforced unless the enforcement of that term would manifestly and directly contravene applicable State law embodied in any statute in effect on January 1, 1999, specifically addressing that term.

(b) INTERPRETATION OF CONTRACT.—In resolving any year 2000 claim as to which a contract to which subsection (a) applies is silent with respect to a particular issue, the interpretation of the contract with respect to that issue shall be determined by applicable law in effect at the time the contract was executed.

SEC. 202. APPLICATION OF EXISTING IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY DOCTRINES.

(a) DOCTRINE OF IMPOSSIBILITY AND COMMERCIAL IMPRACTICABILITY.—With respect to any year 2000 claim for breach or repudiation of contract, the applicability of the doctrines of impossibility and commercial impracticability shall be determined by the law in existence on January 1, 1999. Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon such doctrines.

(b) REASONABLE EFFORTS.—To the extent that impossibility or commercial impracticability is raised as a defense against a claim for breach or repudiation of contract, the party asserting the defense shall be allowed to offer evidence that its implementation of the contract, or its efforts to implement the contract, were reasonable in light of the circumstances.

SEC. 203. PROTECTION OF PERSONS FROM LIABILITY NOT ANTICIPATED IN YEAR 2000 CONTRACTS.

With respect to any year 2000 claim involving a breach of contract or a claim related to the contract, no party may claim or be awarded any category of damages unless such damages are allowed by the express terms of the contract or, if the contract is silent on such damages, by operation of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into.

TITLE III—YEAR 2000 ACTIONS INVOLVING TORT AND OTHER NONCONTRACTUAL CLAIMS

SEC. 301. PROPORTIONATE LIABILITY.

(a) IN GENERAL.—A person against whom a final judgment is entered with respect to a year 2000 claim, other than a claim for breach or repudiation of contract, shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that person, as determined under subsection (b).

(b) DETERMINATION OF RESPONSIBILITY.—

(1) IN GENERAL.—With respect to any year 2000 claim, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including (but not limited to) persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of the defendant, the plaintiff, and each such person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(4) NONDISCLOSURE TO JURY.—The standard for allocation of damages under paragraph (1) shall not be disclosed to members of the jury.

SEC. 302. LIMITATION ON BYSTANDER LIABILITY FOR YEAR 2000 FAILURES.

(a) IN GENERAL.—With respect to any year 2000 claim for money damages in which—

(1) the defendant is not the manufacturer, seller, or distributor of a product, or the provider of a service, that suffers or causes the year 2000 failure at issue,

(2) the plaintiff is not in substantial privity with the defendant, and

(3) the defendant's actual or constructive awareness of an actual or potential year 2000 failure is an element of the claim under applicable law,

the defendant shall not be liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves by clear and convincing evidence that the defendant actually knew, or recklessly disregarded a known and substantial risk, that such failure would occur.

(b) SUBSTANTIAL PRIVITY.—For purposes of subsection (a)(2), a plaintiff and a defendant are in substantial privity when, in a year 2000 claim arising out of the performance of professional services, the plaintiff and the defendant either have contractual relations with one another or the plaintiff is a person who, prior to the defendant's performance of such services, was specifically identified to and acknowledged by the defendant as a person for whose special benefit the services were being performed.

(c) CERTAIN CLAIMS EXCLUDED.—For purposes of subsection (a)(3), claims in which the defendant's actual or constructive awareness of an actual or potential year 2000 failure is an element of the claim under applicable law do not include claims for negligence but do include claims such as fraud, constructive fraud, breach of fiduciary duty, negligent misrepresentation, and interference with contract or economic advantage.

SEC. 303. REASONABLE EFFORTS DEFENSE.

With respect to any year 2000 claim seeking money damages, except with respect to claims asserting breach or repudiation of contract—

(1) the fact that a year 2000 failure occurred in an entity, facility, system, product, or component that was sold by, leased by, rented by, or otherwise within the control of the party against whom the claim is asserted shall not constitute the sole basis for recovery; and

(2) the party against whom the claim is asserted shall be entitled to establish, as a complete defense to the claim, that it took measures that were reasonable under the circumstances to prevent the year 2000 failure from occurring or from causing the damages upon which the claim is based.

SEC. 304. DAMAGES LIMITATION.

(a) STANDARD FOR AWARDS.—With respect to any year 2000 claim for which punitive damages may be awarded under applicable law, the defendant shall not be liable for punitive damages unless the plaintiff proves by clear and convincing evidence that conduct carried out by the defendant showed a conscious, flagrant indifference to the rights or safety of others and was the proximate cause of the harm or loss that is the subject of the year 2000 claim. This requirement is in addition to any other requirement in applicable law for the award of such damages.

(b) CAPS ON PUNITIVE DAMAGES.—

(1) IN GENERAL.—With respect to any year 2000 claim, if a defendant is found liable for punitive damages, the amount of punitive damages that may be awarded to a plaintiff shall not exceed the greater of—

(A) 3 times the amount awarded to the plaintiff for compensatory damages; or

(B) $250,000.

(2) SPECIAL RULE.—

(A) IN GENERAL.—Notwithstanding paragraph (1), with respect to any year 2000 claim, if the defendant is found liable for punitive damages and the defendant—

(i) is an individual whose net worth does not exceed $500,000,

(ii) is an owner of an unincorporated business that has fewer than 25 full-time employees, or

(iii) is—

(I) a partnership,

(II) corporation,

(III) association,

(IV) unit of local government, or

(V) organization,

that has fewer than 25 full-time employees,

the amount of punitive damages shall not exceed the lesser of 3 times the amount awarded to the plaintiff for compensatory damages, or $250,000.

(B) APPLICABILITY.—For purposes of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary of a wholly owned corporation shall include all employees of a parent corporation or any subsidiary of that parent corporation.

(3) APPLICATION OF LIMITATIONS BY THE COURT.—The limitations contained in paragraphs (1) and (2) shall be applied by the court and shall not be disclosed to the jury.

SEC. 305. RECOVERY OF ECONOMIC DAMAGES FOR YEAR 2000 CLAIMS.

(a) LIMITATION ON RECOVERY OF ECONOMIC LOSSES.—Subject to subsection (b), a plaintiff making a year 2000 claim alleging a nonintentional tort may recover economic losses only upon establishing, in addition to all other elements of the claim under applicable law, that any one of the following circumstances exists:

(1) The recovery of such losses is provided for in a contract to which the plaintiff is a party.

(2) Such losses are incidental to a year 2000 claim based on damage to tangible personal or real property caused by a year 2000 failure (other than damage to property that is the subject of a contract between the parties involved in the year 2000 claim).

(b) RECOVERY MUST BE PERMITTED UNDER APPLICABLE LAW.—Economic losses shall be recoverable under this section only if applicable Federal law, or applicable State law embodied in statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses.

SEC. 306. LIABILITY OF OFFICERS AND DIRECTORS.

(a) IN GENERAL.—A director, officer, or trustee of a business or other organization (including a corporation, unincorporated association, partnership, or nonprofit organization) shall not be personally liable with respect to any year 2000 claim in his or her capacity as a director or officer of the business or organization for an aggregate amount that exceeds the greater of—

(1) $100,000; or

(2) the amount of cash compensation received by the director or officer from the business or organization during the 12-month period immediately preceding the act or omission for which liability was imposed.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to impose, or to permit the imposition of, personal liability on any director, officer, or trustee in excess of the aggregate amount of liability to which such director, officer, or trustee would be subject under applicable State law in existence on January 1, 1999 (including any charter or bylaw authorized by such State law).

TITLE IV—YEAR 2000 CLASS ACTIONS

SEC. 401. MINIMUM INJURY REQUIREMENT.

(a) IN GENERAL.—In any year 2000 action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court as to that claim only if it satisfies all other prerequisites established by applicable Federal or State law and the court also finds that the alleged defect in the product or service was a material defect as to a majority of the members of the class.

(b) DETERMINATION BY COURT.—As soon as practicable after the commencement of a year 2000 action involving a year 2000 claim that a product or service is defective and that is brought as a class action, the court shall determine by order whether the requirement set forth in subsection (a) is satisfied. An order under this subsection may be conditional, and may be altered or amended before the decision on the merits.

SEC. 402. NOTIFICATION.

(a) NOTICE BY MAIL.—In any year 2000 action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class by United States mail, return receipt requested. Persons whose actual receipt of the notice is not verified by the court or by counsel for one of the parties shall be excluded from the class unless those persons inform the court in writing, on a date no later than the commencement of trial or entry of judgment, that they wish to join the class.

(b) CONTENTS OF NOTICE.—In addition to any information required by applicable Federal or State law, the notice described in this subsection shall—

(1) concisely and clearly describe the nature of the action;

(2) identify the jurisdiction whose law will govern the action and where the action is pending;

(3) identify any potential claims that class counsel chose not to pursue so that the action would satisfy class certification requirements;

(4) describe the fee arrangements with class counsel, including the hourly fee being charged, or, if it is a contingency fee, the percentage of the final award which will be paid, including an estimate of the total amount that would be paid if the requested damages were to be granted; and

(5) describe the procedure for opting out of the class.

(c) SETTLEMENT.—The parties to a year 2000 action that is brought as a class action may not enter into, nor request court approval of, any settlement or compromise before the class has been certified.

SEC. 403. DISMISSAL PRIOR TO CERTIFICATION.

Before determining whether to certify a class in a year 2000 action, the court may decide a motion to dismiss or for summary judgment made by any party if the court concludes that decision will promote the fair and efficient adjudication of the controversy and will not cause undue delay.

SEC. 404. FEDERAL JURISDICTION IN YEAR 2000 CLASS ACTIONS.

(a) JURISDICTION.—Except as provided in subsection (b), a year 2000 action may be brought as a class action in the United States district court or removed to the appropriate United States district court if the amount in controversy is greater than the sum or value of $1,000,000 (exclusive of interest and costs), computed on the basis of all claims to be determined in the action.

(b) EXCEPTION.—A year 2000 action shall not be brought or removed as a class action under this section if—

(1)(A) the substantial majority of the members of the proposed plaintiff class are citizens of a single State of which the primary defendants are also citizens; and

(B) the claims asserted will be governed primarily by the laws of that State; or

(2) the primary defendants are States, State officials, or other governmental entities against whom the United States district court may be foreclosed from ordering relief.

TITLE V—CLIENT PROTECTION IN CONNECTION WITH YEAR 2000 ACTIONS

SEC. 501. SCOPE.

This title applies to any year 2000 action asserted or brought in Federal or State court.

SEC. 502. DEFINITIONS.

In this title:

(1) ATTORNEY.—the term ''attorney'' means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law.

(2) ATTORNEY'S SERVICES.—The term ''attorney's services'' means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test.

(3) CONTINGENT FEE.—The term ''contingent fee'' means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained.

(4) HOURLY FEE.—The term ''hourly fee'' means the cost or price per hour of an attorney's services.

(5) RETAIN.—The term ''retain'' means the act of a client in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

SEC. 503. CONSUMER'S RIGHT TO UP-FRONT DISCLOSURE OF INFORMATION REGARDING FEES AND SETTLEMENT PROPOSALS.

Before being retained by a client with respect to a year 2000 claim or a year 2000 action, an attorney shall disclose to the client the client's rights under this title and the client's right to receive a written statement of the information described under sections 504 and 505.

SEC. 504. INFORMATION AFTER INITIAL MEETING.

(a) WRITTEN DISCLOSURE OF FEES.—Within 30 days after the disclosure described under section 503, an attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall provide a written statement to the client setting forth—

(1) in the case of an attorney retained on an hourly basis, the attorney's hourly fee for services in pursuing the year 2000 claim or year 2000 action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the client's obligation for those expenses; and

(2) in the case of an attorney retained on a contingent fee basis, the attorney's contingent fee for services in pursuing the year 2000 claim or year 2000 action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the client's obligation for those expenses.

(b) CONSUMER'S RIGHT TO TIMELY UPDATED INFORMATION ABOUT FEES.—In addition to the requirements contained in subsection (a), in the case of an attorney retained on an hourly basis, the attorney shall also render regular statements (at least once each 90 days) to the client containing a description of hourly charges and expenses incurred in the pursuit of the client's year 2000 claim or year 2000 action by each attorney assigned to the client's matter.

SEC. 505. CONSUMER'S RIGHT TO TIMELY UPDATED INFORMATION ABOUT SETTLEMENT PROPOSALS AND DETAILED STATEMENT OF HOURS AND FEES.

An attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall advise the client of all written settlement offers to the client and of the attorney's estimate of the likelihood of achieving a more or less favorable resolution to the year 2000 claim or year 2000 action, the likely timing of such resolution, and the likely attorney's fees and expenses required to obtain such a resolution. An attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall, within a reasonable time not later than 60 days after the date on which the year 2000 claim or year 2000 action is finally settled or adjudicated, provide a written statement to the client containing—

(1) in the case of an attorney retained on an hourly basis, the actual number of hours expended by each attorney on behalf of the client in connection with the year 2000 claim or year 2000 action, the attorney's hourly rate, and the total amount of hourly fees; and

(2) in the case of an attorney retained on a contingent fee basis, the total contingent fee for the attorney's services in connection with the year 2000 claim or year 2000 action.

SEC. 506. CLASS ACTIONS.

An attorney representing a class or a defendant in a year 2000 action maintained as a class action shall make the disclosures required under this title to the presiding judge, in addition to making such disclosures to each named representative of the class. The presiding judge shall, at the outset of the year 2000 action, determine a reasonable attorney's fee by determining the appropriate hourly rate and the maximum percentage of the recovery to be paid in attorney's fees. Notwithstanding any other provision of law or agreement to the contrary, the presiding judge shall award attorney's fees only pursuant to this title.

SEC. 507. AWARD OF REASONABLE COSTS AND ATTORNEY'S FEES AFTER AN OFFER OF SETTLEMENT.

(a) OFFER OF SETTLEMENT.—With respect to any year 2000 claim, any party may, at any time not less than 10 days before trial, serve upon any adverse party a written offer to settle the year 2000 claim for money or property, including a motion to dismiss the claim, and to enter into a stipulation dismissing the claim or allowing judgment to be entered according to the terms of the offer. Any such offer, together with proof of service thereof, shall be filed with the clerk of the court.

(b) ACCEPTANCE OF OFFER.—If the party receiving an offer under subsection (a) serves written notice on the offeror that the offer is accepted, either party may then file with the clerk of the court the notice of acceptance, together with proof of service thereof.

(c) FURTHER OFFERS NOT PRECLUDED.—The fact that an offer under subsection (a) is made but not accepted does not preclude a subsequent offer under subsection (a). Evidence of an offer is not admissible for any purpose except in proceedings to enforce a settlement, or to determine costs and expenses under this section.

(d) EXEMPTION OF CLAIMS.—At any time before judgment is entered, the court, upon its own motion or upon the motion of any party, may exempt from this section any year 2000 claim that the court finds presents a question of law or fact that is novel and important and that substantially affects nonparties. If a claim is exempted from this section, all offers made by any party under subsection (a) with respect to that claim shall be void and have no effect.

(e) PETITION FOR PAYMENT OF COSTS, ETC.—If all offers made by a party under subsection (a) with respect to a year 2000 claim, including any motion to dismiss the claim, are not accepted and the dollar amount of the judgment, verdict, or order that is finally issued (exclusive of costs, expenses, and attorneys' fees incurred after judgment or trial) with respect to the year 2000 claim is not more favorable to the offeree with respect to the year 2000 claim than the last such offer, the offeror may file with the court, within 10 days after the final judgment, verdict, or order is issued, a petition for payment of costs and expenses, including attorneys' fees, incurred with respect to the year 2000 claim from the date the last such offer was made or, if the offeree made an offer under this section, from the date the last such offer by the offeree was made.

(f) ORDER TO PAY COSTS, ETC.—If the court finds, pursuant to a petition filed under subsection (e) with respect to a year 2000 claim, that the dollar amount of the judgment, verdict, or order that is finally issued is not more favorable to the offeree with respect to the year 2000 claim than the last such offer, the court shall order the offeree to pay the offeror's costs and expenses, including attorneys' fees, incurred with respect to the year 2000 claim from the date the last offer was made or, if the offeree made an offer under this section, from the date the last such offer by the offeree was made, unless the court finds that requiring the payment of such costs and expenses would be manifestly unjust.

(g) AMOUNT OF ATTORNEY'S FEES.—Attorney's fees under subsection (f) shall be a reasonable attorney's fee attributable to the year 2000 claim involved, calculated on the basis of an hourly rate which may not exceed that which the court considers acceptable in the community in which the attorney practices law, taking into account the attorney's qualifications and experience and the complexity of the case, except that the attorney's fees under subsection (f) may not exceed—

(A) the actual cost incurred by the offeree for an attorney's fee payable to an attorney for services in connection with the year 2000 claim; or

(B) if no such cost was incurred by the offeree due to a contingency fee agreement, a reasonable cost that would have been incurred by the offeree for an attorney's noncontingent fee payable to an attorney for services in connection with the year 2000 claim.

(h) INAPPLICABILITY TO EQUITABLE REMEDIES.—This section does not apply to any claim seeking an equitable remedy.

(i) INAPPLICABILITY TO CLASS ACTIONS.—This section does not apply with respect to a year 2000 action brought as a class action.

SEC. 508. ENFORCEMENT OF CONSUMER PROTECTION RULES IN YEAR 2000 CLAIMS AND ACTIONS.

A client whose attorney fails to comply with this title may file a civil action for damages in the court in which the year 2000 claim or year

2000 action was filed or could have been filed or other court of competent jurisdiction. The remedy provided by this section is in addition to any other available remedy or penalty.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in part 2 of House Report 106–134. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 106–134.

AMENDMENT NO. 1 OFFERED BY MR. DAVIS OF VIRGINIA

Mr. DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. DAVIS of Virginia:

Page 4, add the following after line 23 and redesignate succeeding paragraphs accordingly:

(2) DAMAGES.—The term ''damages'' means punitive, compensatory, and restitutionary relief.

Page 8, line 18, strike ''February 22, 1999'' and insert ''January 1, 1999''.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. BOUCHER) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment does several things.

First of all, it changes the effective date of the legislation from the arbitrary date of February 22, 1999, the date of the final draft, to January 1, 1999. We think this makes sense. Sections 201(a) and 202(a) of the bill addresses a Year 2000 action involving contracts as of the date of January 1, 1999, as the effective date of those actions. This language would make all such actions consistent with that date. Changing the effective date of the overall legislation simply makes H.R. 775 consistent within itself.

In addition, the Senate version of the legislation, S. 96, has already changed its effective date to January 1, 1999. So this action will aid in the consistency and ease for enactment as the two Houses get together and iron out any difficulties in the legislation, so we would make that consistent.

The second part of this amendment completes a needed definition to the term ''damages'' that was left out of the bill.

□ 1300

The amendment defines damage to mean punitive, compensatory and restitutionary relief. The bill clearly proposes to require detailed pleading of the bases of Year 2000 lawsuits to reduce claims that could have been avoided by a plaintiff's own timely actions and to curtail the recovery of money damages in designated circumstances.

The intent here is to be broad, but there is a type of monetary relief that the term ''damages'' generally does not include. Many States allow awards that are restitutionary in nature, allowing plaintiffs to recover money that is not based on a proven loss but on what it will take to make the plaintiff whole.

This language is more inclusive and allows a broader definition of damage, something I would hope the other side would accept.

This amendment will clarify that restitution and damages accomplish the same purpose for the purposes of this bill. This will clarify the point for courts on down the line so that a bill that is designed to limit litigation does not spawn more of it because of confusion over definitions, and it makes it consistent.

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

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

Mr. Chairman, I rise in opposition to the amendment. My principal concern with the amendment offered by the gentleman from Virginia (Mr. DAVIS) is that it moves the retroactive date for the effectiveness of the provisions contained in H.R. 775 to January 1, 1999, and all lawsuits filed since January 1, 1999 that fall within the general ambit of H.R. 775 would then be subjected to these new rules.

In addition to the general constitutional and fairness questions that concern applying new legal restrictions to lawsuits that have already been brought, I think this amendment raises a whole host of legal uncertainties.

For example, what happens to suits that have been filed which did not undergo the 90-day cooling off period? What about class actions that have already been filed and certified? What about cases that have been filed that did not meet the heightened pleading standard that is set forth in the bill? How would this early date affect settlements that have been achieved and that are now pending court approval?

I have worked in the years that I have been in the House of Representatives on a number of tort reforms and have supported the enactment of several of them that are law today. These include the General Aviation Liability Act and the Volunteer Protection Act. These bills were carefully crafted. They were very bipartisan and we always sought to avoid the very problems concerning retroactivity that I am raising at this time.

So while I understand the motivation of the gentleman from Virginia (Mr. DAVIS) and I commend him for the leadership that he has shown in bringing a whole set of important concerns here today, it is with reluctance but with determination nonetheless that I rise in opposition to this amendment.

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

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, many of the issues that have been brought to mind by my friend, the gentleman from Virginia (Mr. BOUCHER), apply to the February 22 date as well, which is currently in the legislation. Any litigation that commenced after that date, the same concerns that the gentleman from Virginia (Mr. BOUCHER) raises would apply to that. So whether it is February 22 or January 1 really does not make any difference for the majority of those concerns.

What this does do is that litigation that is filed between January 1 and February 22 would come under the ambit of this legislation, and it is that window of 6 weeks or 7 weeks where there may be pending legislation that would be affected under this, but as to the other concerns, regardless of whether this amendment passes or not, his concerns I think remain.

We, of course, need an enactment date. We are trying to make it internally consistent so we do not have one day for enactment for contracts that were entered into and another for tort. We just think this makes it more internally consistent at this point. Again, it is consistent with the Senate version that is currently pending there.

In addition to that, I would hope the gentleman would not have any problem with the second part of this amendment that talks about the term ''damages'' and broadens that in a way that I think clarifies it with existing State law.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. DAVIS).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part 2 of House Report 106–134.

AMENDMENT NO. 2 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MORAN of Virginia:

Page 9, strike lines 3 through 5 and insert the following:

(c) EXCLUSION OF PERSONAL INJURY CLAIMS.—None of the provisions of this Act shall apply to any claim based on personal injury, including any claim asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, that arises out of an underlying action for personal injury.

Page 9, insert the following after line 9:

(e) CERTAIN OTHER ACTIONS.—A person who is liable for damages, whether by settlement or judgment, in a claim or civil action to which this Act does not apply by reason of subsection (c) and whose liability, in whole or in part, is the result of a year 2000 failure may pursue any remedy otherwise available under Federal or State law against the person responsible for that year 2000 failure to the extent of recovering the amount of those damages. Any such remedy shall not be subject to this Act.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment clarifies and ensures the intent of the sponsors of this bill regarding the exemption of personal injury claims. The amendment addresses possible unintended liability for defendants, including doctors and other health care providers.

Under the existing legislation, personal injury actions are excluded from the scope of the act, but there is some uncertainty regarding its impact on defendants in such claims. So this proposed amendment would clarify that defendants, including physicians or other health care providers, who incur personal injury liability caused by a Y2K defect would be able to recover from the manufacturer of the malfunctioning product to the extent of those damages.

The amendment makes it clear that none of the provisions of H.R. 775 shall apply to any claim based on personal injury, including any claim asserted by way of counterclaim, cross claim or third party claim, and will make sure that third party defendants brought into Y2K personal injury claims are not provided with the liability protections of this legislation.

The amendment further clarifies the original intent of the legislation, and that is why I do not believe there is any opposition to it. I think it strengthens and balances it, and I would ask my colleagues to support it.

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

The CHAIRMAN. Does any Member claim the time in opposition to the amendment?

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Virginia (Mr. MORAN) for yielding me this time.

Mr. Chairman, I rise for the purpose of encouraging support for his amendment. I think it represents a step forward in clarifying that actions for personal injuries are excluded from the provisions of the bill. It is a worthwhile provision and I encourage support for it.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, let me just commend the gentleman for offering this amendment. I think it is not only just a clarification, it is in the spirit. I think the most obvious example was the case of malfunctioning equipment in a hospital that injures a patient. If a defendant's doctor or hospital made a claim against a responsible third party, this amendment makes sure that that party would not be able to claim the liability protections under this legislation that are available to the doctor or the hospital.

It is a good clarification. I commend the gentleman and ask my colleagues to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself my remaining time to make a general statement on the bill, having decided previously that it may be more efficient to make the statement while I was speaking on my amendment.

Mr. Chairman, unless this legislation is enacted, the costs associated with year 2000 lawsuits will pose a very serious threat to our Nation's continued economic prosperity as we enter the new millennium. It is absolutely essential that individuals and companies that suffer legitimate economic injuries due to Y2K disruptions retain the right to sue. Left unchecked, strident litigators could discourage preventative action by businesses and stifle innovation and economic growth.

That is why I believe that this is reasonable, bipartisan legislation that will lessen the economic impact of this Y2K potential problem, encourage businesses to fix their problems now and help to ensure a balanced, fair and efficient outcome to Y2K litigation.

Excessive litigation and the potential negative impact on targeted industries threaten the jobs of American workers and the position of American industries in the world market. Unless legislation is enacted quickly, Y2K-related problems could result in more than a trillion dollars in litigation expenses.

It has been estimated by one technology association that the amount of litigation associated with Y2K will be two to three dollars for every dollar that will actually be spent fixing the problem. In fact, a panel of experts at the American Bar Association's last annual meeting predicted that legal costs associated with Y2K suits could exceed that of litigation over asbestos, breast implants, tobacco and Superfund liability combined.

Think about that. That is more than three times the total annual estimated cost of all civil litigation in the United States. It is inconceivable that this could occur without serious long-term damage to the United States economy.

Currently, American businesses, governments and other organizations are tirelessly working to correct potential Y2K failures, but as diligently as we work on this problem it is nevertheless a daunting task. It involves reviewing, testing and correcting billions of lines of computer code.

It has been estimated by the Federal Reserve that the U.S. Government will spend over $30 billion to correct its computers and American businesses will spend an estimated $50 billion to reprogram theirs. Regardless of all the efforts and all the money, some failures are bound to occur.

This legislation does not protect companies that have reason to know they will have failures and do nothing to correct them. Even companies that simply run out of time will still be liable for economic damages that they cause. We have to understand that many of the Y2K computer failures will occur because of the interdependency of the United States in world economies. Every Y2K failure will have a compounding effect on other organizations that are dependent upon it.

Those disruptions, in turn, cause further disruptions to other interdependent organizations and individuals. In other words, we will have an exponential domino effect. That is what we have to worry about.

Many of those organizations, whether they are compliant or noncompliant, will nevertheless find themselves suing and being sued for the entire amount of damages caused by the business interruptions. That will create a substantial drag on our economy if we do not intervene, at least with this legislation.

Every dollar that is spent on litigation and frivolous lawsuits is a dollar that cannot be used to invest in new equipment, pay skilled workers, train them or pay dividends to shareholders.

In addition to the potentially huge costs of litigation, there is another unique element to this Y2K problem. In contrast to other problems that affect some businesses or even entire industries engaging in damaging activity, this Y2K problem affects all aspects of the economy, especially our most productive high tech industries.

In the words of Robert Atkinson of the Progressive Policy Institute, it is a unique one-time event, best understood as an incomparable societal problem rooted in the early stages of this entire Nation's transformation to the digital economy.

This is something we can see coming. We need to act now so that it does not have the kind of adverse consequences that it potentially could have.

This bill, I emphasize, does not prevent economic damage recoveries. Injured plaintiffs will still be able to recover all of their damages and defendant companies will still be held liable

for the entire amount of economic damages they cause. In addition, all personal injury claims are totally exempt from this legislation.

So it is time for Congress to protect American jobs and industry with this legislation. It has been endorsed by impressive coalitions of over 300 organizations, including the Information Technology Industry Council, the Business Software Alliance, the National League of Cities, the Information Technology Association of America. It is a very wide array of public and private sector organizations representing both likely plaintiffs and defendants.

On May 7, Alan Greenspan was quoted in the Post as saying that an unexpected leap in technology is primarily responsible for the Nation's phenomenal economic performance and the current extraordinary combination of strong growth, low unemployment, low inflation, high corporate profits and soaring stock prices.

The goal of this Congress should be to encourage economic growth and innovation, not to foster predatory legal tactics that will only compound the damage of this one-time national crisis.

Congress owes it to the American people to do everything we can to lessen the economic impact of the worldwide Y2K problem, lead the rest of the world and not let it unnecessarily become a litigation bonanza.

In his State of the Union address, President Clinton urged Congress to find solutions that would make the year 2000 computer program the last headache of the 20th century rather than the first crisis of the 21st.

The Year 2000 Readiness and Responsibility Act is an important part of the solution. By promoting remediation over unnecessary litigation, we can help bring in the next millennium with continued economic growth and prosperity. That is why I support this fair bipartisan bill, and I urge the support of my colleagues for this bill as well as for the amendment immediately before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The amendment was agreed to.

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The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 106–134.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

Page 10, line 10, strike ''Except'' and insert the following: ''The notice under this subsection does not require descriptions of technical specifications or other technical details with respect to the material defect at issue. Except''.

The CHAIRMAN. Pursuant to House Resolution 166, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank my committee members for considering this amendment, and particularly I ask my colleagues to join me in supporting the amendment that I offer this afternoon.

Mr. Chairman, this amendment is a simple and noncontroversial one, I would hope, supported by both the U.S. Chamber of Commerce and the American Trial Lawyers Association, and one which I hope this House can support unanimously.

My amendment simply clarifies the notification provisions in this bill, which regulate the filing of claims brought against defendants by the Y2K bug-related transgressions.

Under section 101 of H.R. 775, a plaintiff who is filing a year 2000 action must notify each perspective defendant of their impending action before their lawsuit can actually be filed. This is called a cooling off provision.

Under the terms of that provision, the notification must contain, stated with particularity, the symptoms of the material defect, the alleged harm, the facts that show causation, the relief sought, and a contact person who has the authority to mediate the dispute.

My amendment merely makes it crystal clear that in this initial notification document, that the particularity requirement does not exclude the use of layman's terms when providing notification to the defendant.

Mr. Chairman, in one of our hearings on this particular legislation in the Committee on the Judiciary, and I also participated in some in the Committee on Science, we heard from a storekeeper who ran a fruit grocery store, if you will, and his expressions were very instructive to me. It is the day-to-day businesses that have to deal with this issue. It is the flower shop, the bakery shop, the grocery store, it is the small law office or physician's office. We think it is extremely important that those laymen not have the burden of talking in technologese in order to make their point.

As a Member who sits on both the Committee on the Judiciary and the Committee on Science, and who has sat through numerous hearings on the Millennium bug, I know issues relating to the Y2K bug can be very complex. I know not everybody is a Y2K expert. I understand that not everyone can be expected to tell the difference between a flashable BIOS and firmware, or between an embedded chip and integrated chipset.

That is why many businesses have decided, rather than to tackle the Y2K bug on their own, to hire a Y2K specialist to help them work through this rough transition. If, when all is said and done, they realize that their equipment or software is not Y2K compliant, the first problem they will face is trying to figure out what went wrong. This will be a difficult problem to solve if the entity they are seeking a response from is not cooperating and they do not have the technical wherewithal to solve the problem themselves.

This problem can only be exacerbated if a court were to interpret the particularity requirement in the notification provision in this bill to mean that plaintiffs who bring causes of action must provide technical details about what caused the failure of their computer system, something that most will be unable to do without hiring another Y2K bug expert.

We can fix this problem, Mr. Chairman, and save these claimants a great deal of money by passing this amendment today.

The language in my amendment will also save individuals and businesses the additional expenses of hiring a technically savvy attorney before they can bring this type of action. As an attorney, Mr. Chairman, I am not looking to put attorneys out of business, but I certainly think it is important to speak on behalf of our small businesses across America and let them write out what they think the problem is, the machine just does not work, and have that be sufficient notice. It will also save them a great deal of trouble if they live or do business in an area where such lawyers are tough to find.

This amendment protects small businesses by letting them give their notification in their own straightforward terms, no technical experts needed. Maybe later on, but not at this juncture.

This is a commonsense and bipartisan amendment that truly improves this bill. I urge all of my colleagues to vote aye. I hope we can stand up for the small businesses of America.

Mr. Chairman, today I rise to offer an amendment to H.R. 775, the Year 2000 Readiness and Responsibility Act of 1999. This amendment is a simple and non-controversial one, supported by both the U.S. Chamber of Commerce and the American Trial Lawyers Association, and one which I hope can be accepted by this House unanimously.

My amendment simply clarifies the notification provisions in this bill, which regulate the filing of claims brought against defendants for Y2K bug-related transgressions. Under Section 101 of H.R. 775, a plaintiff who is filing a Year 2000 action, must notify each prospective defendant of their impending action before their lawsuit can actually be filed. This is the so-called ''cooling off'' provision. Under the terms of that provision, the notification must contain, stated ''with particularity''—the (1) symptoms of the material defect; (2) the alleged harm; (3) the facts that show causation; (4) the relief sought, and (5) a contact person who has the authority to mediate the dispute.

My amendment merely makes it crystal clear that in this initial ''notification'' document,

that the ''particularity requirement'' does not exclude the use of layman's terms when providing notification to the defendant.

As a Member who sits on both the Judiciary and Science Committees, and who has sat through numerous hearings on the Millennium Bug, I know that issues related to the Y2K bug can be very complex. I know that not everybody is a Y2K expert. I understand that not everyone can be expected to tell the difference between a flashable BIOS and firmware, or between an embedded chip and an integrated chipset.

That is why many businesses have decided, rather than to tackle the Y2K bug on their own, to hire a Y2K specialist to help them work through this rough transition period. If when all is said and done, they realize that their equipment or software is not Y2K complaint, the first problem they will face is trying to figure out what went wrong. This will be a difficult problem to solve if the entity that they are seeking a response from is not cooperating—and they do not have the technical wherewithal to solve the problem themselves.

This problem can only be exacerbated if a court were to interpret the ''particularity'' requirement in the notification provision in this bill to mean that plaintiffs who bring causes of action must provide technical details about what caused the failure of their computer system—something that most will be unable to do without hiring another Y2K bug expert. We can fix this problem, and save these claimants a great deal of money, by passing this amendment today.

The language in my amendment will also save individuals and businesses the additional expense of hiring a technically savvy attorney before they can bring this type of action. And it will also save them a great deal of trouble if they live or do business in an area where such lawyers are tough to find. This amendment protects small businesses by letting them give their notification in their own straightforward terms—no technical experts needed.

This is a common sense and bi-partisan amendment that truly improves this bill, and I urge all of you to support it with an ''aye'' vote.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentlewoman for yielding. I commend her for her amendment, which I think is a positive addition to the legislation. I support it. We will accept the amendment.

Mr. BOUCHER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Virginia.

Mr. BOUCHER. Mr. Chairman, I thank the gentlewoman for yielding to me, and I want to commend her for bringing this amendment to the House. This makes important changes that assure that commonly-used, everyday language can be embodied in the notice that is sent that would trigger the cooling-off period. I think it definitely improves the bill, and would encourage support for it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank both gentlemen from Virginia for their leadership on this issue. I also thank the gentlewoman from California (Ms. LOFGREN) and the gentleman from Michigan (Mr. CONYERS) for the amendment they will offer and I intend to support.

Let us try to work together to ensure that we do the very best in this instance for Y2K.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 106–134.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT:

Page 23, strike line 1 and all that follows through page 25, line 8, and redesignate succeeding sections, and references thereto, accordingly.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Virginia (Mr. GOODLATTE) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

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

This amendment would eliminate section 304 of the bill. That section, if it is not removed, would overturn the discretion of States to determine when and how punitive damages should be paid, and prescribes an inflexible Federal standard and process for arbitrarily limiting such awards.

The bill overturns State punitive damage laws without any findings that they are inadequate or inappropriate. In fact, States have found punitive damages to be an effective tool in preventing and correcting reckless or wanton actions on the part of designers, manufacturers, and distributors of products sold to their citizens.

One of the usual rationales for federalizing an area of the law that has been historically left to the States is that we want to promote uniformity in State laws across the Nation. However, this rationale is violated in this very case because States which do not allow punitive damages are not required to adopt them, and those with lower limits are not required to raise them to a uniform level. Therefore, wide differences in punitive damages will continue under this bill.

There is no indication that there are too many punitive damages awarded. The standards in States for awarding punitive damages, those standards are very high as it is. Generally, they require intentional, reckless, and wanton behavior which threatens the health and safety of innocent people.

In fact, between 1965 and 1990, one study only found 355 such awards across the country in product liability cases, and more than half of those were reduced or overturned on appeal.

States provide for punitive damages because they know that the mere threat of a large punitive damages award discourages reckless or malicious harm to consumers. Moreover, limiting punitive damages awards could cause reckless and malicious defendants to conclude that it is more cost-effective to risk paying limited amounts than to prevent or correct the problems that they are causing in the first place.

This was precisely the rationale employed by the Ford Motor Company regarding its Pinto. In Grisham vs. Ford Motor Company, it was found that the company determined that it would be cheaper to sell the defectively-designed car and risk paying damage awards to injured consumers than it would be to make the car significantly safer at a cost of $11 per car.

Or we have another example where in 1980 a 4-year-old girl received permanent scars, second- and third-degree burns, when the pajamas she was wearing caught fire, and it was only after punitive damages were assessed that the company stopped manufacturing flammable pajamas.

Clearly, the threat of punitive damages protects consumers from such profit-oriented calculations. In fact, in nearly 80 percent of the product liability cases in which punitive damages were awarded, the manufacturer made safety changes which subsequently protected future customers. Without this amendment, the bill will serve to protect those who would act irresponsibly because there is less incentive for them to take corrective action.

Whatever Members' views are on the merits of limiting the discretion of States to determine their punitive damage laws, there is no justification for singling out the information technology industry for such treatment.

It is clear that efforts to limit punitive damage awards and other provisions of the bill, such as limitations on joint and several liability, have more to do with pushing a general tort reform agenda than it does with addressing Y2K problems.

Unfortunately, Congress is again allowing itself to be used by the most powerful side of a legal dispute in jerryrigging laws in their favor. Congress should not act as an alternative appellate court only available to those whose political clout is effective enough to cause a legislative change quickly enough to benefit their case.

We have done that frequently in the past, and this amendment will allow us to continue to rely upon the States to know what is best to protect their consumers and the interests of businesses, and to balance those interests. Of all the pressing needs of Congress today, we should not be limiting the discretion of States to protect consumers.

I urge my colleagues to allow States to continue to deter intentional, reckless, wanton, and fraudulent behavior by supporting this amendment.

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

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

Mr. Chairman, I am in strong opposition to this amendment. The punitive damage caps that are contained in this legislation are badly needed and entirely reasonable. They provide for $250,000 in punitive damages in each case, in each instance of liability, or three times the amount of economic loss that the plaintiff may have suffered, whichever is greater, except in the case of very small businesses with fewer than 25 employees, in which case, they can still suffer $250,000 in punitive damages or three times their economic loss, whichever is lesser.

The reasonable limits on punitive damages contained in H.R. 775 are very important. In many instances, the pleading of punitive damages amounts to an extortion threat to companies. Unfortunately, many companies settle those cases, although the company was not responsible for the damages alleged by the plaintiff.

The settlement occurs because the company does not want to take a chance in a legal lottery that could make it liable for millions of dollars in punitive damages when the actual harm alleged by the plaintiff is several orders of magnitude less.

Let me give an example. The May 11, 1999, editions of the Wall Street Journal and the Washington Times illustrate what can happen when a company decides to take a case to trial. A jury in Alabama has awarded $580 million in punitive damages against Whirlpool Corporation for a satellite dish loan program. The satellite dishes cost $1,124. In addition to the punitive damages, the two plaintiffs were awarded $975,000 for mental anguish. This type of outrageous award is what this legislation is trying to curtail.

Punitive damages are awarded primarily as punishment to a defendant. They are intended to deter a repeat of the offensive conduct. Punitive damages are not awarded to compensate losses or damage suffered by the plaintiff. But Y2K cases are unusual in that the conduct is not likely to occur again. That is because Y2K is going to resolve itself here with time. Thus, there is little deterrent value to awarding punitive damages. Without a deterrent effect, punitive damages serve only as a windfall to plaintiffs and attorneys.

Additionally, since we have eliminated personal injuries from coverage of the bill, the only harm caused by defendants will be economic damage, which can be appropriately compensated without the need for punitive award. Furthermore, excessive punitive damage awards will simply compound the economic impact of Y2K litigation, and the cost will be passed along to the public and consumers through higher prices.

In this situation, punitive damages truly become a lottery for the plaintiff. Thus, they should be limited. Our limitations of $250,000 or three times the economic loss cap are entirely reasonable. I urge my colleagues to oppose the amendment.

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

Mr. SCOTT. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding time to me, and I am pleased to rise in support of the amendment offered by the gentleman from Virginia (Mr. SCOTT) which strikes the bill's cap on punitive damages.

Punitive damages impose punishment for conduct that is outrageous and deliberate, and it deters others from engaging in similar behavior. But the bill would cap punitive damages in Y2K actions at the greater of three times the amount of actual damages, or $250,000, and the lesser of these two amounts would be applicable if the defendant is a small business.

□ 1330

In addition, a plaintiff would have to prove by clear and convincing evidence that conduct carried out by the defendant showed a conscious, flagrant indifference to the rights or safety of others and was the proximate causes of the harm or the loss that is the subject of the Y2K claim.

Collectively, these restrictions on punitive damages are likely to completely eliminate not only the incentive for seeking punitive damages but any realistic possibility of obtaining them. These restrictions are counterproductive in that they provide the greatest amount of liability protection to the worst offenders, those who have done the least to resolve their Y2K problems.

In addition, absolute caps send a message to wrongdoers that it does not matter how harmful or malicious their behavior, they will never be liable for more than a set limit. These restrictions allow companies to ignore Y2K problems knowing that they can never be subjected to punitive damages for completely reckless and irresponsible behavior.

This is clearly not the signal that we ought to be sending during this crucial time for the making of Y2K remediation efforts. This is yet another issue that has very little to do with the Y2K problem.

While caps on punitive damages are not needed to address the genuine concerns of the Y2K transition, if the provision imposing the caps remains as a part of this bill, the bill will be vetoed. Given the limited amount of time that we have to put these changes and some genuinely needed protections into effect, the punitive damages cap seriously threatens our ability to provide as a legislative matter the protections that truly are needed.

So I am pleased to rise in support of the amendment offered by the gentleman from Virginia (Mr. SCOTT). In adopting this amendment, we will improve the product and enhance greatly the opportunity to provide the protections that really are needed to address the Y2K transition.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I rise in strong opposition to this amendment of the gentleman from Virginia (Mr. SCOTT). I think this guts the purpose of the bill. Without a punitive damage cap, one lawsuit can bring down some of the major emerging technology companies in this country.

The argument that it will be vetoed and, therefore, we have to let the White House write the bill I think is strained at best. How many times have my friends from the other side of the aisle heard this language and then heard the administration, whether it be Republican or Democrat, withdraw and end up signing a bill?

We overturned the administration on one tort liability issue in securities litigation. We overturned them because we had the votes here to do that as well.

If we start thinking about whatever the White House says we are going to do, then I think we can pack it up and go home, and we can forget about the separation of powers.

I think at the end of the day we are going to have a bill that the White House can sign. I think we will have a bill that will be good for American consumers, but we are also going to have a bill that protects American business.

One lawsuit without a cap on punitive damages can bring a major company down. It can bring them down. It can throw their employees out on the street, as they would have to fold up their tent. It will drive up the cost of insurance and drive up the cost of settlements. In driving up the cost of settlements on these suits, it spurs more lawsuits.

So where are we? We are where a number of groups and individuals who testified before these committees talked about. Estimates of anywhere between tens of billions to hundreds of billions of dollars, upwards of a trillion dollars of profits from these companies, instead of going to their employees, instead of going to get new products so we can compete in the global marketplace, can be tied up in litigation, lawsuits and attorneys fees, bringing down the fastest-growing segment of American economy. That is what this is about.

This amendment just guts the purpose of this bill. We may as well pack it up without some kind of punitive damage cap.

But I think the most disturbing thing about this amendment is the fact

that, for small businesses, we offer the protection of a $250,000 punitive damage cap. For small businesses, they take that out as well, and small business would be subjected to very high caps.

This jeopardizes every small business in America, which I think is why the National Federation of Independent Businesses, the Chamber of Commerce representing large and small businesses, are so adamantly opposed to this amendment.

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

Mr. Chairman, this is an important provision to protect consumers. The bill provides problems for consumers by making them chase around every possible person that may have had anything to do with it, rather than the person they bought the product from.

It has a loser-pays provision where, if they do not accept an offer that is given and in court gets just less than that, then they owe the other side's attorneys fees. So they have to sometimes bet their house on whether or not they can get compensation. The limit on punitive damages in the bill makes it more difficult to prove the punitive damages.

It is interesting that my colleague points out the case in Alabama where the punitive damage judgment was hundreds of millions of dollars. I would only point out that that case is still going on. It is subject to appeal.

But it is also interesting to note the allegations in that particular case, where the allegation was that the company was just systematically overcharging consumers, just ripping them off. That is exactly the kind of company that is going to benefit with this bill if this amendment is not adopted. Those who rip-off consumers, those who act with a reckless and wanton disregard for the safety of others, those are the ones who will benefit by this bill if the amendment is not adopted.

Mr. Chairman, I would hope that we would protect consumers and adopt this amendment.

Mr. GOODLATTE. Mr. Chairman I yield myself the balance of my time.

Mr. Chairman, it is the consumers who benefit from a cap on punitive damages. A $580 million punitive damage award against the Whirlpool Corporation that I cited earlier reported in the May 11, that is yesterday's, edition to the Wall Street Journal and Washington Times gets passed on to every single consumer who buys products manufactured by the Whirlpool Corporation, washers and dryers and dishwashers and refrigerators and freezers and everything else that they manufacture.

All of them have to pay more when one unelected jury in the State of Alabama gives a $580 million punitive damage award. The company has to spread that cost over every single item that they sell to consumers.

Punitive damages represent a large and growing percentage of total damages awarded in all financial injury verdicts, rising from 44 percent to 59 percent of total awards between 1985 and 1989 and 1990 to 1994. In Alabama, the figure was 82 percent.

In the jurisdictions studied for 1985 to 1994, the total amount awarded for punitive damages nearly doubled, from $1.2 billion in 1985 to 1989 to $2.3 billion in 1990 to 1994. This does not relieve any plaintiff of any injury. It is simply a windfall.

We do need to deter future action of bad actors. Y2K is a particularly good area to have caps on punitive damages because of the fact that there is not going to be, in most instances, any future action related to Y2K cases because, once we get passed next year, there are not going to be any more new actions or new suits related to this.

I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

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

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 166, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 5 OFFERED BY MR. NADLER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. NADLER:

Strike title IV and redesignate title V, sections therein, and references thereto, accordingly.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from New York (Mr. NADLER) and the gentleman from Virginia (Mr. GOODLATTE) each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Chairman, this amendment would strike the sections of the bill which place severe limits and, I would say, gut any possibility of class-action suits in Y2K situations.

The bill's unnecessary class action provisions will do nothing to address the Y2K problem and serve only to restrict the rights of millions of consumers who may be negatively affected by the negligence of some. In addition, they will burden the Federal courts, and it will impede justice for many others as well.

Some of the provisions that would do this, one provision would require plaintiffs to prove in a class-action suit that there was a material defect as to a majority of the members of the class. This provision places a huge burden on the plaintiffs and on the court and is totally unnecessary.

Plaintiffs would now be required to interview and document the same type of damage on thousands of people with identical injuries. For example, in a case involving 17,000 doctors, a recent case, about 8,500 doctors would have had to document that they were all harmed in the same way because they all had the same defective computer program. This is a total waste of money.

The only reason for this provision is to make it more difficult for people to file class-action lawsuits. After all, why are there class-action lawsuits in the first place? Class actions are used by large groups of people who have suffered the same injury from a single defendant or group of defendants. When more than a million people were cheated out of $150 each because of fraud by Sears Roebuck a couple of years ago, it did not make sense for all of them to sue individually for $150. It could not have been done. Without a class-action proceeding, Sears Roebuck would have profited from its fraud to the tune of $168 million.

By joining together, the victims, individuals or small businesses who are victimized by intentional or by negligent torts, can seek their damages collectively and hold the tort-feasors responsible. Class actions let the little guys sue the big guys, which, as I understand, is why some people want to eliminate them.

They also help the courts. Why should the courts be forced to hear the same story over and over again?

Second, the bill would limit access to the courts by requiring notice of the action to be sent by mail, return receipt requested. That would cost, according to the Post Office, $2.65 plus postage for each individual. So that means, for those 17,000 doctors cases, it would have cost $51,000 just to send a one-page notice. What a waste of money.

What if there were more than 17,000 plaintiffs? What if, as in the Sears case, there were over a million? It would have cost over $3 million just for notice to institute the lawsuit.

This is simply ridiculous and is another attempt to prevent class-action lawsuits, which is the only way for the powerless victims to hold the powerful accountable. It sends a message in the context of this bill that large companies do not have to make any real efforts to prepare for Y2K problems. After all, most victims of their negligence in failing to prepare will not be able to sue them because it would cost hundreds of thousands or millions of dollars just for the notice provision.

The bill also removes almost all Y2K class-action lawsuits to Federal court. It overrides State law. It would require that any amount in controversy over a million dollars, which in any class-action almost all are for over a million dollars, it would go to Federal court.

It would provide that if there is one diversity of citizenship, if a million people in New York claimed damages and one in New Jersey, that goes to Federal court.

This overburdens the Federal courts. Judge Stapleton of the Court of Appeals for the Third Circuit testified on behalf of the Judicial Conference that this class-action provision in this bill would significantly disrupt the administration of justice in the Federal courts, which are overburdened.

Of course, we hear from the other side of the aisle all the time in favor of not infringing on the rights of the States. That is what we were told in the bankruptcy debate last week. We could not have a ceiling on the homestead exemptions because a couple States would not like that.

This bill infringes on the traditional authority of States to manage their own judicial business. By shifting all these State-created causes of action to Federal court, the bills confront the Federal courts with the time-consuming responsibility of engaging in a lot of choice-of-law decisions.

Finally, I will mention that the State courts provide most of the Nation's judicial capacity, so we should not limit access to this capacity in the face of the burden that Y2K litigation may impose.

Contrary to the stated goals of this litigation, the class-action provisions, by essentially eliminating class actions and federalizing those that would remain, would seriously impair our ability to efficiently resolve Y2K disputes and again says to major companies, ''Do not bother fixing the Y2K problem. The cost will be passed on to your customers and consumers because they will not be able to sue you because of the normal cost of litigation. We will not let them consolidate those costs in a class action, which is the only way small customers, small consumers ever can sue big tort-feasors.'' This provision should be called the ''Tort-feasors Rights Act of 1999.''

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

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

Mr. Chairman, I rise in strong opposition to this amendment. The class-action reform contained in this bill is entirely reasonable. It is strongly supported by a large number of bipartisan folks. In fact, legislation very similar to what is provided here will be introduced by myself, the gentleman from Virginia (Mr. BOUCHER) and others next week which will deal with class-action reform in a broader sense.

But the principle is very simple. Nobody should be able to go forum shopping in one county, in one State and bring a nationwide class-action suit before a judge that is predisposed to certify such class-action suits when the case considered on a larger scale would not be brought.

□ 1345

There are judges in this country who have certified large numbers of class action lawsuits and, in fact, far more than the entire Federal Judiciary combined. And so this is simply a reasonable reform.

The gentleman from New York makes reference to not wanting to hear cases over and over and over again. That is exactly what this legislation will do, because if it is truly a diverse class action with plaintiffs from across the country, the case will be removed to Federal Court and only heard once, whereas a class action could be brought in a number of States and retried a number of times under different legal theories. This is a sensible way to address that.

The provisions of this section of the bill are also very reasonable and, in fact, some of them are included in both the substitute offered by the gentleman from Michigan (Mr. CONYERS) and are supported by the White House, including the minimum injury requirement.

This provision simply states that where it is claimed in a class action that a product or service is defective, one can file a class action only where the court finds that the alleged defect was material as to a majority of the class members. The provision simply says that an individual should not be able to file a class action unless the majority of people on whose behalf the action is brought have allegedly suffered some sort of real injury.

The notice provision is also entirely reasonable. It is impossible to see how this provision can be controversial. It simply requires that class members in a Y2K class action must be notified directly that they are parties to a lawsuit, that they have claims that are going to be resolved, that they have certain rights in the lawsuit, and that they may opt out of the lawsuit if they wish. Such notice is critical to a fair litigation system.

Some class members may want to opt out of a class action and insert their claims individually. In other instances, class members may object to having litigation brought on their behalf without their permission and for that reason may likewise wish to opt out.

What justifying could there be for not providing such information to the class members who are being represented in the case, the people on whose behalf the litigation supposedly has been brought?

The dismissal prior to certification provision merely provides that a court may rule on a motion to dismiss or a summary judgment motion before deciding whether a case may be prosecuted on behalf of a class. This provision should also not be controversial. Under present law both Federal and State courts engage in this practice every day.

The Federal jurisdiction provisions, to me, are most important. H.R. 775 would not make any changes where individual Year 2000 actions may be filed. If the cases are meeting Federal jurisdictional requirements, they may be filed in Federal District Court, otherwise they may be filed in an appropriate State court. However, H.R. 775 does provide that larger Year 2000 class actions, that is cases in which the total of all claims asserted exceed $1 million, may be brought in Federal Court or may be removed to such court by the defendant.

There are two exceptions: Local class actions. The bill does not create Federal jurisdiction for Year 2000 class actions in which a substantial majority of the members of the proposed class are citizens of a single State of which the primary defendants are also citizens and to the claims asserted will be by the laws of that State.

Also, State action cases. The bill creates no Federal jurisdiction over Year 2000 class actions in which the defendants are States or State entities against which a Federal District Court may be foreclosed from ordering relief.

Defendants wishing to remove Year 2000 cases to Federal Court under these provisions would simply employ the existing removal statutes as they apply to Federal question matters. The bill does not alter existing removal procedures.

The creation of Federal jurisdiction over certain larger Year 2000 class actions is appropriate for several reasons:

First, H.R. 775 is prompted in part by a concern that a proliferation of Year 2000 actions by opportunistic parties may further limit access to the courts by straining the resources of the legal system and depriving deserving parties of their legitimate right to relief.

To address that concern, the bill would establish certain subsequent prerequisites in bringing Year 2000 class actions, particularly the material defect requirement I mentioned earlier. In the interest of consistent, rigorous enforcement of these important provisions, it is critical most such matters be heard by our Federal courts.

Second, overlapping class actions asserting similar claims on behalf of the same persons undoubtedly will be filed in numerous different State courts nationwide. In the interest of consistent, efficient adjudication of such class actions they should be consolidated before a single court.

That consolidation is not possible if those claims remain in State courts. Only our Federal courts can achieve sump consolidation through their multi-district litigation authority. Thus, allowing these cases access to Federal courts is critical to the fair, orderly adjudication of such claims.

Third, as drafted, the bill makes proper use of Federal question jurisdiction. Even though State law typically will apply to many aspects of Year 2000 class action claims, the bill will be supplying important new Federal substantive law to such cases, as mentioned above. Thus, there is a basis for Federal question jurisdiction.

There is precedent for the use of Federal question jurisdiction in such circumstances, such as the Magnuson-Moss Warranty Act that authorizes certain claims be asserted in Federal Court, even though many aspects thereof are governed by State laws.

Fourth, the bill includes appropriate limits on the available Federal question jurisdiction over Year 2000 class actions to avoid having small or local disputes heard in Federal Court. For example, for many years, until 1980, the general Federal question statute contained a jurisdictional amount requirement.

Finally, by enacting H.R. 775, Congress will be declaring Year 2000 litigation to warrant priority attention. It is thus appropriate for our Federal courts to be empowered to hear the largest Year 2000 cases that will touch the most Americans; the inevitable class actions asserting Year 2000 claims.

Mr. Chairman, for these reasons I oppose this amendment and strongly urge my colleagues to vote against it.

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

Mr. NADLER. Mr. Chairman, how much time do I have and how much time does the gentleman from Virginia have?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 4½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 2½ minutes remaining.

Mr. NADLER. Mr. Chairman, I yield 2¼ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I rise in support of this amendment offered by the gentleman from New York (Mr. NADLER) which strikes the class action section of the bill.

Class action procedures offer valuable mechanisms for the little guy to get into court where a defendant may have gained a substantial benefit through injuries to a large number of persons. I think H.R. 775 creates an undue burden on this important pro-consumer procedure.

We have had a discussion of some of the issues, but I think it is worth pointing out that some of the procedural issues are enormously burdensome in terms of notification. For example, one of the persons who argued against this in committee said if a party has to, in writing, deliver the notice of an offer to every member of the class every time an offer is made, that party could end up with a situation where opposing counsel may offer $10, and then that offer has to be mailed to everyone; and then the next hour an offer of $11 is made, and that offer has to be mailed to everyone in the class. It is really quite unworkable, and I do not see that it is really on point to the grit of the Y2K issue.

The elimination of the complete diversity requirement for Y2K is also a problem. The Judicial Conference has told us that in their judgment this will swamp the Federal courts and prove to be impossible. That is a concern we ought to listen to, because access to courts is important to everyone, but it is also enormously important for businesses to have access to courts. If our high-tech industries cannot get into court to litigate infringement cases because the courts are crippled by taking over all class action lawsuits in America on Y2K, that will be a problem for all of us.

Finally, and I do not want to be too nit-picky about it, but I do think it is worth pointing out that there are some provisions in the section that I think none of us know what they mean; for example, on page 29, line 20, ''the substantial majority of the members of the proposed plaintiff class.'' What does that mean? And ''governed primarily by the laws of that state.''

The laws of conflict of laws are very particular, and I think that should this pass this will prove to be a complete mystery to courts who try to interpret it.

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

In response to the contention that we are going to flood the Federal courts with class action lawsuits, that assertion is disproved by the U.S. Judicial Conference's own statistics.

According to those data, the number of diversity jurisdiction cases being filed in Federal Court is going down dramatically. During the 12-month period ending March 31, 1998, diversity of citizenship filings fell 6 percent to 54,547 cases, accounting for less than 20 percent of the civil cases filed in Federal Court during that period. For the 12-month period ending December 31, 1998, the downward trend is even more dramatic.

The Judicial Conference's position fails to take account of the impact of class action on our entire national judicial system, particularly the fact that many State courts face even greater burdens and are less equipped to deal with complex cases like class actions. Many State courts have crushing caseloads. And as a group, State courts have had a much more rapid growth in civil case filings than have Federal courts. Civil filings in State trial courts of general jurisdiction have increased 28 percent since 1984 versus only a 4 percent increase in the Federal courts.

For that reason, and the reasons that I outlined earlier, I urge my colleagues to object to the amendment.

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

Mr. NADLER. Mr. Chairman, how much time do we each have, please?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 2½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 1 minute remaining.

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

Mr. Chairman, the gentleman from Virginia gave the game away a few minutes ago when he said that he is going to be introducing a bill, along with others, on embracing most of these same provisions on class action suits in general. And that is the proper forum to discuss these issues.

Why here, only with respect to Y2K? Well, why not get away with it where one can? Why not make a different rule for Y2K? There is no justification for that.

I disagree with the gentleman's positions on class actions, but the proper forum to debate those is in general for class actions. If it is proper to require these specific notice provisions in a class action suit in Y2K, it is proper to require them in all class actions and we ought to debate that separately.

But let us talk for a moment about the effect on Y2K. These provisions will eliminate 95 percent of class action suits. How many people will be able to afford the tens of thousands or the hundreds of thousands or the millions of dollars up front just for the notice provisions? That is why we have notice provisions in the law now, but not overly burdensome notice provisions.

What the gentleman's bill would do, without this amendment, would be to say an individual cannot start a class action suit unless they can come up with all this money up front. And the intention is, little guys should not sue big guys. Big guys should do whatever they want and not be subject to justice in our courts. And that is what this bill would do.

The Judicial Conference said the Federalization provisions would clog the courts. The gentleman says diversity cases are going down. Yes, they went down by 6 percent, but this would open up almost all cases to Federal diversity jurisdiction now, and that would clog the courts. One person in the class lives in a different State, we have diversity jurisdiction under this bill, which means essentially every class action suit will be in Federal Court. That will clog the Federal courts.

I would remind everybody that most judicial personnel, better than 95 percent of judicial personnel, are in State courts, not Federal courts.

□ 1400

This would make the victim pay. It is another whole discussion whether we should turn our American justice system upside down and make the victim pay if he loses the lawsuit, pay all the court costs. This is a discussion for a general bill. It is not a discussion for the Y2K bill.

In summary, these provisions do not belong in this bill and they would say, essentially, to big businesses, do not bother getting themselves into shape for Y2K because nobody except another big business is going to be able to sue them because we are eliminating class actions here. And if that is the intent, then we ought to be up front about it and say we do not believe that the courts are for little people to sue big

people, because that is what this bill does.

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

Mr. Chairman, we are not trying to eliminate class-action lawsuits. We are simply saying that, if they are diverse, they ought to be heard in Federal court and not recognize that the current forum shopping that takes place where they find a judge in one small county in one State who likes to certify nationwide class-action suits, those class-action suits that have merit will be treated fairly by the entire 600-judge Federal judiciary and those that are appropriately certifiable will be certified and go forward.

Y2K is a particularly good issue in which to reform class action because it is limited and because it will only proceed for a limited period of time.

So in order to avoid a mass of class-action suits in a whole host of States, let us be practical, let us make sure that those that are truly diverse are removed to Federal court and heard in a more orderly, efficient, and economical fashion.

I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

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

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 166, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 166, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by the gentleman from Virginia (Mr. SCOTT), and amendment No. 5 offered by the gentleman from New York (Mr. NADLER).

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

AMENDMENT NO. 4 OFFERED BY MR. SCOTT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 235, not voting 6, as follows:

[Roll No. 124]

AYES—192

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Coble
Conyers
Costello
Coyne
Crowley
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Engel
English
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Ganske
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lazio
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Skelton
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—235

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dooley
Doolittle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Barton
Brown (CA)
Cox
Dunn
Napolitano
Slaughter

□ 1422

Messrs. THOMAS, TANCREDO, GILLMOR, Mrs. JOHNSON of Connecticut and Mr. MINGE changed their vote from ''aye'' to ''no.''

Messrs. ROTHMAN, DAVIS of Illinois, ABERCROMBIE, ORTIZ and FATTAH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. DUNN. Mr. Chairman, on rollcall No. 124, I was inadvertently detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 166, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the next amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 5 OFFERED BY MR. NADLER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. NADLER) on which further proceedings were

postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 180, noes 244, not voting 9, as follows:

[Roll No. 125]

AYES—180

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Duncan
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hoyer
Hulshof
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Price (NC)
Pryce (OH)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Sweeney
Thompson (CA)
Thompson (MS)
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—244

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Toomey
Upton
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Barton
Brown (CA)
Cox
Doyle
Herger
Napolitano
Slaughter
Walsh
Weldon (PA)

□ 1430

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 2 of House Report 106–134.

AMENDMENT NO. 6 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

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

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

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

The text of Amendment No. 6 in the nature of a substitute offered by Mr. CONYERS:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Y2K Readiness and Remediation Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings, purposes, and scope.
Sec. 3. Definitions.
Sec. 4. Preemption of State law.

TITLE I—COOLING OFF PERIOD

Sec. 101. Notice and opportunity to cure.
Sec. 102. Out of court settlement.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

Sec. 201. Pleading requirements.
Sec. 202. Duty to mitigate damages.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

Sec. 301. Contract preservation.
Sec. 302. Impossibility or commercial impracticability.

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NON-CONTRACTUAL CLAIMS

Sec. 401. Fair share liability.
Sec. 402. Economic losses.

TITLE V—EFFECTIVE DATE

Sec. 510. Effective date.

SEC. 2. FINDINGS, PURPOSES, AND SCOPE.

(a) FINDINGS.—Congress finds the following:

(1) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

(2) If not corrected, the year 2000 problem described above and the resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

(3) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date change problems, so as to minimize possible disruptions associated with computer failures.

(4) The year 2000 computer date change problems may adversely affect businesses and other users of technology products in a unique fashion, prompting unprecedented litigation and the delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation could exacerbate the difficulties associated with the Year 2000 date change and compromise efforts to resolve these difficulties.

(b) PURPOSES.—Based upon the power contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to establish uniform legal standards that give all businesses and users of technology products reasonable incentives to solve year 2000 computer date-change problems before they develop;

(2) to encourage the resolution of year 2000 computer date-change disputes involving economic damages without recourse to unnecessary, time consuming, and wasteful litigation; and

(3) to lessen burdens on interstate commerce by discouraging insubstantial lawsuits, while also preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

(c) SCOPE.—Except as provided in section 201(c) or other provisions of this Act, this Act applies only to claims for commercial loss.

SEC. 3. DEFINITIONS.

In this Act:

(1) PERSON.—The term ''person'' means any natural person and any entity, organization, or enterprise, including any corporation, company (including any joint stock company), association, partnership, trust, or governmental entity.

(2) PLAINTIFF.—The term ''plaintiff'' means any person who asserts a year 2000 claim.

(3) DEFENDANT.—The term ''defendant'' means any person against whom a year 2000 claim is asserted.

(4) CONTRACT.—The term ''contract'' means a contract, tariff, license, or warranty.

(5) YEAR 2000 CIVIL ACTION.—The term ''year 2000 civil action''—

(A) means any civil action of any kind brought in any court under Federal, State, or foreign law, in which—

(i) a year 2000 claim is asserted; or

(ii) any claim or defense is related to an actual or potential year 2000 failure;

(B) includes a civil action commenced in any Federal or State court by a department, agency, or instrumentality of the United States government or of a State government when acting in a commercial or contracting capacity; but

(C) does not include any action brought by a Federal, State, or other public entity, agency, or authority acting in a regulatory, supervisory, or enforcement capacity.

(6) YEAR 2000 CLAIM.—The term ''year 2000 claim'' means any claim or cause of action of any kind, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, in which the plaintiff's alleged loss or harm resulted from an actual or potential year 2000 failure.

(7) YEAR 2000 FAILURE.—The term ''year 2000 failure'' means any failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving year 2000 date related data, including failures—

(A) to administer accurately or account for transitions or comparisons from, into, and between the 20th and 21st centuries, and between 1999 and 2000;

(B) to recognize or process accurately any specific date, or to account accurately for the status of the year 2000 as a leap year, including recognition and processing of the correct date on February 29, 2000.

(8) MATERIAL DEFECT.—

(A) IN GENERAL.—The term ''material defect'' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended.

(B) EXCLUSIONS.—The term does not include any defect that—

(i) has an insignificant or de minimis effect on the operation or functioning of an item;

(ii) affects only a component of an item that, as a whole, substantially operates or functions as designed; or

(iii) has an insignificant or de minimis effect on the efficacy of the service provided.

(9) ECONOMIC LOSS.—The term ''economic loss''—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes damages for—

(i) lost profits or sales;

(ii) business interruption;

(iii) losses indirectly suffered as a result of the defendant's wrongful act or omission;

(iv) losses that arise because of the claims of third parties;

(v) losses that are required to be pleaded as special damages; or

(vi) items defined as consequential damages in the Uniform Commercial Code or an analogous State commercial law.

(10) PERSONAL INJURY.—The term ''personal injury'' means physical injury to a natural person, including —

(i) death as a result of a physical injury; and

(ii) mental suffering, emotional distress, or similar injuries suffered by that person in connection with a physical injury.

(11) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(12) ALTERNATIVE DISPUTE RESOLUTION.—The term ''alternative dispute resolution'' means any process or proceeding, other than adjudication by a court or in an administrative proceeding, to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration.

(13) COMMERCIAL LOSS.—The term ''commercial loss'' means any loss or harm incurred by a plaintiff in the course of operating a business enterprise that provides goods or services for remuneration, if the loss or harm is to the business enterprise.

SEC. 4. PREEMPTION OF STATE LAW.

Except as otherwise provided in this Act, this Act supersedes State law to the extent that it establishes a rule of law applicable to a year 2000 claim that is inconsistent with State law.

TITLE I—COOLING OFF PERIOD

SEC. 101. NOTICE AND OPPORTUNITY TO CURE.

(a) NOTICE OF COOLING OFF PERIOD.—

(1) IN GENERAL.—Before filing a year 2000 claim, except an action for a claim that seeks only injunctive relief, a prospective plaintiff shall be required to provide to each prospective defendant a verifiable written notice that identifies and describes with particularity, to the extent possible before discovery—

(A) any manifestation of a material defect alleged to have caused injury;

(B) the injury allegedly suffered or reasonably risked by the prospective plaintiff; and

(C) the relief or action sought by the prospective plaintiff.

(2) COMMENCEMENT OF ACTION.—Except as provided in subsections (c) and (e), a prospective plaintiff shall not file a year 2000 claim in Federal or State court until the expiration of the 90-day period beginning on the date on which the prospective plaintiff provides notice under paragraph (1).

(b) RESPONSE TO NOTICE.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall provide each prospective plaintiff a written statement that—

(1) acknowledges receipt of the notice; and

(2) describes any actions that the defendant will take, or has taken, to address the defect or injury identified by the prospective plaintiff in the notice.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided under subsection (a)(1) during the 30-day period prescribed in subsection (b) or does not include in the response a description of actions referred to in subsection (b)(2)—

(1) the 90-day waiting period identified in subsection (a) shall terminate at the expiration of the 30-day period specified in subsection (b) with respect to that prospective defendant; and

(2) the prospective plaintiff may commence a year 2000 civil action against such prospective defendant immediately upon the termination of that waiting period.

(d) FAILURE TO PROVIDE NOTICE.—

(1) IN GENERAL.—Subject to subsections (c) and (e), a defendant may treat a complaint filed by the plaintiff as a notice required under subsection (a) by so informing the court and the plaintiff if the defendant determines that a plaintiff has commenced a year 2000 civil action—

(A) without providing the notice specified in subsection (a); or

(B) before the expiration of the waiting period specified in subsection (a).

(2) STAY.—If a defendant elects under paragraph (1) to treat a complaint as a notice—

(A) the court shall stay all discovery and other proceedings in the action for the period specified in subsection (a) beginning on the date of filing of the complaint; and

(B) the time for filing answers and all other pleadings shall be tolled during the applicable period.

(e) EFFECT OF WAITING PERIODS.—In any case in which a contract, or a statute enacted before March 1, 1999, requires notice of nonperformance and provides for a period of delay before the initiation of suit for breach or repudiation of contract, the contractual period of delay controls and shall apply in lieu of the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—If a defendant acts under subsection (d) to stay an action, and the court subsequently finds that the assertion by the defendant that the action is a year 2000 civil action was frivolous and made for the purpose of causing unnecessary delay, the court may impose a sanction, including an order to make payments to opposing parties in accordance with Rule 11 of the Federal Rules of Civil Procedure or applicable State rules of civil procedure.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

(h) SINGLE PERIOD.—With respect to any year 2000 claim—

(1) to which subsection (c)(2) regarding commencement of actions applies, or

(2) to which subsection (d)(2) requiring stays applies,

only one waiting period, not exceeding 90 days, shall be accorded to the parties.

(i) APPLICABILITY OF STATUTES OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed notice under subsection (a).

SEC. 102. OUT OF COURT SETTLEMENT.

(a) REQUESTS MADE DURING NOTIFICATION (COOLING OFF) PERIOD.—At any time during the 90-day notification period under section 101(a), either party may request the other party to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, the parties may also agree to an extension of that 90-day period.

(b) REQUEST MADE AFTER NOTIFICATION PERIOD.—At any time after expiration of the 90-day notification period under section 101(a), whether before or after the filing of a complaint, either party may request the other party to use alternative dispute resolution.

(c) PAYMENT DATE.—If a dispute that is the subject of the complaint or responsive pleading is resolved through alternative dispute

resolution as provided in subsection (a) or (b), the defendant shall pay any amount of funds that the defendant is required to pay the plaintiff under the settlement not later than 30 days after the date on which the parties settle the dispute, and all other terms shall be implemented as promptly as possible based upon the agreement of the parties, unless another period of time is agreed to by the parties or established by contract between the parties.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

SEC. 201. PLEADING REQUIREMENTS.

(a) NATURE AND AMOUNT OF DAMAGES.—In any year 2000 civil action in which a plaintiff seeks an award of money damages, the complaint shall state with particularity to the extent possible before discovery with regard to each year 2000 claim—

(1) the nature and amount of each element of damages; and

(2) the factual basis for the calculation of the damages.

(b) MATERIAL DEFECTS.—In any year 2000 civil action in which the plaintiff alleges that a product or service was defective, the complaint shall, with respect to each year 2000 claim—

(1) identify with particularity the manifestations of the material defects; and

(2) state with particularity the facts supporting the conclusion that the defects were material.

(c) MATERIAL DEFECTS IN CLASS ACTION MINIMUM INJURY REQUIREMENT.—In any year 2000 civil action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court with respect to that claim only if—

(1) the claim satisfies all other prerequisites established by applicable Federal or State law; and

(2) the court finds that the alleged defect in the product or service was a material defect with respect to a majority of the members of the class.

This subsection applies to year 2000 claims for commercial loss and to year 2000 claims for loss or harm other than commercial loss.

(d) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 civil action, the court shall, on the motion of any defendant, dismiss without prejudice any year 2000 claim asserted in the complaint if any of the requirements under subsection (a), (b), or (e) is not met with respect to the claim.

(2) STAY OF DISCOVERY.—Subject to the 90-day single period provisions of section 101(h), in any year 2000 civil action, all discovery and other proceedings shall be stayed during the pendency of any motion pursuant to this subsection to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—

(i) TREATMENT OF EVIDENCE.— During the pendency of any stay of discovery entered under paragraph (2), unless otherwise ordered by the court, any party to the action shall treat the items described in clause (ii) as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(ii) ITEMS.—The items described in this clause are all documents, data compilations (including electronically stored or recorded data), and tangible objects that—

(I) are in the custody or control of the party described in clause (i); and

(II) are relevant to the allegations.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with subparagraph (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 202. DUTY TO MITIGATE DAMAGES.

Damages awarded for any year 2000 claim shall exclude any amount that the plaintiff reasonably should have avoided in light of any disclosure or information provided to the plaintiff by defendant.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

SEC. 301. CONTRACT PRESERVATION.

(a) IN GENERAL.—Subject to subsection (b), in resolving any year 2000 claim each written contractual term, including any limitation or exclusion of liability or disclaimer of warranty, shall be strictly enforced, unless the enforcement of that term would contravene applicable State law as of January 1, 1999.

(b) INTERPRETATION OF CONTRACT.—In any case in which a contract under subsection (a) is silent with respect to a particular issue, the interpretation of the contract with respect to that issue shall be determined by applicable law in effect at the time that the contract was entered into.

SEC. 302. IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY.

(a) IN GENERAL.—In any year 2000 civil action in which a year 2000 claim is advanced alleging a breach of contract or related claim, in resolving that claim applicability of the doctrines of impossibility and commercial impracticability shall be determined by applicable law in existence on January 1, 1999.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon the doctrines referred to in subsection (a).

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NONCONTRACTUAL CLAIMS

SEC. 401. FAIR SHARE LIABILITY.

(a) GENERAL RULE.—Subject to subsection (d), in any year 2000 civil action, the liability of each tort feasor or noncontractual defendant shall be joint and several, subject to the court's equitable discretion to determine, following upon a finding of proportional responsibility, that the liability of a tort feasor or noncontractual defendant (as the case may be) of minimal responsibility shall be several only and not joint.

(b) AMOUNT OF LIABILITY.—Each defendant that is severally liable in a year 2000 civil action shall be liable only for the amount of loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with subsection (c)) for such harm.

(c) DETERMINATION OF RESPONSIBILITY.—

(1) IN GENERAL.—In any year 2000 civil action, the court shall instruct the jury to answer special interrogatories, or if there is no jury, make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of that person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify—

(A) the total amount of damages that the plaintiff is entitled to recover; and

(B) the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(d) SPECIAL RULES FOR JOINT LIABILITY.—

(1) IN GENERAL.—Notwithstanding subsection (a), in any case the liability of a defendant to which subsection (a) applies in a year 2000 civil action is joint and several if the trier of fact specifically determines that the defendant —

(A) acted with specific intent to injure the plaintiff; or

(B) knowingly committed fraud.

(2) KNOWING COMMISSION OF FRAUD DESCRIBED.—For purposes of paragraph 1(B), a defendant knowingly committed fraud if the defendant—

(A) made an untrue statement of a material fact, with actual knowledge that the statement was false;

(B) omitted a fact necessary to make the statement not be misleading, with actual knowledge that, as a result of the omission, the statement was false; and

(C) knew that the plaintiff was reasonably likely to rely on the false statement.

(3) RECKLESSNESS.—For purposes of paragraph (1), reckless conduct by the defendant does not constitute either a specific intent to injure, or the knowing commission of fraud, by the defendant.

(e) CONTRIBUTION.—A defendant who is a jointly and severally liable for damages in a year 2000 civil action may recover contribution for such damages from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for such contribution is made.

(f) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—An action for contribution under subsection (e) in connection with a year 2000 civil action may not be brought later than six months after the entry of a final, nonappealable judgment in the year 2000 civil action.

SEC. 402. ECONOMIC LOSSES.

(a) IN GENERAL.—Subject to subsection (b), a party to a year 2000 civil action may not recover economic losses for a year 2000 claim advanced in the action that is based on tort unless the party is able to show that at least one of the following circumstances exists:

(1) The recovery of these losses is provided for in the contract to which the party seeking to recover such losses is a party.

(2) If the contract is silent on those losses, and the application of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into would allow recovery of such losses.

(3) These losses are incidental to a claim in the year 2000 civil action based on personal injury caused by a year 2000 failure.

(4) These losses are incidental to a claim in the year 2000 civil action based on damage to tangible property caused by a year 2000 failure.

(b) TREATMENT OF ECONOMIC LOSSES.—Economic losses shall be recoverable in a year 2000 civil action only if applicable Federal law, or applicable State law embodied in

statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses in the action.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Tennessee (Mr. BRYANT) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN) to speak on behalf of this very important substitute.

Ms. LOFGREN. Mr. Chairman, I represent San Jose, California, that calls itself the capital of Silicon Valley, and, as my colleagues can imagine, addressing the issues posed by Y2K liability is something of interest to me. At home among high tech CEO's there is a division of opinion on whether Y2K will be a huge deal or a little tiny deal. Some people, some CEO's and high tech-ers think that it will be a large problem. Others think it has been much overrated.

For myself, I think the possibility of extensive litigation is sufficient for this body to take an act. In a way I think about it as I think about the Titanic. The chances of the Titanic running into the iceberg were very small, but when it happened it was catastrophic, and so I do think it is appropriate for us to put in place some life rafts and some rowboats so that the economy of the United States is not impaired by litigation that is frivolous or unnecessary.

On the other hand, I am anxious that we move expeditiously and that we come to common ground on this matter.

How do we legislate here in Congress? Too often, people see us arguing and disagreeing, but in truth we know that we come to a conclusion by reaching out to each other and finding out what we can agree on; Democrats and Republicans, what can we agree on; House and Senate, what can we agree on; and Congress and the White House, what can we agree on; because it takes all of those parties to make a law. And because the Y2K issue is coming at us, it is important that we go through this extended process of finding common ground more quickly than is ordinarily the case.

If I can just briefly relate a conversation I had with Scott Cook, the founder of Intuit, in San Jose just on Friday. As my colleagues know, he thanked me for my efforts on behalf of Y2K and also pointed out we cannot wait until the year 2003 to get a bill; we need it this spring.

That is why we have offered up this substitute. I believe that it offers those things that we can agree upon, Democrats and Republicans, House and Senate, White House and Congress, and that it offers up elements that will provide the essential life raft for high tech in our economy.

Specifically Title I allows for a cooling-off period and incentives to settle for alternative dispute mechanisms just as does the underlying bill. It also requires for a specific and particular pleading, which is an important issue, and requires the duty to mitigate damages. It also includes, requires, that material defects must be the basis for lawsuits, not immaterial material defects, but material defects, and finally does provide for an alteration of joint and several liability so that those defendants who have minimal liability cannot be held totally responsible for the cost unless their conduct constituted fraud.

I must say that although this bill, this amendment, may not be perfect, it will get the job done, and it is something that we can agree on.

The Justice Department in defining the underlying Davis bill said this: by far the most sweeping litigation reform measure ever considered. The bill makes, and I quote again, extraordinarily dramatic changes in both Federal procedure, in substantive law and in State procedural and substantive laws. The class-action removal is just one situation that we have already discussed in the last amendment. We cannot come to an agreement on that, and as the gentleman from Virginia (Mr. GOODLATTE) said in closing under the hour of general debate, much of what is in the underlying Davis bill was in the Contract with America. Reasonable people can and do disagree on many of those provisions, and that argument can be had another day.

What I am saying is we cannot and we should not tie up this essential Y2K matter over those things that we cannot agree on, so I highly recommend this.

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

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

Mr. Chairman, the Conyers amendment would neither encourage Y2K remediation nor discourage frivolous litigation. This substitute recognizes the seriousness of the Y2K litigation problem and, as well, the necessity of a legislative response. But the amendment waters down key provisions of H.R. 775 in a way that would make the bill markedly less effective in screening out insubstantial litigation and encouraging remediation. This amendment should be rejected.

Among its most serious defects are, one, the amendment would allow vague and unsupported allegations of fraud to survive a motion to dismiss. Two, the amendment does not impose a meaningful duty to mitigate damages and, therefore, does not encourage remediation. Three, the amendment does not impose meaningful limits on joint and several liability and thus does nothing to prevent strike suits against defendants with deep pockets. Four, the substitute does nothing to advance reasonable efforts to remediate Y2K problems. Five, the substitute does not limit punitive damages and, therefore, does nothing to discourage abusive suits by lawyers who seek to win litigation jackpots. And finally, six, the substitute would keep national class actions involving out-of-state defendants in State courts.

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

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BOUCHER), who has worked very diligently on this alternative substitute.

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

It is my pleasure to rise in support of the amendment in the nature of a substitute offered by the gentleman from Michigan and the gentlewoman from California with whom I am pleased to be co-authoring this measure. I also urge opposition to the overly broad provisions of H.R. 775 as reported from the House Committee on the Judiciary.

Mr. Chairman, our substitute addresses in a straightforward and in a targeted fashion the genuine concerns that arise from the Y2K transition. The substitute provides for a cooling-off period. Before a suit is filed, plaintiffs would be required to give notice to potential defendants of a claim. Defendants would then have 30 days to respond to that notice and to provide a plan for how they would intend to repair the problem. They would then have an additional 60 days within which to affect those repairs.

The substitute encourages alternative dispute resolution so as to avoid expensive litigation. The 90-day cooling-off period can be extended while any alternative dispute resolution process is in progress.

The substitute requires that, if suit is filed, the plaintiff must state with particularity the problem he is having and the reason that the defendant or the defendants are responsible for that harm. This pleading requirement is designed to overcome the notice pleading rules that are currently in effect in some State courts.

The substitute prohibits frivolous class-action suits. To sustain a Y2K class-action suit, the plaintiff would have to meet all of the normal class-action certification rules and, in addition, demonstrate that there is a material defect in the product or the service with respect to every member of the class. Every member of the class would have to show that he is affected by a material defect. This minimum injury requirement would go a very long way indeed toward avoiding and precluding frivolous or insubstantial class-action suits.

The substitute imposes a clear duty on plaintiffs to mitigate damages. It codifies the economic loss doctrine now

applied in many States for cases that involve a combination of contract and tort causes of action. Under that doctrine, damages are limited to those allowable under the contract claim unless there is also a personal injury or property damage shown. Economic losses, such as lost profits or business interruption, will not be permitted unless explicitly provided for in the contract itself. The tort cause of action will simply not extend to these elements of loss in the normal case.

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Very importantly, the substitute gives the court the ability to protect defendants who have a small proportionate share of the overall liability. The substitute says that the court can apply equitable principles and make sure that defendants who have a very small part of the responsibility for causing harm will have only a very small liability, and their liability will be directly proportional to the harm that they cause. We do have in this substitute an important proportional liability provision.

The substitute truly meets the needs of the companies that will have Y2K liabilities. It is carefully targeted to meet the problem that has been presented. Our substitute does not contain the broader litigation restrictions that are a part of H.R. 775.

Unlike H.R. 775, our substitute does not place a cap on damage awards. Unlike H.R. 775, our substitute does not introduce into American law a loser pays principle. Unlike H.R. 775, our substitute does not create a more rigorous standard of proof for plaintiffs to receive damages, and unlike H.R. 775, our substitute does not reduce the liability of corporate officials.

These overly broad provisions of H.R. 775 are not necessary to address the genuine concerns that are presented in the Y2K transition. A measure that contains these overly broad provisions will not be signed into law. Our substitute would be signed into law if passed.

Given the severely limited time that Congress has to put a Y2K transition measure into place before the start of the year, given the fact that H.R. 775 cannot become law, given that our substitute meets the real needs of the Y2K concern that has been presented and can in fact become law, I strongly urge the passage of our substitute and the defeat of the underlying bill unless it is amended with this substitute.

Mr. BRYANT. Mr. Chairman, I yield myself 30 seconds to respond briefly to the Conyers amendment containing joint and several liability relief.

Mr. Chairman, I might point out to my colleagues that this relief only applies in circumstances where the judge does not change it. The judge has the opportunity under this substitute amendment to come in and do away with the joint and several liability or not do away with the joint and several liability, which actually causes more confusion than the existing law. So, again, I would urge my colleagues to vote against this amendment.

Mr. Chairman, I yield 4 minutes to my friend, the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, when I hear them saying let us come to common ground, it means give us our way. There is nothing common about it.

I had hoped that by the time we had passed this in the Senate we could all sit down and work with the administration, who until 2 days ago was saying publicly there was no problem. John Koskinen, the administration's guru on Y2K, said we do not need any legislation, and just in the last 24 hours they have come forward and admitted, yes, there is a problem and they are trying to find a political fig leaf to cover it. This substitute, the Conyers amendment, does not do the job.

Joint and several liability is an important concept. Companies like Intel, NetScape, Oracle, companies in the Silicon Valley, this legislation, I might add, is supported by the semiconductor industry, the Software Information Industry Association, Business Software Alliance, the Technology Network, TechNet, the Semiconductor Equipment and Materials Information, Information Technology Association of America. They want real legislation, not a fig leaf that does not do the job, that is feel good.

What has happened in this case is the larger companies, the Intels, the Oracles, if they touch the problem, if they make it better than it is now, they can still be held liable for the full amount in a class action suit with joint and several liability, because they are held as a defendant.

Proportional liability, I think, is a much better range. If someone touches a problem and makes it better, they should not be held liable for the full amount just because they happen to be the deep pockets, just because they happen to have the cash on hand.

To take the money from these companies that they should be investing in new products so that they compete on a global marketplace, and instead put it into litigation, into settlement, into attorneys fees, really undermines where we have gone as a country in this new economy and where we are in the global marketplace.

This guts the bill altogether, this amendment.

They talk about this being a part of the Contract with America. Actually, this is a laser shot that goes after a problem that exists once every 1,000 years. The Y2K problem is unique because of the interconnectibility of computer systems, and the fact that someone can have their whole system, they can flush it, they can test it, it can be 100 percent clean and then some other group gets into it and talks to it that is not Y2K compliant, that they never could have conceived of could have used it, comes in and messes it up, and yet the group that is actually innocent can be held liable for the total amount. That is what this amendment is, it holds companies who are trying to improve it.

In addition to that, this makes companies reluctant to fix the problem because if they fix the problem, if they come in and help a computer system and it is still not 100 percent functional, if they happen to be the deep pocket and they are a defendant, under joint and several liability they can be liable for the whole thing.

What that means is the problem is not getting fixed or if they are getting fixed the larger companies are going to the smaller companies and having them write off indemnities and the like that just do not make any sense in the ordinary marketplace.

Make no mistake about what this amendment does. It guts the bill and it is a political fig leaf.

They talk too about the amendment does not impose a meaningful duty to mitigate damages. This amendment does not. This amendment provides that a plaintiff cannot obtain damages that it could have reasonably avoided in light of information that it received from the defendant. Unlike the bill, the substitute does not create a mitigation requirement if the plaintiff becomes or should have become aware of the information from other sources.

That is a loophole one can drive a mack truck through. It does nothing in terms of mitigation in this case, unless there is a formal notification, which so often is many months later, even though they can go publicly and acknowledge these things over television, the media and other areas.

If someone could easily avoid damage by taking a simple step which he or she should be aware, it is perverse to allow that person to avoid taking those steps and to suffer damage and then to sue a third party for compensation when they should have known, and probably knew, because they were not officially notified.

This is a bad substitute.

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

Mr. Chairman, the gentleman from Virginia (Mr. DAVIS) will be delighted now to find out how much the Lofgren-Conyers-Boucher substitute leaves in from the original bill. One, we encourage mediation with a 90-day cooling off period. That is in the bill.

We help eliminate frivolous lawsuits by special pleading requirements in mitigation of damages. That is in the bill.

We increase legal certainty for Y2K defendants, contracts fully enforceable, preserving defensive impossibility and commercial impracticability.

So relax. This is good material from the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the ranking member, the gentleman from Michigan (Mr. CONYERS), for yielding me this time.

Mr. Chairman, I know some people think that debate is not often instructive but I just learned from the gentleman from Virginia (Mr. DAVIS) that the companies that will be the beneficiaries of this bill support it. That is something people might not have taken for granted.

Beyond that, however, I want to pay tribute to the great work of the gentleman from Virginia, the gentlewoman from California and the chairman, or the ranking member but chairman to be. The gentleman from Virginia and the gentlewoman from California have, in particular, distinguished themselves by thoughtful advocacy of the legitimate concerns of the high technology community. They have the vehicle that is the only one that can become law.

The administration has changed its position. It has been in part because of the work of these individuals who have said to them that they are wrong to just stonewall; let us work out a reasonable position.

Now, there is one other thing I do want to notice. I know there are Members who talk about how government always gets it wrong and the private sector always gets it right. One of our leaders of the House says government is dumb and the markets are smart. I think the markets obviously are wonderful in their work, but I do have to note that in this case it was not the government that forgot that 1999 would become 2000. That was the private sector. We all make mistakes.

The private sector is now coming to that stupid government and saying can we get a little help? I think we should. I think that is an appropriate role for government but we ought to understand what has happened here.

What this amendment does is to deal sensibly and try to find a compromise. I do not agree with everything. I am against unlimited punitive damages. I voted against the amendment of my friend, the gentleman from Virginia (Mr. SCOTT). I hope if we get to conference we will put back a cap on punitive damages, but on the whole this bill takes a sensitive and thoughtful approach.

I voted for the legislation passed over the President's veto, and I voted to override his veto limiting suits based on stocks. In this case, the companies that the gentleman from Virginia (Mr. DAVIS) enumerated need to be saved from themselves because if they insist on getting every single thing on their wish list, if they get everything that could mean they would almost never be sued under any circumstances, there will be no bill.

Yes, I think there are things about the American legal system that ought to be changed but it is fair to note that these companies we are talking about that are so afraid of this legal system grew in this legal system. If it was so terrible, if it was so obstructive, how did they get where they are? Did they all parachute in here from Mars?

The fact is that this same legal system allowed them to grow and what we now have is a sensible, thoughtful, specific compromise, worked out by people who have a great deal of understanding and knowledge of this industry and they are trying to get a bill.

We have a choice now. Some Members think a political issue would serve them better. Some Members think that legislation that gets signed into law would do a better job for the country, and I think that the substitute that is pending reflects that latter view.

I urge Members to vote for this substitute and set the basis for a sensible bill.

Mr. BRYANT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Tennessee (Mr. BRYANT) for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 775, the Y2K Readiness and Responsibility Act, and against the amendment that has been offered.

As the cochair of the House Y2K working group made up of my Subcommittee on Technology of the Committee on Science, the Subcommittee on Government Management, Information and Technology of the Committee on Government Reform, chaired by the gentleman from California (Mr. HORN), we have been reviewing for over the past 3 years virtually every facet of the impact of the year 2000 computer problem on our public and private sectors.

In fact, one of our first joint hearings which was held in March of 1997 was held really to deal with the consequences of legal liability in litigation, upon the ability of private industries to fix the problem. At that hearing and at others, we discovered that the fear of potential legal liability created a disturbing chilling effect that froze private industry from sharing important Y2K information with each other and with the American public.

Mention was also made of the concept of the total corrective cost. It was estimated ranging from the J. P. Morgan figure of $200 billion to the Gartner Group forecast of $300 billion to $600 billion. The Giga Group estimates that the total cost could amount to several trillion dollars if there are Y2K disruptions.

So it should come as no surprise to us that certain industries have refused to acknowledge or to share year 2000 information for fear that such disclosure could ultimately leave them vulnerable to negligence and warranty suits.

That is why, remember last year we did pass the Year 2000 Information Readiness Disclosure Act as an attempt to encourage the widest possible dissemination of Y2K information by providing limited immunity from lawsuits to companies that share information about the problem in good faith.

Now that was great, but now we need to move further. That act was narrowly tailored to address just the issue of information exchange. It did not affect the greater liability questions. So I believe we must do more, and that is what H.R. 775 does.

It is a positive step, without exempting businesses from their responsibility to correct the year 2000 problem. It provides a framework for helping to resolve claims from damages that may result because of Y2K failures.

Additionally, it provides some protection for those who have made good faith efforts to address the problem. It encourages alternative dispute resolutions and settlement negotiations, instead of costly and protracted judicial litigation.

Mr. Chairman, just this past March, the Y2K working group held a first House hearing in this Congress on the liability issue. I have cited in my testimony, which will be presented for the record, statements made by, for example, Mr. Walter Andrews and Mr. Tom Donohue.

I just want to also state that the High Technology Council of Maryland has strongly supported this bill and urge that all the Members of the House vote for it.

Mr. Walter Andrews of the law firm Wiley, Rein and Fielding stated that:

> In addition to the current litigation against software developers and other developers of information technology, we can expect eventually to see suits brought against suppliers, vendors and service businesses at every level of the chain of distribution. And the legal claims that eventually may be pursued under the rubric of the Year 2000 problem span the range from contract and tort law to statutory claims.

Mr. Tom Donohue, the President and Chief Executive Officer of the United States Chamber of Commerce, testified that:

> Unlike other national emergencies that hit without any warning, we now have an opportunity to directly address the Y2K problem before it hits. The business community is willing to do its part in fixing the Y2K problem, and to compensate those who have suffered legitimate harms . . . (we must work) to ensure that our precious resources are not squandered and that our focus will be on avoiding disruptions.

HIGH TECHNOLOGY
COUNCIL OF MARYLAND,
Rockville, MD, May 12, 1999.

Members of the House of Representatives,
U.S. Congress,
Washington DC.

On behalf of the High Technology Council of Maryland, I urge you to support the legislation that provides some protections from liability for companies that have made good faith efforts to address the Y2K problem.

We think this legislation will be very beneficial to companies as it addresses in a positive way some of the legal problems that may result from the Y2K problem. Y2K is a unique situation that was only brought to light for most businesses and individuals in the last few years.

The legislation does provide a framework for helping to resolve claims from damages that may result because the Y2K issue caused products to fail. It also provides some protection for those who have made ''good faith'' efforts to address the problem and encourages dispute resolution to resolve the problems, instead of expensive litigation.

It is important to remember that this legislation does not exempt businesses from their responsibility. It gives companies guidelines for what they should be doing and recognizes the good efforts of the many businesses who are trying to solve a problem not of their making.

We urge you to support legislation that will help companies do their best to be in compliance for Y2K.

Sincerely,

DYAN BRASINGTON,
President.

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Mr. CONYERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT). No one has worked harder in our Committee on the Judiciary than the gentleman.

Mr. DELAHUNT. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, I just want to set the record straight. I think that my friend and colleague, the gentleman from Virginia (Mr. DAVIS) unintentionally misstated the position of the administration in this regard, because back on April 13, which is certainly not several days ago, in her testimony before the Committee on the Judiciary Assistant Attorney General for Policy Development, Eleanor Acheson, was very, very clear. Let me read from her statement.

''We are committed to working with the committee to formulate mutually agreeable principles that would form the basis for a needed, targeted, responsible, and balanced approach to Y2K litigation reform.''

So this is not a fig leaf. In fact, it was this testimony that prompted the gentlewoman from California (Ms. LOFGREN) and the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Michigan (Mr. CONYERS) to come in with this substitute which I would submit is balanced and reasonable, and answers the problem without denying due process to small businesses and many, many Americans.

Mr. BRYANT. Mr. Chairman, I yield 15 seconds to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, I guess the administration has been at odds with itself, because just up to a month ago Mr. Koskinen, who is their Y2K guru, was saying there was no need for the legislation. So we have the Justice Department saying one thing, the Y2K guru at OMB saying something else.

But we are just happy to have them engaged in this. We look forward to working with them at the conference.

Mr. BRYANT. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. MORAN), one of the original cosponsors of this bill.

Mr. MORAN of Virginia. Mr. Chairman, I thank the distinguished chairman, the gentleman from Tennessee (Mr. BRYANT) for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment and in support of the underlying bill. I know that this is a well-intended effort to come up with a compromise solution that will get the White House on board, but it needs to be stated explicitly and definitively on this floor that none of the organizations that need this help endorse this amendment.

There are over 300 organizations that are directly affected by the Y2K problem that understand the liability involved that support the underlying bill. That includes the National League of Cities, which is hardly a foil for the Republican Party. They discussed it at length, mayors and county board members. They concluded that this bill, the underlying bill, not the alternative amendment, is what they need.

Mr. Chairman, how important is this? It has been estimated that $2 to $3 will be spent in litigation for every $1 that will be spent on fixing the problem. But it is actually more serious than that. The Federal Government, according to the Federal Reserve, will spend about $30 billion fixing its Y2K computer problem. The private sector, private industry, will spend about $50 billion. But it is also estimated that nearly $1 trillion will be spent in litigating the problem.

What kind of an allocation of resources is that? That is insane. In fact, and I want every Member in this body to listen to this, a panel of experts that studied the Y2K problem of the American Bar Association came up with the conclusion that there could be more litigation involved in Y2K than asbestos, breast cancer implants, tobacco, and Superfund liability combined. This could be the greatest liability expense this Nation will have experienced. Imagine, asbestos, breast cancer implants, tobacco, and Superfund liability combined may equal the amount of litigation involved in Y2K.

The problem is, there are no really bad actors here. Nobody deliberately wants to keep their computer programmed in a way that is not useful for the 21st century. That would be nuts. Everybody is trying to fix this. The problem is that some people have seen a disincentive to fix it because of the potential liability.

The underlying bill fixes the problem. I do not think the alternative amendment does. I will vote against the alternative amendment and for the underlying bill.

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

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

Mr. CONYERS. Mr. Chairman, this from the San Jose Mercury News:

Y2K bills are buggy themselves . . . the legislation is still evolving, but the trend so far is that Congress is slighting consumers of hardware and software in its desire to protect the high-tech industry.

The New York Times:

. . . the legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action . . . the government should not use the Millenium bug to overturn longstanding liability practices. A potential crisis is no time to abrogate legal rights.

The Washington Post:

The fear of significant liability is a powerful incentive for companies to make sure that their products are Y2K compliant and that they can meet the terms of the contracts that they have entered.

So this substitute, Mr. Chairman, seeks to repair the tremendously one-sided advantages that are granted in Y2K. I believe that many responsible computer organizations will have no problem whatsoever working with the Lofgren-Conyers-Boucher substitute.

In addition, this substitute increases legal certainty for the defendants in Y2K by specifying that their contracts shall be fully enforceable, by preserving their ability to assert the defense of impossibility or commercial impracticability.

The substitute also helps to ensure that defendants who are responsible for only a small portion of their damages are not held responsible for damages caused by other tort feasors.

So here we have it. Do we really want to go down in flames by resisting a well-crafted substitute and risk a veto, or do we want to accept something that has many of the elements of the original bill, the underlying bill in it?

I think the smarter, wiser, more correct legislative course is to follow the substitute, and let us all work together and get this through the Senate and signed by the President into law.

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

Mr. BRYANT. Mr. Chairman, I am pleased to yield 2 minutes to my colleague, the gentleman from Missouri (Mr. TALENT).

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

Mr. Chairman, I want to speak in support of the underlying bill and against the substitute. I certainly hope we can work something out. I am glad that there is some consensus that we need to do something.

Here is my concern. A small business has done everything it can to become Y2K compliant. It has gotten ready. It is Y2K compliant, but one of its suppliers is not. That may not even be a domestic supplier, it could be a foreign supplier.

So as a result, that small business is not able to deliver on time to maybe a big business, so the big business sues. It just seems to me the underlying bill, which has some commonsense things in it, says, look, you cannot recover punitive damages that are greater than three times your actual damages. There should be some relationship between the damage award you get and the actual damages you suffer. That seems to me to make sense.

I also very much like the provisions in the underlying bill that are designed to discourage fraudulent or nuisance actions, strike actions. When you file a lawsuit and you really know you cannot win if you go to trial, but you

know that small business does not want to spend $40,000 or $50,000 or $60,000 or $70,000 defending itself, so you file the thing. You have this big punitive damages award hanging over the small business. You go and say, well, for $20,000 or $25,000, we will dismiss the lawsuit. That is what we call a strike action, a nuisance action.

The underlying bill has a safeguard. It says, if you think there is fraud, state the basis for believing there is fraud in your lawsuit. What is wrong with that? One of my concerns about the substitute is that it does not have that in there. You should not be able to file a lawsuit alleging fraud without having a basis for it, and then go on a fishing expedition trying to find it that is costly for the small business defending the action.

I like the underlying bill. I think it is better than the substitute. I urge the House to oppose the substitute. I hope we can work something out and get a consensus measure. Certainly the bill has bipartisan support. I would like something the President could sign.

Y2K is a difficult enough problem for the small business community without having to be concerned about nuisance actions, so I would urge the House to oppose the substitute and support the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

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

Mr. Chairman, I believe, with many of my colleagues, that frivolous litigation is already a real concern to the business community and needs to be addressed by Congress.

But the legislation, the underlying bill that is before us, would make dramatic changes in Federal, procedural, and substantive law at both the Federal and State levels. This example just given by the previous speaker is the perfect example. There is no other kind of lawsuit where you have to plead fraud in the way that the underlying bill contemplates. Why should we do it just for one class of lawsuits?

We need to make sure that year 2000 liability legislation we pass does not undercut incentives that will encourage companies to fix year 2000 problems. The amendment that we have before us would encourage entities to fix year 2000 problems now, and would also provide a method for weeding out any future frivolous lawsuits, while providing an outlet for legitimate claims.

I also think that it would be foolish to establish an unwarranted precedent to limit damage awards in product liability cases, yet another example of how we are changing jurisprudence. I think it is important to discourage frivolous lawsuits that may come as a result of the year 2000 glitch, but this body should not pass overbroad legislation that will hurt both businesses and consumers who have legitimate claims.

One of the most important provisions in the substitute specifies that those defendants determined to be only minimally liable for the year 2000 consumer problem will be held to be only proportionally liable by the court. This is a far more palatable alternative to completely eliminating joint and several liability altogether, which is what the underlying bill does.

The substitute provides that the court will have discretion to determine whether a defendant that is minimally liable will be held jointly and severally liable. There is little disagreement about encouraging resolution of year 2000 problems without resorting to litigation. The amendment strikes the needed balance, and it can pass and it can be signed into law.

The year 2000 is just a little over 6 months away. Congress needs to act now to pass a law everybody can agree with, instead of dithering around for the next 6 months trying to figure out how we are going to expedite resolution of the year 2000 glitch, and expedite this resolution for the business community and the consumer as well.

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

Mr. Chairman, I rise in strong opposition to the Conyers substitute. I commend the gentleman from Michigan, the gentlewoman from California, and the gentleman from Virginia for their efforts to work in this area, but this amendment, this substitute, simply does not address the problems that are addressed in the bill offered by the gentleman from Virginia (Mr. DAVIS), and as a result, I must support the bill.

Let me point out what those differences are. First, the amendment would allow vague and unsupported allegations of fraud to survive a motion to dismiss.

Like H.R. 775, the Conyers amendment recognizes that heightened pleadings standards are necessary to screen out frivolous suits at the motion to dismiss stage before defendants and plaintiffs run up huge litigation costs.

Unlike H.R. 775, however, the substitute would not require plaintiffs to plead with particularity the facts supporting allegations of fraud. This is a major omission. Prior to the enactment of the Private Securities Litigation Reform Act in 1995, abusive fraud suits were a major problem.

Similar suits inevitably will be brought in the Y2K area, yet it is fundamentally unfair for a plaintiff to accuse a defendant of acting with a fraudulent state of mind unless the plaintiff is able to articulate some factual basis for that allegation.

The substitute does not impose a meaningful duty to mitigate damages, and therefore does not encourage remediation. The Conyers amendment provides that a plaintiff may not obtain damages that it could reasonably have avoided in light of information that it received from the defendant, but unlike H.R. 775, the substitute does not create a mitigation requirement if the plaintiff becomes or should have become aware of the information from other sources.

Surely, however, if someone could easily avoid damage by taking simple steps of which he or she is or should be aware, it is perverse to allow that person to avoid taking those steps to suffer the damage and then sue a third party for compensation.

□ 1515

The amendment does not impose meaningful limits on joint and several liability and thus does nothing to prevent strike suits against defendants with deep pockets.

Proportionate liability is an essential response to the threat of abusive litigation. Without proportionate liability, plaintiff's lawyers always will name a deep-pocketed defendant in their suits so long as there is any chance that the people who are really responsible for the injury are judgment-proof.

The lawyers will know that the deep pocket will have to pay the entire judgment so long as a jury can be persuaded to find it even 1 percent responsible. As was true in the securities context prior to enactment of the PSLRA, that kind of scheme simply encourages strike suit litigation by giving lawyers the leverage to bring abusive suits that the defendant will have no choice but to settle.

The Conyers amendment, however, does not impose a real limit on joint and several liability. It makes joint and several liability the rule unless a judge exercises his or her discretion to order otherwise. This scheme offers no protection in State courts with plaintiff-friendly judges. Because the outcome in every case will be uncertain, defendants who will not know until after trial whether they face joint and several liability will have to pay coercive settlements even when they did nothing wrong.

Indeed, the amendment would make the law considerably worse than it is now by preempting the many State laws that depart from pure joint and several liability.

Also, this substitute does nothing to advance reasonable efforts to remediate Y2K problems. It does not limit punitive damages and, therefore, does nothing to discourage abusive suits by lawyers who seek to win the litigation jackpot.

The substitute would keep national class actions involving out-of-State defendants in State court, an abuse that we have attempted to correct in this legislation and is one of the main reasons why I cannot join in supporting this substitute.

I urge my colleagues to oppose it and to support H.R. 775.

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

Mr. CONYERS. Mr. Chairman, how much time remains on each side, sir?

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has 11 minutes remaining, and the gentleman

from Virginia (Mr. GOODLATTE) has 11¾ minutes remaining.

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

This question of fraud has to be looked at a lot more carefully than the gentleman from Virginia (Mr. GOODLATTE) has put forward. The pleadings around fraud have been established over generations of litigation in the American court system.

The requirement for particularity that he finds missing in our bill is missing because that is the state of the law. But we added materiality. The base bill talks about fraud.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I would like to pick up where the gentleman from Michigan (Mr. CONYERS) was raising several points, and I appreciate the points he was making on this.

I rise in strong support for the Conyers-Boucher-Lofgren substitute. I have spoken to the gentleman from Virginia (Mr. GOODLATTE) on the floor and thanked him for his leadership on this issue, and I think the temperament or the tone of the debate suggests that it is not acrimonious debate. I think we all agree that we have a problem that we should face collectively in dealing with Y2K.

I think the key element is preparedness. But as I heard the gentleman from Virginia (Mr. GOODLATTE) refuting the amendment, he was refuting it by suggesting the things that were not in it or the things that the amendment was reestablishing, the joint and several liability, the lack of a cap on punitive damages.

But what he was saying is that the state of the law in America now is not good enough. That is the concern we have with the underlying bill and why I am supporting the Y2K substitute or this legislation that is being offered.

The substitute was put together in cooperation with the high-tech industry and without the assistance of another theme, which is tort reform, which I think we can all debate and have our opinions. We can agree and disagree. But this is not legislation that is dealing with tort reform.

It is an isolated, portended problem that will come up, or we believe will come up, with the Y2K pending crisis. We realize that we must address it, but the concern we have in dealing with this legislation, the Y2K problem, is that we need to have solutions, as the gentleman from Michigan (Mr. CONYERS) has said, that can bring about bipartisan support and frankly will, if you will, withstand a veto. Why not accept the substitute which clearly responds to some of the concerns we have?

The underlying legislation, for example, for instance, it keeps the enhanced pleading requirements, but it jettisons the reasonable efforts defense. That defense basically gives carte blanche protection to any Y2K solution provider who provides only the bare minimum of assistance to their clients.

This is unprecedented in American law. This is what the underlying bill does, which provides ample statutory and common law defenses in legal relationships.

Mr. Howard Nations, a well-respected scholar from my hometown of Houston, when he was testifying before both the Committee on Science and the House Committee on the Judiciary, repeatedly pointed out that the Uniform Commercial Code and State-developed common law were more than adequate to handle the problem of the Year 2000 transition.

I am concerned at the negative stereotypes of State court systems. I believe many lawyers practice in those courts, defendants' and plaintiffs' lawyers, and find a fair and balanced judicial system.

Those legal sources include a wide assortment of defenses available to named defendants, like the business judgment rule, the statute of limitations and the obligation of plaintiff to mitigate damages.

This substitute saves the cooling-off provisions but reforms the provisions on joint and several liability.

Mr. Chairman, I would simply say that there are so many features in this underlying bill that the amendment that is now being offered is a fair response to the capping of punitive damages, and it is a fair response to bipartisanship.

I hope, Mr. Chairman, that we can vote on this amendment in a bipartisan manner and get a bill that can pass and that will serve the American people.

Mr. Chairman. I rise in strong support of this substitute, which is the product of a great deal of hard work by Congressmen CONYERS and BOUCHER, and Congresswoman LOFGREN, who represents the high-tech community in California.

This substitute was put together in cooperation with the high-tech industry, and without the ''assistance'' of the powerful tort-reform lobby. As a result, it is a substitute that is narrowly tailored to do the job it is needed to do—help people and businesses solve their Y2K problems with minimal discomfort.

It is a substitute that focuses H.R. 775 on the Y2K problem and its solutions, and stays away from controversial changes that may change the face of our legal system forever. For instance, it keeps the enhanced pleading requirements, but jettisons the ''reasonable efforts'' defense. That defense basically gives carte blanche protection to any Y2K solution provider who provides only the bare minimum of assistance to their clients. This is unprecedented in American law, which provides ample statutory and common law defenses in legal relationships. Mr. Howard Nations, a well-respected legal scholar from my home town of Houston, when testifying before both the House Science and Judiciary Committees repeatedly pointed out that the Uniform Commercial Code (UCC) and state-developed common law were more than adequate to handle the problem of the Year 2000 transition. Those legal sources include a wide assortment of defenses available to named defendants, like the ''business judgment rule'', the statute of limitations, and the obligation of the plaintiff to mitigate damages.

This substitute saves the ''cooling off period'', but reforms the provisions on joint and several liability. Joint and several liability was developed by courts and legislatures over our history to take the burden of innocent plaintiffs who have been wronged by many defendants. It allows them to receive satisfaction without having to track down every defendant that may have wronged them. The unamended version of this bill basically eliminates this well-established principle, and puts the onerous burden of plaintiffs to seek justice, perhaps all over the globe. This substitute vastly improves the provisions on joint and several liability by allowing only those defendants who have had minimal involvement with the facts in question to escape complete liability.

This substitute eliminates much of the tort-reform clutter that pervades this bill. It eliminates the caps on punitive damages, which it sets at $250,000. It strikes the provisions that federalize state class action laws. But at the same time, this substitute brings relief to consumers who might otherwise be caught under the auspices of this onerous legislation. It also keeps the provisions that will allow courts to discriminate against frivolous lawsuits.

Furthermore, because of the impending veto threat, I urge each of you to give the House a chance to pass a bill that can actually be signed into law by voting for this Democratic Substitute. This substitute shows that we can address this difficult and complex Y2K problem without upsetting the delicate balance that has been slowly developed and nurtured by our system. We can do right by the American people—vote ''aye'' on the Conyers/Lofgren/Boucher substitute.

Mr. GOODLATTE. Mr. Chairman, I yield myself 2 minutes, and I yield to the gentleman from Michigan (Mr. EHLERS) for the purpose of a colloquy.

Mr. EHLERS. Mr. Chairman, I want to thank the gentleman from Virginia (Mr. GOODLATTE) for yielding time for purposes of this colloquy; and I commend him for all the hard work he has done to address the Y2K litigation issue in this bill.

As the gentleman knows, I have expressed a deep concern to him and others about the bill's failure to distinguish between Y2K defects that originated before the issue was widely recognized as a problem and the Y2K defects that originated after the issue was commonly known. I believe this is a critical distinction to make if we are going to responsibly modify the laws governing liability in Y2K-related matters.

Further, I am concerned about the absence in the bill of affirmative incentives for manufacturers to fix defective consumer products in an expeditious manner should they fail because of a Y2K problem.

It is especially important to explicitly address the liability and damages

issues raised by the extensive use of embedded chips or microprocessors. These are widely used in consumer products, and Y2K defects in these chips can greatly inconvenience and perhaps damage the businesses and property of the owners of common consumer products.

It was my desire to address what I see as a deficiency in the bill with an amendment to exempt from the bill those products manufactured after the beginning of 1995.

While I was prohibited by the Committee on Rules from offering my amendment on the floor today, I am pleased that the gentleman from Virginia and I have made some progress in arriving at a mutually agreeable solution to these issues. I am encouraged by the gentleman's pledge, as well as the assurances from other bill sponsors, to attempt to specifically address these matters as work on the bill continues in conference.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Michigan and appreciate hearing his concerns about the additional issues that this legislation could be expanded to address. As he accurately stated, I have agreed to attempt to specifically address these matters as work on the bill continues in conference.

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

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN), the major author of our substitute.

Ms. LOFGREN. Mr. Chairman, although we do not have time to go into a full debate on everything, I do think it is important to clarify a couple of points that have been discussed.

First, there is a provision in the substitute on page 14, on line 13, relative to material defects that must be applied with particularity; and I think that is very specific and does put requirements on the pleaders.

There was a comment made that the intent or the drift was that a court might just remove the provisions relative to joint and several for a reason that was frivolous. It is only fraud that would allow a court to do that if there was minimal negligence.

The definition of fraud found on page 21 is standard definition of fraud. I mean, it is not something new. If it is less than perfect, I do not know if it is, but certainly we can work on it. But I thought it was important to clarify those.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from California (Mr. DREIER), chairman of the Committee on Rules, a leader on this and other technology issues.

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

Mr. DREIER. Mr. Chairman, I rise in strong opposition to the measure and strong support of the bill. But before I speak about it, I would like to especially compliment the distinguished gentleman from Virginia (Mr. GOODLATTE), who has been doing a superb job on this measure. I would also like to say that it has been a pleasure to work with the gentleman from Virginia (Mr. DAVIS), who successfully brought the Fairfax Journal editorial endorsement of our position in this morning.

Let me say that, this morning, as I closed the debate on the rule, I talked about the fact that both plaintiffs and defendants are very supportive of the overall measure. I think it is important to underscore that there are a wide range of high-tech organizations out there, associations, which are opposed to the Conyers substitute and supportive of our underlying bill.

They include the American Electronics Association, the Business Software Alliance, Computing Technology Industry Association, the Information Technology Association of America, the Information Technology Industry Council, the Semiconductor Industry Association, and the Software and Information Industry Association.

Also, the coalition supporting our bill is basically well beyond high-tech companies. The single largest small business organization in this country is the National Federation of Independent Business. They have hundreds of thousands of members, I know, all over the country. In fact, I was an NFIB member before coming to this institution. I will say that they are strongly supporting our measure and opposing this substitute.

We have also big businesses involved supporting this thing. So it really is a collection of entrepreneurs, small and large, who are supportive of the underlying bill and opposed to this substitute which is being proposed.

This legislation does not eliminate anyone's right to sue. It is very important that their day in court is maintained. Instead, the common-sense legislation prevents the threat from litigation from stifling good-faith efforts to address potential Y2K problems before they happen.

I reluctantly oppose the substitute. I have enjoyed working with my good friends on the other side of the aisle and will continue in the months and years to come to do that. But I believe that the underlying bill is the best approach for us to take.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Chairman, last week on the floor, we dealt with the bankruptcy bill, and my Republican colleagues talked about personal responsibility and, indeed, past legislation to deal with personal responsibility on the question of bankruptcy.

Today, we have a bill that exempts corporations from that same responsibility. Last week, responsibility; this week, exemption from responsibility.

This bill strips consumers of their right to seek justice in the courts. The bill, instead of addressing legitimate concerns of the high-tech industry, which the Lofgren-Conyers-Boucher substitute does, this bill is an example of gross excess. It is radical. It is extreme in its approach.

□ 1530

It deprives, as we have heard from several speakers here, consumers and small businesses of their right to seek full damages. And for the life of me, I say to my friend, the gentleman from California (Mr. DREIER), who just spoke, if the NFIB really cares about the small business folks, I do not for the life of me understand where they are on this. It even deprives them of these rights to seek full damages in cases of deliberate and malicious misconduct.

It limits the ability of consumers to join together in class action suits. Of course, then we empower big corporations to divide and conquer. It discourages consumers and small businesses from going to court in the first place because they risk the burden of massive court costs if they lose their case against wealthy corporations.

Yes, Y2K is a serious problem, but this is not a serious solution. All corporations should be held responsible for their actions. This bill sets up a double standard. It absolves special groups of corporations from their responsibilities. This act would effectively strip consumers of their rights to pursue justice in the courts and it would send a terrible message that some corporations can defraud consumers and just walk away.

Mr. Chairman, I urge my colleagues to support the Lofgren-Conyers-Boucher substitute. They strike a good balance between the legitimate concerns of the high-tech industry and the critical need to maintain strong protection for consumers and small businesses.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMEY), our distinguished majority leader.

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

Colleagues on both sides of the aisle ought to take a quick look at where we are today and say what is this really all about and what is our responsibility as a legislative body, indeed the Congress of the United States.

Well, what it is about, my colleagues, is the Year 2000 and the extent to which the American people do not fully realize how their year can be affected by this wonderful New Year's Eve celebration when the clocks turn over if the computer chips do not. This is a big deal.

My nightmare about Y2K is sitting at home, as I do with my wife on New Year's Eve, watching the celebration in Times Square as we have always done on New Year's Eve, watching that ball begin to drop, and participating as we do with the countdown, 5, 4, 3, 2, 1, and then blackness. The TV goes off, the

ball does not hit the bottom and we have people stranded all over Times Square. Their watches have stopped working. They cannot get to an ATM to give them cash. They cannot get a cab. Their electricity does not work. Their water has stopped running. Lord have mercy if they do get home. They cannot get up the next morning because their alarm does not go off. We could have all kinds of confusion. This is a big, big, big deal.

Now, I have to tell my colleagues that all those wonderful people in the computer industry that are so concerned about the quality of their work, as they are, want to solve this problem. But they are like the good Samaritan. Or perhaps they are not. The good Samaritan had no fear. He stopped and helped. But we know today that there are many potential good Samaritans, we talk about them in the medical profession, where they do not stop and help because they are afraid of the ensuing lawsuit.

Now, we have documentation right now of millions, hundreds of thousands of young, skilled, able people with the technical ability to solve this problem on behalf of all of America, wherever it presents itself, who are saying, unlike the good Samaritan, I do not dare stop to help; I do not dare get involved; I cannot afford the risk of the lawsuit exposure that I face under current law. What a shame.

We cannot in good conscience in this body allow that to be the case. Our responsibility is to help those with the ability to solve the problem before the year gets here. Let them be free to understand that they should engage and, if they do engage, they will not be subjected to unreasonable, excessive, greedy lawsuits.

We should have a system of law that addresses this problem in such a way as to reward cooperation and does not reward confrontation. We should protect the problem solvers, not those that are sitting on the sidelines now licking their chops hoping the problem will not be solved so they can move in like a bunch of buzzards and vultures and feed off the carcasses. That is not, my colleagues, what responsibility is all about in America.

I know the lawyers have been planning on this day. We all know about the training sessions they have had. And, unfortunately, all those bright young technicians with all that great ability know about it, too. So all of the visibility that the legal profession has had in terms of their preparing themselves to swoop down on the carcasses of our dead toasters and create a lawsuit has said to these young people, I am staying out of harm's way. I will not get involved.

We have to look at ourselves and our responsibility and we have to recognize one very simple thing, and we can address it with this simple question. If we vote ''yes'' on this legislation, we will have found the right answer to this question. Do we want to live in a world between now and January 1 where Y2K is faced by a more well-prepared legal profession than a well-prepared America? I do not believe that is what our objective should be.

Let us reward those who would cooperate and fix the problem. Let us insulate them from frivolous lawsuits, and let us stop the needless, senseless confrontation that is just designed to line the lawyers' pockets over somebody else's misfortune and failure.

We can solve this problem. We are a great Nation. Our young people are outstanding. How many of them do we know that are doing things now in this electronic and computer field that many people my age do not even understand. They are wizards. They are wonderful. They ought not to be beset even by the fears of lawyers. Let them do their thing, let them be free.

And on New Year's Eve, I promise my colleagues, if we leave it to the technicians and keep the lawyers out of the way, as this bill would do, we will sit there and we will count 5, 4, 3, 2, 1. And in the bright light of our TV and living room lights, I will get that kiss from my wife that I ought to get on New Year's Eve.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ), and I say to the majority leader that if we do not get the substitute, there will be that gloomy prediction.

(Ms. SANCHEZ asked and was given permission to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Chairman, I rise today in support of the Democratic alternative. If we do not do the Democratic alternative, we are about to squander the ability to do a bipartisan bill for the problem of the Year 2000.

Joined by the ranking member, the gentleman from Michigan (Mr. JOHN CONYERS) and the gentleman from Virginia (Mr. RICK BOUCHER), Democrats on the Committee on the Judiciary sought to resolve the three most important problems identified by the high-tech community by offering:

Number one, a cooling-off period so that parties might settle their differences out of court; secondly, additional pleading requirements tailored to the Year 2000 problem to discourage frivolous lawsuits; and, throw, a fair way for the parties with Year 2000 claims to share the liability.

The Democratic substitute is narrowly tailored to address Y2K concerns. Nothing else, only what is necessary. And, therefore, it actually is a very good start.

My colleagues have found a fair and effective solution so that those who are negligent are held responsible, while those who have little to do with the bug are not punished for something they did not do.

Mr. GOODLATTE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

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

Mr. CUNNINGHAM. Mr. Chairman, I know people on both sides of the aisle have got good motives, but I would like to just once have a bill that comes to the House floor that does not benefit the trial lawyers.

If we look at some health care bills, they are a boon to trial lawyers. And they will raise the cost of health care because there are no caps on punitive damages, and lawsuits will drive health care costs up. Tobacco makes the trial lawyers rich. And now we look at this amendment, and it is always the trial lawyers that benefit in these things. Why?

In my opinion, it is because they give 90 percent of their campaign funds to Democrats. This substitute would mean a boon for trial lawyers. Let us set the trial lawyers apart and let us work for the betterment of people, not the trial lawyers but for the people. Oppose this substitute, and support this important bill.

Mr. CONYERS. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has 2½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 4 minutes remaining.

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

This is not a matter about what is going to happen on New Year's Eve and it is not a matter of what will happen to trial lawyers. I am sure somebody here besides me in the Hall must know that punitive damages are regularly set aside by judges who object to large amounts.

The high-tech community itself has made it clear that they are interested in a bill that specifically addresses liability issues unique to Y2K, but they are not interested in a far-reaching tort reform proposal. They want a narrowly tailored bill that will address the problem of frivolous lawsuits. We do that.

The base bill, H.R. 775, goes well beyond reasonable reform by failing to protect consumers. They shield grossly negligent defenders and they harm innocent plaintiffs. Instead of creating a positive incentive, this creates new reasons to avoid remediation. H.R. 775 should not be supported by ourselves and it will not be signed by the President.

We have the real deal. We have the way out for both the high-tech community and those who have been unfortunately affected by it. The Y2K problem, as the gentlewoman from California (Ms. LOFGREN) stated earlier, is a legitimate issue, but has, in my judgment, been turned into a political tool. It is unfortunate that the information technology community, with its legitimate concerns, are being used as pawns in this political game.

The base bill goes well beyond reasonable reform. It is unprecedented and unjustified and is also going nowhere. So vote for the substitute for a realistic response to a potentially serious problem without overreaching.

Mr. Chairman, I urge each of my colleagues to join me in voting for this good faith effort to deal with the Y2K problem. Support the Lofgren-Conyers-Boucher substitute.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, in a moment I will yield the remaining time to the gentleman from Virginia (Mr. DAVIS), the sponsor of the legislation, to close our arguments against this substitute and for the bill.

Before I do that, I think it is only appropriate that we recognize some people. I particularly want to commend the gentleman from Virginia (Mr. DAVIS), as well as the chief cosponsor of the legislation, the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DOOLEY) and the gentleman from Alabama (Mr. CRAMER) of the Democratic side, the gentleman from California (Mr. DREIER) and the gentleman from California (Mr. COX) on our side of the aisle for their chief cosponsorship of this legislation.

In addition, I want to recognize the staff, who worked very, very hard on this; particularly Diana Schacht of the Committee on the Judiciary; Ben Kline of my office; Trey Hardin, Amy Heering and Melissa Wojak from the office of the gentleman from Virginia (Mr. DAVIS); as well as John Flannery, from the office of the gentlewoman from California (Ms. LOFGREN); Perry Apelbaum and Semora Ryder of the office of the gentleman from Michigan (Mr. CONYERS); Ben Cohen of the office of the gentleman from California (Mr. COX); and Brian Bieron, and Don Freeman. They all worked very hard. This has been done in the spirit of comity.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, just to set the record straight, the high-tech industry rejects the substitute amendment offered by the gentleman from Michigan (Mr. CONYERS) and they support the underlying bill H.R. 775. That has been signed and put into the record by a number of representatives of the software industry and the information technology industry.

In addition to that, I want to thank the Chamber of Commerce, the National Association of Manufacturers, and the NFIB for putting together a coalition of groups that have helped us in lobbying and getting support for this legislation and making Members aware of the consequences if we do not act in this body on this legislation in a timely manner.

□ 1545

Now, we have heard a lot of talk today about we need to solve this on a bipartisan basis, and I agree with that. This is the beginning of a long trek. It is not the end. And we look forward to working with our colleagues that maybe could not find themselves able to support this legislation and hope we can bring them on board and the administration on board as we move forward.

But we have a bipartisan bill. It is H.R. 775. There are numerous Democratic and Republican sponsors and cosponsors of this legislation. What we have before us now is a partisan substitute. If we are really going to solve this problem together, we need to work together and bring Members of both parties together.

The whip from the other side talked about taking personal responsibility. Our legislation takes personal responsibility. Under the underlying bill, if they are damaged in a Y2K suit, they get their full economic damages. In fact, they can get three times their economic damages in punitive damages or $250,000, whichever is larger.

We do not take that away. What we do take away is one of the three legs of this legislation, and that is unlimited damages, for whatever reason, for punitive damages that drive up insurance costs, damages that drive up the cost of settlement and encourage more lawsuits and discourage companies from trying to fix the problems right now that we are attempting to solve in Y2K. Because companies will not fix a problem if they can be held liable down the road, even if they better that product should it fail.

Joint and several liability also would pick the pockets of people who are improving these because they happen to be a little wealthier and easier to reach. Our legislation keeps proportional liability. This is a key underpinning of this legislation, to reward companies for making products better, to reward companies for trying to come in and make a product better so that it will deliver on Y2K, as complex or as messed up as it might have been when they initially visited it.

And finally, the third leg is notification. And this is a consumer issue. If I am going to be represented in a Y2K suit, I ought to be told by that attorney I am being represented in court before they cut a deal on my behalf and decide what kind of damages I get.

Our legislation simply says that if an attorney is going to represent me in a class-action suit, I ought to be notified of that and have the opportunity to opt out of that. That is fair consumer legislation. That is not radical tort reform. That is something that every consumer ought to have. And we require that, as well.

I want to commend my colleagues from both sides of the aisle for working together with this in a bipartisan way. I want to continue to invite the administration, the President, and the Vice President to work with us on this legislation to make it work for everyone, and again, thank the business groups, particularly the Chamber of Commerce, which represent small businesses and large businesses nationally that will be plaintiffs and defendants in this legislation, for helping us put this together.

I ask for rejection of the fig leaf of a partisan substitute and support of bipartisan H.R. 775.

Mr. FORD. Mr. Chairman, I rise today in support of the Conyers substitute because I do think that there is a need for reasonable legislation that addresses this once-in-a-lifetime problem.

I am a cosponsor of this legislation, but I cannot support it in its current form for a number of reasons:

The use of a ''reasonable efforts'' standard for the sole defense in Y2K litigation exceeds the burden of proof in most federal and state court civil proceedings. Normally, plaintiffs must meet the less onerous ''preponderance of the evidence'' standard.

In addition to setting up a new legal standard, this term is at best ambiguous. How will the courts know how to interpret this language?

Finally, the supporters of this legislation are inconsistent. Just last week this Chamber passed a bankruptcy reform bill with the cries of ''personal/corporate responsibility''. In its current form, this legislation would permit some of these same entities to evade any sort of responsibility.

This Democratic substitute is narrowly tailored to address Y2K concerns. Like the base bill, it provides for a cooling off period, has additional pleading requirements to discourage frivolous lawsuits, and provides for a fair way for the parties with Y2K claims to chair the liability.

I urge my colleagues to support the Conyers substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. CONYERS).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 236, not voting 8, as follows:

[Roll No. 126]

AYES—190

Abercrombie	Clayton	Ford
Ackerman	Clyburn	Frank (MA)
Allen	Conyers	Frost
Andrews	Costello	Ganske
Baird	Coyne	Gejdenson
Baldacci	Crowley	Gephardt
Baldwin	Cummings	Gilman
Barrett (WI)	Danner	Gonzalez
Becerra	Davis (FL)	Green (TX)
Bentsen	Davis (IL)	Gutierrez
Berkley	DeFazio	Hall (OH)
Berman	DeGette	Hastings (FL)
Berry	Delahunt	Hill (IN)
Bishop	DeLauro	Hilliard
Blagojevich	Deutsch	Hinchey
Blumenauer	Dicks	Hinojosa
Bonior	Dingell	Hoeffel
Borski	Dixon	Holt
Boswell	Doyle	Hooley
Boucher	Duncan	Hoyer
Brady (PA)	Edwards	Inslee
Brown (FL)	Engel	Jackson (IL)
Brown (OH)	English	Jackson-Lee (TX)
Capps	Etheridge	Johnson, E. B.
Capuano	Evans	Jones (OH)
Cardin	Farr	Kanjorski
Carson	Fattah	Kaptur
Clay	Filner	

Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Shows
Skelton
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Schakowsky
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Barton
Brown (CA)
Cox
Jefferson
Napolitano
Rangel
Slaughter
Weller

☐ 1610

Mr. EWING and Mr. CLEMENT changed their vote from ''aye'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute made in order as original text, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BURR of North Carolina) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, pursuant to House Resolution 166, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conyers moves to recommit the bill H.R. 775 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Add after section 104 the following:

SEC. 105. YEAR 2000 ACTIONS INVOLVING FOREIGN PRODUCTS OR SERVICES.

(a) GENERAL RULE.—In any year 2000 action for damages or other relief that is sustained in the United States and that relates to the purchase or use of a product or service manufactured or distributed outside the United States by a foreign seller or manufacturer, the Federal court in which such action is brought shall have jurisdiction over such seller or manufacturer if the seller or manufacturer knew or reasonably should have known that the product or service would be imported for sale or use in the United States.

(b) ADMISSION.—If a foreign seller or manufacturer of a product or service involved in a year 2000 action fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in the action, such failure shall be deemed an admission of any fact with respect to which the discovery order relates.

(c) PROCESS.—Process in an action described in subsection (a) may be served wherever the foreign seller or manufacturer involved in the action is located, has an agent, or transacts business.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

☐ 1615

Mr. CONYERS. Mr. Speaker, this motion to recommit provides for jurisdiction, service of process and discovery in Y2K actions brought against corporate defendants located outside of the United States. It is based on the same amendment I offered on the product liability bill in another Congress which twice passed the House by overwhelming bipartisan votes.

Currently, my amendment responds to a couple of problems. It is inordinately difficult for United States citizens and businesses to bring legal actions against foreign defendants to obtain compensation for harm inside the United States. We correct it with this motion to recommit.

We respond to the problem, first, by creating a nationwide context test whenever a foreign defendant is sued in Federal court if it knew or reasonably should have known that its conduct would cause harm in this country. This type test has repeatedly been upheld by the Federal courts and is a part of the law in the Foreign Sovereign Immunities Act.

The second thing the amendment would do is provide for worldwide service of process. Presently, a major problem with service is that each of our States requires different and varying methods of process. Uniform worldwide

service of process will fix this problem and is consistent with other Federal laws, including the Clayton Act and securities laws, permitting service wherever the defendant may be found.

Third, my amendment ensures that the foreign persons are subject to the same rules of discovery as our own citizens and corporations when they are sued for wrongdoing. This is a particular problem in the context of Y2K litigation.

In the late 1980's and early 1990's, the percentage of foreign-made computer components and U.S. computers was as high as 65 percent. The most recent information supplied by the Commerce Department predicts Asian computer suppliers have now announced their intentions to wrest control away from U.S. rivals and pose a challenge in high-performance computer systems and PCs. If they succeed, the very least we can do is make sure they are subject to the rules of our legal system.

So, with a record trade deficit last year of $165 billion, a deficit last month of $20 billion, our Nation can no longer afford to favor foreign defendants in court. Please join us on both sides of the aisle in voting for this important amendment.

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

Mr. GOODLATTE. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. BURR of North Carolina). The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, I commend the gentleman from Michigan (Mr. CONYERS) for the comity in which this debate has taken place, and I extend my compliments to other Members on his side of the aisle as well, including a number who are supporting this legislation, but I must rise in strong opposition to his motion to recommit.

The motion raises significant constitutional and international law concerns, represents a serious potential irritant in our bilateral relations with other countries and raises a specter of foreign retaliation against American firms, and that is the matter on which I am most strongly opposed.

If we were to go ahead and enact this provision, we would be opening U.S. companies all over the world to treatment different than they are receiving now because they are receiving it under international treaty obligations that would expose them to treatment in courts elsewhere that would jeopardize their position.

Mr. Speaker, one of the provisions of this motion to recommit would subject foreign corporations to trial in U.S. courts without their ever having to be in the courtroom, and if the same provision were applied to U.S. companies in countries all over the world, one can only guess what kinds of denial of due process would occur for U.S. companies and U.S. businessmen and women treated with this same consideration in the courts of other countries who today comply with international treaty obligations that do not expose our corporations and businessmen and women to those considerations.

The amendment implicates the fifth amendment and international law, and it is possible that it would compromise the due process rights of a foreign defendant. The extent to which American statutes apply to foreign nationals already is a point of contention in our foreign relations. We should proceed very cautiously in this area, especially since the gentleman's motion to recommit was not the subject of hearings. The amendment's requirement to force a foreign defendant to comply with U.S. discovery requirements failed to accord appropriate deference to the sensibilities and prerogatives of other countries.

Mr. Speaker, because the motion to recommit would invite retaliation against U.S. companies doing business overseas and might affect the level of foreign investment in the U.S., thereby creating unemployment, the business community and others in this country are strongly opposed to this amendment, and I encourage my colleagues to vote against the motion to recommit.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. This is a deal killer. The gentleman knows that. I would ask if the administration supports this amendment. They have opposed it in the past.

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

Mr. GOODLATTE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, this is already the law. They do not have to support the amendment. This is an existing law in the United States Code Annotated as we speak.

Mr. DAVIS of Virginia. Mr. Speaker, I thank the gentleman very much.

Mr. CONYERS. The gentleman from Virginia is welcome.

Mr. DAVIS of Virginia. Because as a signatory to the Hague Convention, the United States is bound to follow its procedure rules, and in this particular case we do not think this rule is necessary if it is already in the law. Why would we put this in if it is already in the law?

The Commission of the European Communities and its member states have expressed strong objections to this in the past because it ignores the rights of defendants in countries outside the jurisdictions of business and in litigation. It ignores the sovereign rights of countries which have different procedural rules than we do; and, if it is enacted, it is likely that other countries will also ignore the provisions of the Hague Convention and begin applying their own procedural rules to American companies whose products entered the stream of commerce abroad. American businesses stand to lose, not gain, from this provision.

This makes mischief of what has been, I think, a pretty good debate and bill up to this point; and I urge that we reject this motion to recommit.

Mr. GOODLATTE. Mr. Speaker, this is an outstanding bill; and I urge my colleagues to oppose the motion to recommit and support this reform legislation which will truly help us enter the new millennium and deal with the potential Y2K bugs in a way that resolves these problems without encouraging the massive explosion of litigation that many have predicted.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 184, noes 246, not voting 4, as follows:

[Roll No. 127]

AYES—184

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall

Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Skelton
Spratt
Stabenow
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—246

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Barton
Brown (CA)
Napolitano
Slaughter

☐ 1643

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

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURR of North Carolina). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 236, noes 190, not voting 8, as follows:

[Roll No. 128]

AYES—236

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Dickey
Dooley
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Udall (CO)
Upton
Velazquez
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Duncan
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gibbons
Gonzalez
Graham
Green (TX)
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Skelton
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (NM)
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—8

Barton
Brown (CA)
Cox
DeMint
Napolitano
Riley
Skeen
Slaughter

☐ 1652

Mr. RANGEL and Mr. MCINTYRE changed their vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DEMINT. Mr. Speaker, on rollcall no. 128, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 123, 124, 125, 126, 127 and 128.

Had I been present, I would have voted "yes" or "aye" on rollcall votes 124, 125, 126 and 127 and "no" or "nay" on rollcall votes 123 and 128.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–136) on the resolution (H. Res. 167) providing for consideration of the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF INTENTION TO OFFER ON TOMORROW MOTION TO INSTRUCT CONFEREES ON H.R. 1141, 1999 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. UPTON. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 1141, the emergency supplemental appropriations bill.

The form of the motion is as follows:

Mr. UPTON Moves that the managers on the part of the House at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 1141 be instructed to insist that no provision—

(1) not in H.R. 1141, when passed by the House,

(2) not in H.R. 1664 when passed by the House or directly related to H.R. 1664,

(3) not in the Senate amendment to H.R. 1141, as passed by the Senate,

be agreed to by the managers on the part of the House.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3

Mr. SHOWS. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 3.

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

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 1141, 1999 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. DEUTSCH. Mr. Speaker, I offer a motion to instruct conferees on the bill (H.R. 1141) making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

The Clerk read as follows:

Mr. DEUTSCH moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 1141 be instructed to insist on the funding level of $621 million contained under the heading ''Central America And The Caribbean Emergency Disaster Recovery Fund'' of the House bill for necessary expenses to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DEUTSCH) will be recognized for 30 minutes, and the gentleman from Florida (Mr. DIAZ-BALART) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DEUTSCH).

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

Mr. Speaker, Central America has been an American foreign policy success story, probably one of the great success stories in this country. We have actively supported or helped take countries from dictatorships to democracies, from conflict to peace, and from closed to opened economies.

But along the way in October a disaster occurred, a disaster which actually I was told today as a factual statement is actually the worst disaster in recorded history in the Western Hemisphere; an incredible historical statement to make, but a factual statement. That is the hurricane that devastated this area, Hurricane Mitch.

The devastation that occurred, the equivalent destruction, had it occurred in the United States of America, would have been 80,000 people dead, 25 million people made homeless. It is hard to conceive of what that would mean on a scale in our country, 25 million people homeless.

The issue of the hurricane was that it was not a localized damage, it was not a localized effect. The hurricane was over Honduras for 6 days. These are just incredible statistics, but accurately, I think, ascertained through AID sources.

In Honduras, 77 percent of the people in Honduras were directly affected by the hurricane, ''directly affected'' defined as either a family member died, was severely injured, was displaced in their home, lost their job, or their crop was lost, 77 percent of a country.

□ 1700

In Nicaragua, that number was 20 percent.

To give you a sense again just of the scope of the destruction, from 1961 to 1998, AID spent a total of $298 million in the western hemisphere for aid in terms of natural disasters. That is from 1961 to 1998, during that entire period of time, a total of $298 million. We have already spent, already expended, $312 million in terms of Hurricane Mitch restoration efforts.

This is a region in the world which truly is our neighbor. It is also a huge trading partner, $18 billion a year in U.S. exports, which is actually more than all of the former Soviet Union and Eastern Europe combined.

This House has passed previously funding, actually $621 million in direct funding for reconstruction assistance. The House I think wisely actually increased this number above the Senate number, and this motion to recommit is to substantiate, to support the House position.

This funding is mostly through, really, AID in terms of projects like schools, health units, bridges, really infrastructure of the countries that were devastated by the storm.

If we do not do this, if we do not do this, what will occur? On a human level, what is already occurring is really the health issues, severe health issues of dysentery. Luckily, we were able to reprogram money, actually $30 million, $30 million of the 50 million additional dollars that this Congress appropriated for world children's health. We appropriated in the last Congress $50 million for children's survival for the entire world. $30 million of that $50 million had wisely been spent to avoid a public health disaster in Central America. But that disaster can still occur.

So on a human level, we really are talking about health issues really in a sense whether we are going to do this or deal with increasing assistance or seeing starvation. But we are also dealing with a planting season which hopefully we will able to do this supplemental and reach the time when the planting season will occur, which is before the start of the summer. So, on a human level, there are incredible human issues that we need to deal with.

But I would say to my colleagues that there are two direct issues. What we have seen previously is that this truly is our neighborhood, and these are our neighbors. Literally, our neighbors have the ability to walk to our homes, and we have seen this occur. If we give no hope to these people, I think what is overdetermined and what we know will happen is we will have another issue to deal with. It is an issue which I do not think this Congress directly wants to face, but it is an issue that will come to us.

On a second level, I think we need to remind ourselves, before the success stories, what was Central America. It was a place, from the changes we discussed, of dictatorships, of conflict, of war, and of closed economies. I can

think of nothing worse than us not supporting this funding than the action, the likely or the possible action that this could literally encourage that type of instability in that region.

There is a donors' conference that the administration has been very active in creating of many countries around the world that are pledging an additional over $5 billion to the restoration efforts in Central America. If we do not participate, and this donors' conference is at the end of this month, if the United States does not take the lead in our commitment, we have already asked other countries around the world, France, Germany, England, Japan, the Scandinavian countries to come up with their participation, what will happen?

This is not something we support as a Congress; we support as a country to help in this region. But I think all of us know the reality is that if we do not help, no one will help. The accompanying disaster that we can foresee will be on our shoulders as well.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

We have a number of speakers who have asked on our side of the aisle to join this motion to instruct conferees, which is very timely and a very good idea, and I commend the gentleman from Florida (Mr. DEUTSCH) for it.

We have been working very diligently, Mr. Speaker, and will continue to do so on this project. I am hopeful, we are hopeful, that we will meet with success with regard to this very important foreign policy initiative, which, in addition to its importance to U.S. foreign policy, because our neighbors are our friends and we must not forget our best friends and neighbors, in addition to that, there is a very definite humanitarian aspect to what we are doing that calls us to make sure that this aid package is carried forth and included, the Central American aid, in the appropriations supplemental bill that is being at this time finalized.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. ROS-LEHTINEN), one of my distinguished friends, colleagues, and the chairman of the Committee on International Relations Subcommittee on International Economic Policy and Trade.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART) for the leadership which he has shown on all of the issues pertaining to Central America.

I also want to congratulate another colleague, the gentleman from Florida (Mr. DEUTSCH), whose motion we are debating today. He is very attuned to the needs of our hemispheric neighbors and also on the impact that this has on our South Florida region. So I commend the gentleman from Florida (Mr. DEUTSCH) and the gentleman from Florida (Mr. DIAZ-BALART) for their leadership.

Mr. Speaker, over 6 months ago, our Central American neighbors were ravaged by Hurricane Mitch. The death and destruction of homes, of farms, entire communities were broadcast for the world to see: small children displaced from their homes, families divided, the entire livelihood of thousands washed away with the rains and the flood that followed the eye of the hurricane.

Our district, the gentleman from Florida (Mr. DEUTSCH), the gentleman from Florida (Mr. DIAZ-BALART) and my district in South Florida, has experienced the wrath of a hurricane. We know what that destruction is like.

In 1992, Hurricane Andrew swept through our portion of the State, leaving behind a trail of destruction. Seven years later, we have recovered physically and economically. However, the emotional scars that are left long after the homes have been rebuilt have still not healed. The communities have been restored somewhat, but those difficulties remain.

But, Mr. Speaker, in Central America, these scars run even deeper, as thousands of lives were lost following what seemed to be endless days of floods and rains.

In Central America, the healing process has yet to begin. As Congress holds up these much-needed funds to provide regional fund and relief to the regions, families continue to go without shelter, to go without safe drinking water, and their children are going without education.

The bill before us would provide the necessary funds to help our neighbors begin to rebuild their infrastructures, their families, their economies, their communities.

Currently, our inability to reach an agreement on the relief package has significantly delayed the reconstruction of roads, schools, and health clinics; but we know that our leadership is working toward that final end that is going to be very positive. We congratulate them for their leadership on this issue.

But the more that we delay, Mr. Speaker, these are the things that will happen. USAID has said that the health situation in Honduras and Nicaragua in particular will continue to deteriorate because of a lack of medical resources and facilities to monitor and care for those who have been affected by the outbreaks of malaria, of cholera, of dengue, and other infectious diseases that have resulted following the hurricane.

Also, close to 200,000 children will continue to go without adequate schools, without their facilities, without their supplies. Food shortages will result as 100,000 small-scale farms will not receive credit and inputs for their first crops.

Let us not help to prolong the suffering of our hemispheric neighbors by continuing to not pass this critical funding package because the support of the revitalization of Central America region will be helped by us voting in favor of this bill.

The Central American countries have been long-time allies of the United States. Notwithstanding the lamentable decisions of Guatemala and El Salvador to abstain from voting in the recent U.N. vote in Geneva, which correctly condemned the human rights violations in Cuba, these nations routinely stand with the U.S. in our battle in favor of freedom, of democracy in our hemisphere. Parenthetically, these countries could demonstrate their solidarity with the Cuban people by not participating in the November summit in Havana.

But Central America has survived revolutions. They have survived natural disasters to become symbols of democracy in our hemisphere. Let us help them to further solidify their freedom-loving institutions by aiding them with these much-needed funds.

They are our hemispheric neighbors, and we need to help them get back on their feet. This is not a bailout. It is a helping hand. Let us not turn our backs on Central America now. They need us. We will be there for them.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA) who has been active on this issue, has traveled with the President to Central America.

Mr. BECERRA. Mr. Speaker, I thank the gentleman from Florida (Mr. DEUTSCH) for yielding me this time and also for making that trip as well to Central America to view some of the destruction that had gone on.

The people of Kosovo and the people of Central America have one important element in common, their lives have been uprooted and disrupted due to forces outside of their control. Because of this, their destinies in many ways are no longer in their own hands.

For these reasons, we have had to step into Kosovo to help people that are no longer able to defend themselves. In March, 2 months ago, when we voted to help the victims of one of the worst natural disasters in the recorded history of this hemisphere, we made a similar commitment in Central America, one we are duty bound to fulfill now.

There is no reason why we should treat the victims of a man-made disaster any different than we would treat those who are victims of a natural disaster. The supplemental funding for Kosovo that the House passed last week included $566 million in humanitarian aid for refugees from Kosovo.

Yet, the Congress is still saying that it needs offsets to provide the assistance to the Central American countries that have more than a million refugees waiting for that humanitarian assistance that the President said would be forthcoming at the end of last year and that this Congress in March said it would send as well.

In Kosovo, we see some 700,000 refugees, people who have been displaced, uprooted from their homes. Hurricane

Mitch, when it hit Central America at the end of October, cost the lives of at least 9,000 people. There are still some 9,000 to 10,000 Central Americans who are missing and at this point now, after 6 months, are presumed dead. Over 1 million people, about 1.3 million people were displaced. Some 1 million still remain homeless in Central America.

Clearly, the situations in both Kosovo and Central America are humanitarian emergencies. Both should be funded in the same way, without cuts in critical and domestic foreign international programs that this government funds.

□ 1715

We need to keep in mind the magnitude of destruction caused by Hurricane Mitch. What would we all think if we were to hear that the entire States of Texas and New Jersey had just been left homeless; that the entire populations of those two States or that the entire population of Orlando, Florida, or Dayton, Ohio was either dead or missing and now presumed dead? In the United States that would be considered a disaster of catastrophic proportions. This is the equivalent of what happened in Central America given the relative size of those countries this past year.

The cost in Central America is not just human. It is estimated that 40 percent of the infrastructure and 60 percent of the roads were destroyed by the hurricane. Some think it will take 25 to 50 years for Central America to recover, to get back to where it was. And as it was, it was already one of the poorest regions in the world.

NATO is involved in a crisis in Kosovo because we understand the fate of Europe is intertwined with the fate of the Balkans. We in this hemisphere need to understand that our fate is intertwined with that of our neighbors in the Americas as well. I urge my colleagues to vote for this motion sponsored by the gentleman from Florida (Mr. DEUTSCH).

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), one of the few Members of our House who has, through the years, assisted more, given more of his time and his efforts to help the people throughout Central America.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate the time to speak today in support of the full funding levels for Central America and the Caribbean emergencies, part of the supplemental bill that is currently being negotiated between the House and Senate conferees.

As we all know, H.R. 1141 passed the House over a month ago. But, unfortunately, no money has been released to assist the devastated countries in Central America because Congress has yet to approve the supplemental. It is really disgraceful.

I was able to visit Honduras just 2 weeks after Hurricane Mitch wreaked its havoc, and also Armenia, Colombia, after the earthquake, a town of 300,000 that was devastated. I do not know about the rest of my colleagues, but I thought Armenia was a small town until I visited it. Stop and think of a town of 300,000 in our country where half the whole town is just wiped away. It is unbelievable.

In Honduras alone, 25,000 people lost their jobs in the banana fields, because not only was the banana crop destroyed but the plants that grow the bananas were washed away, the topsoil was washed away, and there is now just a bunch of sand there. It will be at least 3 years before they can ever start really growing banana crops again. Over a million people lost their homes and at least 7,000 people lost their lives.

Luckily, through donations from various and sundry steel manufacturers and Rotary International, I was able to provide 100 tons of galvanized steel to supply roofing for housing in Honduras. These houses are 20 by 20, on a concrete slab. A concrete block, two windows and a door. No plumbing, no nothing, just a roof. And this steel was for that. One hundred tons of steel will roughly supply roofs for 1500 houses. That is roughly speaking 1 percent of the need they have down there.

Now, if my colleagues can believe it, AID is running out of money. AID is running out of money to build the houses. We have the roof now, but we cannot continue without some money for AID to help us build the houses.

I believe that now rather than later is the time for the United States to come to the aid of our neighbors to the south. Too much time has been wasted in negotiation. We simply need to release the funding by passing a clean supplemental. And I mean clean. This will ensure struggling nations that the United States is willing and ready to help.

In the month that the U.S. Government has been inactive in sending relief funding to these disaster areas just miles from our borders, other countries from all over the world, not as rich and not as close in proximity to Central America, have sent money, supplies, aid and their nation's support. It is time for the United States to stop playing political games, step up to the plate and assist our disadvantaged neighbors to the south.

I urge my colleagues to support full funding for the relief aid to the countries of Central America.

Mr. DEUTSCH. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, first I would like to thank the gentleman from Florida (Mr. DEUTSCH) for yielding me this time and also for his very hard and diligent work on this issue.

It is very important that we pass this motion to instruct conferees on 1141 because we have got to help the victims of this massive hurricane so they can be relieved of some of the harsh misery they have experienced in Central America.

The supplemental appropriation of $621 million is badly needed to restore the vital infrastructure and to meet public health emergencies. In addition to responding to humanitarian needs, this infusion of emergency funds will also help to revive weakened economies by allowing more goods to flow and more jobs to be created.

Hurricane Mitch occurred over 6 months ago, but people displaced by Hurricane Mitch are still in unhealthy camps and in shelters and they must be relocated to housing, and housing must be built. There must be a return to social and economic viability and normalcy.

I am especially sensitive and aware of the dislocation and trauma associated with disasters. My district has experienced fires and earthquakes, and our recovery efforts have actually required a large commitment, much compassion and many resources from the Federal Government.

We must keep our commitment to hemispheric stability and fulfill the expressions of concern and sympathy that we made in the aftermath of Hurricane Mitch. These promises are worthless if we do not give this basic assistance when needed. Our neighbors in Central America need this assistance, and they need it now.

Mr. DIAZ-BALART. Mr. Speaker, may I inquire as to how much time remains on this side of the aisle?

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) has 20½ minutes remaining, and the gentleman from Florida (Mr. DEUTSCH) has 18 minutes remaining.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in full agreement with all that has been said by each and every one of my distinguished colleagues who have risen in support of the need for us to insist upon the House position that aid to Central America be provided forthwith.

It would be a grave foreign policy mistake for the United States, while taking care of undoubted needs that we have with regard to the operation in Kosovo, and there is no doubt that it is absolutely indispensable that our men and women in uniform not be further abandoned and that every assistance must be provided to our Armed Forces due to the operation that has been going on now for almost 2 months in Kosovo, and while we do that, our eyes are focused upon Europe in a most humane way and necessary way, but it would be a mistake if we forgot to look at and if we forgot the importance of our closest friends and neighbors in their hour of need.

Central America was hit in a devastating way by the natural disaster known as Hurricane Mitch. The United States made a commitment to Central America, rooted in humanitarian reasons, that we would go to the aid of our

friends and neighbors in Central America. It is necessary, therefore, not only for humanitarian reasons but because of the foreign policy interests of the United States, that we not ignore this hemisphere. A wrong message would be going out to our friends and neighbors in this hemisphere if at the time that we address concerns in Europe that we fail to address even the most elemental and needed of concerns here in this hemisphere in Central America.

Mr. Speaker, I want to thank publicly the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), for his leadership on this issue. He has reiterated his support of what we are advocating this evening. I also would like to especially thank the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, who has committed, along with the gentleman from Alabama (Mr. CALLAHAN), of the appropriation subcommittee, who have also publicly and privately committed to making sure that this issue is resolved as soon as possible. They are demonstrating leadership, they are demonstrating their concern, they are demonstrating their compassion and their understanding not only of the humanitarian interests involved in this issue but also the foreign policy concerns of the United States that are involved in this matter.

I am confident, Mr. Speaker, that we will soon be seeing, even in this package that is being negotiated right now, fundamentally rooted toward the needs in Europe as a consequence of the operation in Kosovo, in that same appropriations vehicle, I am fully confident that we will see the issue that we are addressing this evening fully addressed.

But, again, I commend my colleague, the gentleman from Florida (Mr. DEUTSCH), who has been very persevering and demonstrated great interest and leadership on this issue for bringing forth the motion to instruct, which I think is an appropriate reminder that many of us in this Congress feel very strongly about this issue.

Honduras was destroyed by Mitch, Salvador was hit very hard, as was Guatemala and as was Nicaragua. Fortunately, Costa Rica was not hit hard and Panama was not as well. But so many of our friends and neighbors were hit directly by this tragedy that we must in this hour of need remember them.

I think it is important we take this opportunity to remind the people of those countries and their governments that we do not forget them; that we continue to work for what is essentially in the national interest of the United States and also very much a humanitarian necessity; that we extend our hand of assistance to our neighbors.

I also want to address an issue that my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN) touched on that I think is very important. We are very grateful to the Central American countries for their consistent support of United States foreign policy on so many issues through the years.

As the gentleman from Florida (Mr. DEUTSCH) pointed out, Central America, in this hemisphere, is somewhere that we can point to as an obvious and genuine success story. Central America was challenged by wars and by dictatorships and by totalitarian aggression just a decade ago, and the success story is there for all of us to see. There are democracies in all of those countries. They need our help, they need our support, they need our solidarity, and in this hour of need they need this very concrete assistance that we will be sending them.

We were disappointed, as the gentlewoman from Florida (Ms. ROS-LEHTINEN) stated, with the vote of just a few days ago by Guatemala and El Salvador with regard specifically to the resolution that was introduced by the Czech Republic in the United Nations Human Rights Commission.

□ 1730

It was a very appropriate and very necessary and very human resolution at this time, calling upon the international community to recall, to take note of, and to express its concern for the human rights violations in Cuba for the political prisoners, for the fact that the four best-known political prisoners in Cuba were now re-sentenced, in effect, to long prison terms for publishing a document calling for free elections.

That resolution, filed at the United Nations Human Rights Commission by the Government of President Havel of the Czech Republic, cosponsored by the Polish Government, succeeded, it passed, but only by one vote.

And it was very disappointing to see the Government of Guatemala and the Government of El Salvador abstain in something that broke tradition with them. It certainly broke with the spirit of solidarity toward a neighboring people in this hemisphere that have been suffering a dictatorship for 40 years.

And so, while I express my disappointment, very strong disappointment, I ask President Flores of Honduras and President-Elect Flores, a young statesman who I have not had the pleasure of meeting personally but I have seen him and read of him and he is most impressive, President-Elect Flores of El Salvador, as well as President Arzu of Guatemala and President Rodriguez of Costa Rica and all of our neighbors who are part of the so-called Ibero-American Summit, to please think about what it means to attend a summit at a place, at a country, that has been suffering a dictatorship for 40 years, a totalitarian dictatorship that has increased its repression in the last 6 months, flaunting its intention not to permit any sort of political opening even after a visit by His Holiness the Pope.

And so, I would ask the presidents of Honduras and of all our neighbors of El Salvador and Guatemala to follow the example already set by President Aleman of Nicaragua, who very courageously has stated that he will not attend that summit because it will take place at a place where there has been a 40-year-old dictatorship.

And I ask then that our other neighbors follow the example of President Aleman and his courage and his statesmanship and also to follow the example of President Rodriguez of Costa Rica, who has not made a decision on whether to attend or not but has been very forthright and very public in his condemnation of the human rights situation being suffered by the Cuban people.

Now, of course, this matter should demonstrate, despite my disappointment and the disappointment of a number of us here in Congress on this issue, the fact that we are pushing as resolutely and as intensely for this aid package to Central America that shows, number one, that we know that, over and above decisions of governments, the interests of people are even more important, in this case the suffering people of Central America, and that we also hope that the governments of friendly nations, such as the ones that we have mentioned, will utilize this upcoming opportunity to reconsider their attendance at a summit such as the one that we have made reference to.

And so, I join all of my colleagues again in reiterating the need that this aid to Central America be included in the appropriations vehicle that is now being negotiated and again commend the gentleman from Florida (Mr. DEUTSCH) for bringing forth this motion to instruct.

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

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. RODRIGUEZ), who has been a leader on issues regarding Central America and has been very sensitive and very effective in making sure that that part of the region of the world continues to receive our partnership with the United States.

Mr. RODRIGUEZ. Mr. Speaker, let me, first of all, congratulate the gentleman from Florida (Mr. DEUTSCH) on his efforts; and I want to thank him for taking this lead. And I want to also congratulate the gentleman from Florida (Mr. DIAZ-BALART) on his efforts also.

As we debate this motion and this motion to support and ask the conferees to consider the disaster aid, we look at the fact that there are tens of thousands of Central Americans that still face each day this disaster.

The numbers are striking. Over 9,000 dead. Over 9,000 missing. Over 3 million displaced individuals from their homes. Death and injury continues some 6 months after the deadly hurricane has hit.

I think we need to recognize, if we look at our infrastructure in our own country, we realize that in countries

such as Honduras, one of the poorest countries in Central America, has been hit and they do not even have the infrastructure now so they are having to deal with dysentery and a whole bunch of other problems. Even now, inadequate supplies of clean drinking water and damaged infrastructure help spread disease among the population.

The administration has acted quickly to provide some $300 million in emergency assistance. But more is clearly needed, and this additional assistance is far overdue. Congress has not risen to the challenge. We have allowed politics to stand in the way of providing the disaster aid that our neighbors in Central America desperately need.

And let me remind my colleagues that there are neighbors and there are neighbors, and we have a moral obligation and a responsibility. Their suffering is our suffering. But if moral duty is not enough, we also have a self-interest reason for helping. The continued loss of life and economic desperation will only encourage more migration from this region in Central America to the United States.

Our borders are already seeing greater numbers of Central Americans trying to enter, and the numbers will swell if we do not act quickly. The money we seek today will provide basic infrastructure: roads, schools, and clinics. It is a helping hand to those who suffer from natural disaster. It gives them the tools to rebuild and move forward. Let us stop wasting the time and let us move forward.

Even countries such as Costa Rica who were not directly hit have been impacted by the number of refugees that have gone over. We had over 300,000 that have gone into that country. That is equivalent to over 25 million refugees that would come into this country by just the numbers that we are referring to.

At this point, I would ask that we seriously consider that and move forward. And, again, I thank the gentleman from Florida (Mr. DEUTSCH) for his efforts.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY) who, as a freshman Member, has shown real leadership on all sorts of issues but including our concern on foreign policy issues in this hemisphere.

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

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the motion to instruct conferees on H.R. 1141 offered by the gentleman from Florida (Mr. DEUTSCH).

This motion would instruct the conferees to insist on the full funding level of $621 million for the Central American and Caribbean Emergency Disaster Recovery Fund, as passed in the House version.

Mr. Speaker, it is unconscionable that the majority of this House has continued to delay efforts to provide emergency hurricane disaster relief to Central America and the Caribbean and emergency earthquake assistance to Colombia by playing partisan politics.

Mr. Speaker, I have seen firsthand the devastation and suffering in Colombia, where a January earthquake left thousands dead and thousands more without shelter, running water, electricity, medicine, and clothing. The resources provided in this legislation are critical to our ability to continue our humanitarian activities and to provide much-needed relief for those coping with these disasters.

Clearly, we must not delay efforts that can greatly alleviate the devastating impact that this disaster has had on these countries. And I would point out that I agree with the comments of the gentleman from Florida (Mr. DEUTSCH) earlier about the fact that if we do nothing about these disasters, these disasters will not walk away, they will simply walk to the north and to our country.

Mr. Speaker, as the human suffering from these disasters continues, we must not allow the partisanship to hamper our ability to provide for those in need. Now is the time to act, and I strongly urge my colleagues to support this motion.

Just one other point. This is not helping our situation in terms of the drug war in Colombia, as well. We are giving fodder to drug lords who are taking advantage of people who are in a desperate situation. And desperate times calls for desperate measures. And, unfortunately, we are hearing stories of more and more individual men and women being used as mules to transport illicit drugs to this country. And it is another additional example of the terrible blow that this hurricane and this earthquake have plagued upon the people of South America and Colombia.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES), who also has actually witnessed firsthand some of the devastation in Central America on more than one occasion with the President as well as additional trips down there.

Mr. REYES. Mr. Speaker, I thank my colleague for yielding me the time; and I congratulate both my colleagues for leading this effort on behalf of Central America.

Mr. Speaker, I rise in support of this motion to instruct the conferees on H.R. 1141, the supplemental appropriations bill, which will provide critical assistance for Central America.

This motion to instruct conferees is important because it reflects our need to act now and to provide full funding of $621 million in disaster assistance for Central America. Already 6 months have passed since Hurricane Mitch. Every day that we delay is another day of suffering for our neighbors in Honduras, Nicaragua, El Salvador, and Guatemala.

During my recent visit to the area with President Clinton, I saw firsthand the terrible, terrible devastation. Entire roads and villages were literally washed away. Millions of people were merely surviving, lacking adequate shelter, food, and water. Their livelihoods have been completely destroyed, and they are suffering from inadequate health care.

The situation is growing worse, and I can tell my colleagues that our failure to act is simply inexcusable.

Mr. Speaker, we must act now to stop the partisan wrangling and push forward this assistance. Conditions there remain bleak; and, with the upcoming rainy season, things will only get dramatically worse. The $621 million in the supplemental will allow for the critical repair and reconstruction of roads, bridges, and schools. Moreover, critical health care and prevention resources will, hopefully, avert a looming epidemic of diseases such as malaria, cholera, dengue fever, and other killer diseases.

Finally, this aid will begin the process of resurrecting the agriculture economies of these nations, providing hope and restoration of these people's lives and an orderliness in their countries.

This is a matter of humanitarian assistance that should not be held up by political posturing. Our Nation can and should take decisive action immediately to alleviate the misery that is now occurring in Central America. This is simply the right thing to do, and it is long overdue for action from this House.

I ask this House to send a strong message that help is on the way and that help will provide and eliminate the suffering in Central America.

Mr. Speaker, I, therefore, urge this House to vote in favor of H.R. 1141.

Mr. DEUTSCH. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. DEUTSCH) has 10 minutes remaining. The gentleman from Florida (Mr. DIAZ-BALART) has 9 minutes remaining.

Mr. DEUTSCH. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FILNER), whose district borders Mexico and who understands the implications of this issue probably as well as anyone in this House.

Mr. FILNER. Mr. Speaker, I thank the gentleman for his efforts.

We are in Europe today, in Kosovo, because of humanitarian concerns for the people of Kosovo. Surely, we should have some humanitarian concerns for those people who live in our hemisphere who 6 months ago were subject to one of the greatest disasters in our recorded history.

Let us be humanitarian in our hemisphere, as well. Let us pass this motion to instruct on the emergency supplemental, which will give money to our hemisphere in order to do what we must do now.

If we do not do it now, our Central American neighbors will lose hope.

They move backwards from the progress they have made in political and economic stability. Their infrastructure repairs will be delayed. Displaced persons will remain stranded. School construction refurbishment will be stalled.

It is time to be a humanitarian in the western hemisphere. Please support this motion to instruct.

□ 1745

Mr. DEUTSCH. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to certainly endorse and second the efforts made by our good friends the gentlemen from Florida for their efforts in gaining support from the Members to secure the $621 million that is critically needed for the people in Central America. Mr. Speaker, it is ironic that years ago we had a very basic fundamental foreign policy. It was called the Monroe Doctrine. We tell other nations in the world, ''Don't tread on the Western Hemisphere because we'll take care of the people in the Western Hemisphere.''

So what happens now is that we are going to Europe, having this crisis in Kosovo, and all of a sudden we seem to be readily available to provide the funding for the people in Kosovo, which I am not taking anything away from the fact that some 800,000 people, refugees, have become as a result of the crisis in Kosovo. But we have completely forgotten that there was a hurricane called Mitch that severely affected the lives of some 7 million people in Central America, 1 million people directly affected. Some 7 million people, as I am told, have no drinkable water.

All this piece of legislation proposes is that the Congress do the right thing. We need the money, it should be brought out, and this institution should support the $621 million for the good of our friends and neighbors in the Western Hemisphere, those who live in Central America.

Mr. DEUTSCH. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the vice chairman of the Democratic Caucus and a leader in the foreign policy area in the entire Congress.

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

Mr. MENENDEZ. Mr. Speaker, I want to start off by thanking the distinguished gentleman from Florida for bringing this motion to instruct the conferees. I think it is necessary and it is fitting and it is appropriate to do so, and I really regret that he finds himself as we find ourselves in the necessity of having to instruct conferees and that in fact conferees are finally meeting on this when they should have been meeting quite a long time ago and when in fact those conferees should have been appointed quite a while ago. Now, on the issue at hand, the fact of the matter is, is that it is in the national interest of the United States to assist the Central American countries as it relates to this disaster assistance. I am not speaking about humanitarian purposes, which in and of itself would be more than enough reason to be of assistance as a good neighbor. No, I am talking about interests that are far more significant. I would like to tell our colleagues what some of those are.

The fact of the matter is, is that when you have 1 million people in Central America who in fact have no place to call home, because I walked after the hurricane on what in essence were the rooftops, now caked in mud from the landslides and the mud slides that took place after the hurricane, on the rooftops of what were people's homes, some of the greatest cultivated fields for production of food and agricultural products now caked over in mud. When you have 1 million people who have no place to call home, when you have 1 million people who have no place to be gainfully employed for their families, in essence when you have no hope, then ultimately it seems to me that what we find ourselves in is a situation in which they will seek to go to a place in which there might be some hope and that means coming northward, and that means illegal immigration, something that has been a great topic in this body.

We would prefer to see those million people continue to reside in their homeland, continue to try to rebuild their homes and their lives and their countries and not come northward. So we have a national interest in terms of stemming the tide of those people coming, we have a national interest in the disease that is generated by a million people being exposed to the elements, in tuberculosis, in other diseases, not coming northward to the United States and in trying to help the people with their health consequences. We have a national interest in trying to ensure that drug trafficking does not now take a foothold in Central America, which for the most part it has not had in Central America. But if you have a million people who have no other form of employment, ultimately the drug traffickers can try to elicit them to be mules, to try to engage them in the trafficking, they can try to move into territorial areas. That is of course of great consequence. And we also have the fact that we spent billions in Central America to try to promote democracy. Finally, when we have those countries moving in the democratic movement forward, what are we going to do, have them destabilized because of a natural hurricane? And we find it offensive that the majority insists on having offsets on this issue, the $625 million, when they have no offsets on over $13 billion, 6 to $7 billion more than the President requested for Kosovo, yet for that there are no offsets. But to help our Central American neighbors in which we have all of these national interests at stake, there must be offsets.

What are we telling the community in this country? What are we telling Americans of Hispanic descent? We have a two-tiered process here. It is simply unfair, unjust, unconscionable. We need to help these people now. The rainy season is coming upon us. We need this money in this supplemental. We should not be debating about offsets at a time when you care about no other offsets. It is time to move forward now and to preserve our national interests and to help our Central American neighbors because it is not only in our interest but it is also in their interest to do so.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. I was in total agreement with everything that was said until my last distinguished colleague spoke. I think that it is most unfortunate that this be utilized for partisan purposes, this topic, because if there is one topic that should not be utilized for partisan purposes, it is a disaster. When we had a disaster in the Midwest not long ago, in order to comply with the budget agreement signed by the Congress and the White House, there were offsets. At this point there is debate in the conference committee with regard to how much and in order to comply with the budget agreement entered into between the Congress and the White House, there may be the need to offset. What that means is that other programs, future spending may be looked at in order to comply with an agreement between the House, the Senate and the White House. But I do not want to get further into that.

What I want to say is what there is consensus on is what we have heard for the most part this evening, and that is the need to help our friends and neighbors in Central America and, secondly, that we will help our friends and neighbors in Central America and that there is a commitment from the Speaker of the House and the chairman of the Committee on Appropriations and the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations to accomplish this in the vehicle that is being negotiated right as we speak, the supplemental appropriations legislation, which is commonly known as the Kosovo supplemental appropriations, because of the fact the Kosovo conflict has gone on for as long as it has gone on and there are dire needs that our military have, extraordinary needs that our Armed Forces have as a consequence of that operation that must be taken care of immediately, that must be addressed forthwith.

I am glad that there is consensus, that we will be moving forward on this issue, that there is the commitment that exists from our leadership rooted in the national interest of the United States as well as in humanitarian

grounds to resolve this issue forthwith. I am grateful to our leadership for committing to resolve this issue, and I will continue working with all intensity to do everything I can so that the issue of our assistance that we have committed to our friends and neighbors in Central America that we will be providing is in fact provided.

I would again reiterate my gratitude to the distinguished gentleman from Florida (Mr. DEUTSCH) for bringing forth this motion to instruct, which has given us the opportunity to focus upon an issue of consensus, the need to help our neighbors and our friends in Central America.

I would simply remind our friends and neighbors in Central America, distinguished friends, I think they know who their best friends are as we know who our best friends are. I remind the President of El Salvador and the President of Guatemala that they did not act a few weeks ago as our best friends when they abstained on a motion, a resolution introduced by the government of President Havel of the Czech Republic to remember the only people in this hemisphere, our neighbors as well, the only people who remained in effect bound and gagged and oppressed for 40 years. That was a most unfortunate vote by Guatemala and by El Salvador which deeply disappointed us, but as we stated before, we are hopeful that as that summit approaches in November the ethical conduct, the ethical path will be embarked upon.

Again I thank the gentleman from Florida. This House is united on this issue. We have a leadership that I believe is united on this issue. I know the gentleman has been extremely interested and has exerted great leadership on it. It has been my privilege to work with him, and it will be my privilege to continue working with him to see it through and to make certain that this aid which we have committed to our neighbors and our friends will forthwith in fact be provided.

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

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume. I too want to congratulate the gentleman from Florida (Mr. DIAZ-BALART), who really has shown an incredible amount of leadership and ability on this issue. We really have been a team effort and this really has been a bipartisan effort by a number of Members in this Congress to really explain to our colleagues the importance of this issue, that this is really clearly in America's national interest and our financial interest and in our moral interest to support and make sure this bill occurs.

I actually look forward to the day when our roles are reversed and I am in the majority helping on these types of issues and my good friend and colleague from Florida is in the minority helping us on these issues and each of us will have a chance to replay some of these thoughts. But really in closing, I guess I would just reiterate what my colleagues have said over the last hour or so, but I will mention one specific thing.

As has been mentioned, I had the opportunity to view some of the devastation. Words truly cannot describe the level of devastation. I mentioned some things in my opening statement, statistics, facts, historical analogies of what has occurred, and they are significant. It is hard to comprehend the pictures on television of the devastation that really did not match in any way in numbers of thousands killed or millions displaced. They do not, I think, give us that sense. We attempt to use those numbers to try to explain to us, but witnessing mud slides that literally wiped out entire villages, there is not a trace, not a building, not a street at all, where literally thousands of people are buried under 40 feet of mud is an incredible sight, the devastation that has occurred. That is really the component, the sort of humanitarian component to show what the United States must do to lend a hand, that we need to, that we did not choose to be in this situation but we are in that situation. If we do not help, the reality is no one will. These economies are not in a position to rebuild on their own in any short period of time.

□ 1800

The number has been mentioned, 25 years. That is not an unfair or unlikely scenario.

Finally in closing, as I mentioned, this really is in our interest. This has been a success story in terms of American foreign policy. As my colleague from Florida has mentioned, we have, unfortunately, only one country in our hemisphere that has not taken the road to democracy and open economies, and hopefully relatively soon that will change as well. But to continue that record we are going to need to pass this bill.

Mr. Speaker, I urge the support of the motion to instruct.

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

The SPEAKER pro tempore (Mr. EWING). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida (Mr. DEUTSCH).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR FUNDS FOR CONTINUED OPERATIONS OF U.S. FORCES IN BOSNIA AND HERZEGOVINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and the Committee on Armed Services, and ordered to be printed:

To the Congress of the United States:

Section 1203 of the Strom Thurmond National Defense Authorization Act For Fiscal Year 1999, Public Law 105–261 (the Act), requires submission of a report to the Congress whenever the President submits a request for funds for continued operations of U.S. forces in Bosnia and Herzegovina.

In connection with my Administration's request for funds for FY 2000, the attached report fulfills the requirements of section 1203 of the Act.

I want to emphasize again my continued commitment to close consultation with the Congress on political and military matters concerning Bosnia and Herzegovina. I look forward to continuing to work with the Congress in the months ahead as we work to establish a lasting peace in the Balkans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 12, 1999.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. HILL) is recognized for 5 minutes.

(Mr. HILL of Montana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

McCAFFREY COVERS UP CASTRO'S PARTICIPATION IN DRUG TRAFFICKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. DIAZ-BALART) is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, I rise for two reasons this evening.

First, I want to say, I would like to say, how embarrassed I was for the drug czar, Mr. McCaffrey, recently when I read wire reports that he continues to cover up the well-known, established, reiterated, longstanding participation by the Castro dictatorship in drug trafficking. This is an extremely serious reality, but the drug czar and other officials of this administration continue to cover it up. And so I make reference once again to the letter that, along with the gentleman from Indiana (Mr. BURTON) and the gentlewoman from Florida (Ms. ROS-LEHTINEN), I sent General McCaffrey in November of 1996 in detail relating the evidence that has been made public; it is not classified, it is well known; of the longstanding and reiterated participation of the Cuban dictatorship in facilitating the importation of tons of Columbian cartel cocaine into the United States. And I asked that he answer, the drug czar, Mr. McCaffrey, our letters, that letter and subsequent letters, with the seriousness that this issue deserves.

CLINTON ADMINISTRATION REFUSES TO RETURN ''THE HUMAN RIGHTS''

Mr. DIAZ-BALART. I also rise, Mr. Speaker, because a very distinguished friend of mine in South Florida at this point is on a hunger strike. He is the leader of a movement known as the Democracy Movement. It is a peaceful movement that advocates change, democratic change, in Cuba.

And they have two vessels, and on December 10 they were heading south, and, pursuant to an executive order issued by the President, the Coast Guard boarded the vessel. It is known, it is called, The Human Rights, and it was the day that the Universal Declaration of Human Rights was being commemorated, the anniversary of it, the 50th anniversary, in fact, of the Universal Declaration of Human Rights. And the Coast Guard boarded it and found some documents that referred to the Universal Declaration of Human Rights, and since that day dissidents within Cuba had announced that they were going to attempt to demonstrate peacefully in commemoration of the 50th anniversary of the Declaration of Human Rights.

This vessel, The Human Rights, was boarded by the Coast Guard and confiscated, and to this date the Clinton administration refuses to give it back.

Mr. Speaker, it is really unconscionable. More than even unfortunate, it is unconscionable.

So I asked the administration to note the hunger strike by Ramon Saul Sanchez to return The Human Rights vessel that was confiscated, as I say, for the crime, in quotes, of being found on the high seas with documents in support of the Universal Declaration of Human Rights, and here is the official communication of the Department of Treasury.

The Coast Guard received information; this is to Mr. Sanchez; that you planned to disembark in Cuba, received information, by the way, from the Castro government, and that you planned to join a demonstration in support of the Universal Declaration of Human Rights. During the boarding it was determined that there was sufficient evidence indicating that the vessel was intending to enter Cuban waters, and a decision was made to seize the vessel.

By the way, the evidence that the Clinton administration says existed with regard to intent to enter Cuban waters was finding documents that contained the Universal Declaration of Human Rights. That is happening in this country at this time because of this administration. It is shameful, and it is time to release the vessel The Human Rights.

MOURNING THE PASSING OF REVEREND CLARENCE E. STOWERS, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, leadership can be defined in many ways: the position or office of a leader, capacity or ability to lead, giving guidance and/or direction. The definition which I like best is that leadership is the ability to get others to do what you want them to do but because they want to do it.

Such has been the life and such is the legacy left by the Reverend Clarence E. Stowers, Sr., former pastor of the Mars Hill Missionary Baptist Church in Chicago who recently passed away.

Reverend Stowers grew up in Mason, Tennessee, married his childhood sweetheart, Miss Margaret Malone Stowers, and they were blessed to produce five children, one of whom has succeeded him, the Reverend Clarence E. Stowers, Jr., who is now pastor of Mars Hill.

In 1963, Reverend Stowers and 17 members of his family, friends and associates founded the Mars Hill Church and located it at 3311 West Roosevelt Road. However, within 2 years, the church outgrew that facility and relocated to a larger one at 2809 West Harrison Street. Twelve years later, the church acquired its current facility at 5916–22 West Lake Street, a massive structure which seats over 2,000 parishioners, houses their own elementary school and space for other programs and activities.

As Reverend Stowers' congregation grew, so did he. He earned both his Bachelors and Master of Arts degrees in religion and theology from the Chicago Baptist Institute and Trinity Evangelical Seminary.

Reverend Stowers recognized that being involved beyond the sanctuary of his church was vitally important to his ministry. Therefore, he helped to organize and served as President of the Illinois Baptist State Convention for 8 years. He also served as Recording Secretary of the National Missionary Baptist State Convention of America, President of the West Side Ministers' Conference and the Religious Council on Urban Affairs.

Reverend Stowers had a powerful preaching style and delivered messages not only throughout America but also preached in Israel, Jordan, Egypt and in Rome, Italy. He was actively involved in his local community and hosted many of the large rallies during the Harold Washington political era in Chicago history.

He led Mars Hill in the development of its own school, the Musical Acres Resort in Adams, Wisconsin, a housing development of new homes near the church, and the establishment of a health ministry where people learn how to care for themselves and to make the most effective use of health resources within their community.

Mrs. Margaret Stowers, Reverend Clarence Stowers, Jr., Sharron Lynn, Robin Denise, Shawinette Michelle and Marcie, as well as the entire Mars Hill family can take pride in the leadership and accomplishments of their pastor, husband, father, friend, mentor and leader, the Reverend Clarence Edward Stowers, Sr. His work stands as a living testament, and his legacy shall continue through the life and works of those whom he has left behind.

BILLION DOLLAR BLACK HOLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, it is amazing to me that many in the environmental movement believe that we as a society do not spend enough money on implementation of the Endangered Species Act. They constantly blame the problem with the ESA on lack of funding. While a convenient excuse, it is simply is not true.

When measured by how many species are recovered under its draconian rules and regulations, the ESA is a total failure. The rate of recovery has been minimal, and some listed species continue to go extinct. However, we continue to throw money at the ESA in the hope that somehow funding might recover species. This approach will not work.

Let us look at the numbers and how the ESA forces the Federal Government, the State and local governments and countless private citizens to waste money on a system that is broken. It is almost impossible to figure out how much money is being spent under the auspices of endangered species protection, but the figure is nearing a billion dollars a year by many estimates.

In 1998, Congress, concerned about rising ESA costs and seeking better information on how we were spending, required the Secretary of the Interior to report to Congress how much the Federal Government is spending directly on endangered species.

□ 1815

Any Federal agency that undertakes activity on behalf of a listed species is required to document expenses and create an annual report to the Fish and Wildlife Service.

The Fish and Wildlife Service is then required to compile that information into an annual accounting to Congress. The Service stays several years behind, but we now have accounting records for the years of 1989 through 1995; annual direct expenditures from $43 million in 1989 to over $330 million in 1995. However, these figures do not tell the whole story. It does not get into administrative costs and overhead. For example, over 400 units of our National Wildlife Refuge System have at least one threatened or endangered species during some part of the year. A total of 58 refuges have been established specifically to protect threatened and endangered species, and 36 contain areas defined as critical habitat.

The cost of acquiring refuges and other public lands for protection of endangered species is absolutely staggering. We recently completed the acquisition of the Headwaters Forest at a cost of $250 million to the Federal taxpayer, and another $130 million to the California taxpayer, all to protect spotted owls and marbled murrelets.

The administration's budget request includes funds for the Archie Carr National Wildlife Refuge, which will cost $105 million; the Attwater Prairie Chicken National Wildlife Refuge which will cost $25 million; the Balcones Canyonlands National Wildlife Refuge which will cost $71 million; the Oahu Forest National Wildlife Refuge at $23 million, and the list goes on and on, millions and millions of dollars.

In addition, every State in the Union has been forced to pay. California just paid $38 million. Even more troubling is that most of the costs of endangered species protection is passed on to private citizens, businesses, local communities and then we get into mitigation, which costs millions and millions of dollars. To get permission to use private or public land or to allow important local projects to continue, the landowner or local government must agree to buy and mitigate lands. It is an awesome amount of money.

In California, they had to plant 5 trees for the beetle, the longhorn beetle, at a cost of millions of dollars. In addition, changes in projects required by the Fish and Wildlife Service can add millions to the project. We have examples of that for a fly that cost $3.5 million building this hospital in a different place. That is $441,000 per fly.

We have an example in my State of Utah where we spend on children in Washington County, the weighted pupil unit is $3,554, but for the desert tortoise, which is not threatened incidentally, it is only threatened in the Mojave, not up in that area, we spend $33,000 per tortoise to take care of the tortoise, which has never been threatened since I was a kid in that area, but we have still put the money out.

The administration likes to brag about the 200 habitat conservation plans that have been negotiated. Again, almost all of these are in the West. These HCPs, as they are called, can be very expensive to prepare and biologists have to be brought in and people that cost all kinds of money. It is hard to calculate how much money we use.

Should we be concerned about these costs? Of course we should. We pay these costs one way or another, either in Federal taxes, local taxes or from mitigation or whatever it may be.

Now let us talk about the great success stories of which there are none. They like to talk about the bald eagle and the peregrine falcon. Guess what really happened? Biologists took them in, bred them in captivity and out of that they were able to return them to the environment. Let us face it, Mr. Speaker, the EAS has been a dismal, dismal, costly failure. It sounds good but it does not work. We need a new approach to this problem that does not drain our American economy and truly takes care of endangered species. The way we are doing it does not work.

It is amazing to me that many in the environmental movement seem to believe that we as a society don't spend enough money on implementation of the Endangered Species Act. They constantly blame the problems with the ESA on not enough money.

While a convenient excuse, it simply is not true. The ESA when measured by how many species have recovered under it's draconian rules and regulations, is a total failure. Very few species have recovered and some have been removed from the list of species because after being listed under the ESA, they went extinct.

However, we continue to throw money at the ESA in the hope that some how money might recover species. This approach won't work. Let's look at the numbers and at how the ESA forces the federal government, the state and local governments and countless private citizens to throw money at a system that is irretrievably broken.

It is almost impossible to figure out how much money is being spent under the auspices of endangered species protections, but the figure is nearing a billion dollars a year by many estimates.

In 1988, Congress, concerned about raising ESA costs and seeking better information on how much we were spending, required the Secretary of the Interior to begin reporting to Congress, how much the federal government is spending directly on endangered species. Every federal agency that undertakes any activity on behalf of any listed species is supposed to keep track of those expenses and make an annual report to the Fish and Wildlife Service. The Fish and Wildlife Service was then supposed to compile that information into an annual accounting to Congress. Now, the Service stays several years behind, but we now have accounting records for the years 1989 through 1995. We have gone from an annual direct expenditures in 1989 of $43 million to over $330 million in 1995.

However, these figures don't really tell the whole story because these figures don't include general overhead and administrative expenses associated with direct spending on the species itself. Nor do these figures tell the story of the amount of land that has been acquired for endangered species. For example, over 400 units of our National Wildlife Refuge System have at least one threatened or endangered species during some part of the year. A total of 58 refuges have been established specifically to protect threatened and endangered species, and 36 contain areas defined as designated critical habitat. Refuges are often the major part of a recovery plan for an individual species. In fiscal year 1999 we will spend more than $237 million dollars just to operate and maintain our vast wildlife refuge system.

The costs of acquiring refuges and other public lands for protection of endangered species is staggering. We just recently completed the acquisition of the Headwaters Forest at a cost of $ to the federal taxpayer and another to the California taxpayer, all to protect spotted owls and marbled murrelets. The Administration's budget request include funds for the Archie Carr National Wildlife Refuge which will ultimately cost over $105 million; the Attwater Prairie Chicken National Wildlife Refuge which will cost over $25 million; the Balcones Canyonlands National Wildlife Refuge which will cost over $71 million; the Oahu Forest National Wildlife Refuge at $23 million; the Lower Rio Grande Valley National Wildlife Refuge Complex at $135 million; and last but certainly not least is the San Diego National Wildlife Refuge which is expected to cost over $560 million. And this is just a partial list.

In addition, every state in the union has jumped on the bandwagon and each state spends it own state funds to protect various endangered species within their own borders. Those range from a high in California of $38 million on down.

But even more troubling is that most of the cost of endangered species protection is passed along to private citizens, businesses and local communities by threatening lawsuits and prosecution if those citizens don't agree to undertake costly mitigation projects. Why is mitigation running up costs? Mitigation is the cost of doing business with the Fish and Wildlife Service where there are endangered species. As one of my colleagues recently said in a hearing, you can get anything you want from the Fish and Wildlife Service if you put enough money on the table.

To get permission to use private or local land or to allow important local projects to continue, the landowner or local government has to agree to either buy mitigation land to be set aside in perpetuity or pay into a mitigation fund to buy land. Almost all of this mitigation requirement is occurring in the west. It adds millions of dollars to many projects. For example, the Resources Committee held hearings on why flood control levees weren't being promptly repaired in California. We learned that in order to protect the elderberry longhorn beetle, local flood control agencies were being required to ''mitigate'' on a 5 to 1 ratio for the beetle. This meant that they were required to obtain land for planting elderberry trees—not just 5 trees for each tree removed from levees, but 5 trees for every branch on each elderberry tree.

In addition, changes in projects required by the Fish and Wildlife Service can add millions to the cost of the project. In San Bernadino,

California the presence of eight Delhi Sands Flower Loving Flys added over $3.5 million to the cost of building a public hospital—that is over $441,243 per fly. The Fish and Wildlife Service made the project planners move the hospital after it was already planned for construction to save fly ''habitat.''

Let me give you an example from my own district in Washington County, Utah where we have been forced to develop a Habitat Conservation Plan for the Desert Tortoise which happens to reside in one of the fastest growing areas of the nation. The County, the City of St. George and the private landowners have responsibly participated in this process but at an incredible cost. For example, within Washington County Utah we spend $3,554.00 dollars per student in the public school system and this County has a great school system with all of the modern necessities. However, when it comes to the desert tortoise we spend a lot more. There are approximately 7,000 to 8,000 tortoises within the preserve. We are going to spend in excess of $250 million on these tortoises. That is over $33,000 per tortoise! Is it not incredible that we are spending almost ten times the amount of public funds on a tortoise than what we are spending on the education of our children! If the American public understood that tortoises, flies and beetles were more important to this Administration than our children, there would be even more outcry for reform.

The Administration likes to brag about the over 200 habitat conservation plans that they have negotiated. Again, almost all of these are in the west. These HCP's as they are called can be very expensive to prepare, with private landowners bearing the cost of paying for their development and implementation. Some of these cost over a million dollars just to propose because the private landowner must pay biologist to conduct surveys and develop plans to avoid the take of the species on the property.

How much is the ESA costing? The real cost is incalculable. The cost includes lost jobs to loggers in the Pacific Northwest and in the southwest where the logging industry and its taxes have been totally destroyed. It includes ranchers and farmers in the southwest who are having to cut back their herds because of an avalanche of lawsuits filed by radical groups with nothing better to do than file lawsuits against the people who are the back bones of these communities. It includes farmers who don't have enough water for their crops. It includes over a billion dollars spent on salmon with nothing to show for it according to the General Accounting office.

Should we be concerned about these costs? You bet we should be concerned. We all pay these costs in one way or another and yet all this money has resulted in almost no recoveries of endangered species because of actions taken under the ESA. The bald eagle and peregrine falcon did not recover because of ESA. They recovered because of the actions of a few dedicated ornithologists who were able to breed them in captivity and return them to the wild after we removed DDT from our environment. That was not done because of ESA.

ESA has been a dismal, costly failure. We need a new approach that works, but doesn't drain our American economy and create impoverished rural communities throughout the west.

FIBROMYALGIA, IT IS A DISABLING CONDITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise this evening in honor of National Fibromyalgia Awareness Day and the suffering that those with this disorder endure. In honor of this day, I just introduced the Access to Disability Insurance Act with the hopes of ending the suffering that those with this disorder experience at the hands of insurance companies.

It is estimated that 6 to 12 million people suffer from fibromyalgia. 75 percent of those with this disease are women. The illness affects people between the ages of 20 to 60, often striking people in their 20s and 30s.

Although nearly all of those with the disorder suffer from both muscular pain and fatigue, the vast majority also experience insomnia, joint pain and headaches. For many, the suffering they experience with fibromyalgia is just the beginning. When they try to collect on their private disability insurance because their symptoms are debilitating and prevent them from working, they are denied by their insurance company. To add insult to injury, they are then denied the ability by law to appeal their denial.

This denial is easy and is commonplace by insurance companies because of the way that the Employee Retirement Income Security Act is written. This act, known as ERISA, prevents an individual from appealing an insurance company's denial of a claim unless the person can prove that the insurance company, and I quote, abused its discretion.

That is difficult to do because insurance companies have often stated that physician diagnoses of fibromyalgia are, in their words, subjective because the doctor had to rule out a number of disorders in order to arrive at this fibromyalgia diagnosis.

My bill, the Access to Disability Insurance Act, would allow appeals of insurance company decisions without having to demonstrate the hard to prove standard of abuse of discretion.

Picture this: You and your employer have paid into disability insurance for years, hoping that you will never have to use it. Then you do get sick and fight to get well, but are unable, constantly dealing with uncontrollable pain and fatigue. Then you have to stop working. All the while, your physician is struggling to determine what has gotten you sick. In many cases, it takes 5 years, 5 years, for accurate diagnoses. After all of this, your disability insurance company denies your claim.

Under current law, there is no recourse, no ability to appeal that denial.

Why should a doctor's painstaking diagnosis be brushed off by an insurance company claims administrator? Because, I believe that patients have a right to appeal that decision, the same right they would have if they applied for governmental Social Security disability benefits, I am introducing this legislation tonight.

This is not an isolated problem. Approximately 30 to 40 percent of fibromyalgia patients have paid into long-term disability plans while they were working, hoping as we all do that we will never need to use this insurance.

It is bad enough that people have to suffer from this illness. They should not have to suffer through a disability process that closes the door on them before even hearing an appeal.

I urge all of my colleagues to join me in cosponsoring the Access to Disability Insurance Act and to celebrate National Fibromyalgia Awareness Day.

ENSURING PROPER COMPENSATION FOR THE NUCLEAR CLAIMS, RELOCATION AND RESETTLEMENT COSTS OF THE PEOPLE OF THE REPUBLIC OF THE MARSHALL ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, yesterday, the House Committee on Resources held a hearing on a subject that I feel is critically important, and I wanted to take this opportunity to share it with our colleagues and to our Nation.

Mr. Speaker, I deeply commend the gentleman from Alaska (Mr. YOUNG), the House Committee on Resources chairman, and the gentleman from California (Mr. GEORGE MILLER), the committee's ranking Democrat for convening a hearing to review the long-term effects of America's nuclear testing program on our close friends and long time allies, the good people of the Republic of the Marshall Islands.

Mr. Speaker, our great Nation owes an immense debt to the Marshallese people for their tremendous sacrifices that directly contributed to and continues to contribute to our Nation's nuclear deterrent and ballistic missile defense capability.

Mr. Speaker, the United States in the 1950s detonated 67 nuclear bombs in the homeland of the Marshallese people, directly facilitating development of America's nuclear arsenal while poisoning the environment and the people in the Marshall Islands.

Today the Marshallese people continue to contribute to America's security by providing U.S. testing facilities at Kwajalein Atoll. This atoll, Mr. Speaker, happens to be the largest atoll in the world, for development of our Nation's ballistic missile defense against rogue states possessing weapons of mass destruction.

I want to share a little bit of data with my colleagues, Mr. Speaker. The total amount of TNT that was exploded

at the Nevada nuclear test site was about 1.1 megatons. Now, the amount of TNT that we exploded in the Marshall Islands was 93 megatons. If I could give another example, Mr. Speaker, the hydrogen bomb that was dropped in the Marshall Islands in 1954 was 15 megatons, which is about 1,000 times more powerful than the two bombs that we exploded at Hiroshima and Nagasaki, Japan, in World War II.

Mr. Speaker, the actions of the United States Government have caused the people of the Republic of the Marshall Islands immense harm, which continues to this day. With some 67 underwater surface and atmospheric tests of atomic and thermonuclear weapons tested in the Marshalls we have rendered uninhabitable, due to nuclear radiation, much of these people's homelands. We have disrupted their lives by removing them from their homelands and in some cases they have yet to return out of fear of radiation contamination should they return.

On top of that, numerous Marshallese have suffered from cancers, leukemia and other life-threatening diseases directly connected to nuclear radiation poisoning.

Mr. Speaker, because of the recent declassification by the Department of Energy of previously classified documents, we now know that our government has not always been candid and forthright with the people of the Marshall Islands. Because of what some would consider callous disregard and perhaps duplicity for the well-being of the residents of the Marshall Islands, they no longer trust our government to do the right thing.

After a preliminary review of the facts, Mr. Speaker, I submit I can understand why our Marshallese friends feel this way.

Mr. Speaker, I regret to report that this whole process has taken too long and has been woefully underfunded. In this time of expected U.S. budget surpluses from which the House of Representatives last week ad hoc allocated some $12.9 billion for Kosovo and defense concerns, Mr. Speaker, we really have no excuse for not addressing completely these serious problems which our great Nation has caused for the good people of the Marshall Islands.

Mr. Speaker, I would urge our colleagues to support full and timely compensation for the nuclear-related injuries sustained by the Marshallese people when this matter comes before us. This is the very least we can do in recognition and repayment of the sacrifices made by the people of the Marshall Islands that have ensured that the United States remains strong, remains free and remains protected.

Mr. Speaker, I include the following for the RECORD:

U.S. NUCLEAR TESTS IN THE MARSHALL ISLANDS

Test No.	Date	Site	Type	Yield (kt.)	Operation	Test
1	6/30/46	Bikini	Airdrop	21.00	CROSSROADS	ABLE
2	7/24/46	Bikini	Undrwtr	21.00	CROSSROADS	BAKER
3	4/14/48	Enewetak	Tower	37.00	SANDSTONE	XRAY
4	4/30/48	Enewetak	Tower	49.00	SANDSTONE	YOKE
5	5/14/48	Enewetak	Tower	18.00	SANDSTONE	ZEBRA
6	4/7/51	Enewetak	Tower	81.00	GREENHOUSE	DOG
7	4/20/51	Enewetak	Tower	47.00	GREENHOUSE	EASY
8	5/8/51	Enewetak	Tower	225.00	GREENHOUSE	GEORGE
9	5/24/51	Enewetak	Tower	45.50	GREENHOUSE	ITEM
10	10/31/52	Enewetak	Surface	10,400.00	IVY	MIKE
11	11/15/52	Enewetak	Air Drop	500.00	IVY	KING
12	2/28/54	Bikini	Surface	15,000.00	CASTLE	BRAVO
13	3/26/54	Bikini	Barge	11,000.00	CASTLE	ROMEO
14	4/6/54	Bikini	Surface	110.00	CASTLE	KOON
15	4/25/54	Bikini	Barge	6,900.00	CASTLE	UNION
16	5/4/54	Bikini	Barge	13,500.00	CASTLE	YANKEE
17	5/13/54	Enewetak	Barge	1,690.00	CASTLE	NECTAR
18	5/2/56	Bikini	Air Drop	3,800.00	REDWING	CHEROKE
19	5/4/56	Enewetak	Surface	40.00	REDWING	LACROSSE
20	5/27/56	Bikini	Surface	3,500.00	REDWING	ZUNI
21	5/27/56	Enewetak	Tower	0.19	REDWING	YUMA
22	5/30/56	Enewetak	Tower	14.90	REDWING	ERIE
23	6/6/56	Enewetak	Surface	13.70	REDWING	SEMINOLE
24	6/11/56	Bikini	Barge	365.00	REDWING	FLATHEAD
25	6/11/56	Enewetak	Tower	8.00	REDWING	BLACKFOOT
26	6/13/56	Enewetak	Tower	1.49	REDWING	KICKPOO
27	6/16/56	Enewetak	Air Drop	1.70	REDWING	OSAGE
28	6/21/56	Enewetak	Tower	15.20	REDWING	INCA
29	6/25/56	Bikini	Barge	1,100.00	REDWING	DAKOTA
30	7/2/56	Enewetak	Tower	360.00	REDWING	MOHAWK
31	7/8/56	Enewetak	Barge	1,850.00	REDWING	APACHE
32	7/10/56	Bikini	Barge	4,500.00	REDWING	NAVAJO
33	7/20/56	Bikini	Barge	5,000.00	REDWING	TEWA
34	7/21/56	Enewetak	Barge	250.00	REDWING	HURON
35	4/28/58	Nr Enewetak	Balloon	1.70	HARDTACK I	YUCCA
36	5/5/58	Enewetak	Surface	18.00	HARDTACK I	CACTUS
37	5/11/58	Bikini	Barge	1,360.00	HARDTACK I	FIR
38	5/11/58	Enewetak	Barge	81.00	HARDTACK I	BUTTERNUT
39	5/12/58	Enewetak	Surface	1,370.00	HARDTACK I	KOA
40	5/16/58	Enewetak	Undrwtr	9.00	HARDTACK I	WAHOO
41	5/20/58	Enewetak	Barge	5.90	HARDTACK I	HOLLY
42	5/21/58	Bikini	Barge	25.10	HARDTACK I	NUTMEG
43	5/26/58	Enewetak	Barge	330.00	HARDTACK I	YELLOWWD
44	5/26/58	Enewetak	Barge	57.00	HARDTACK I	MAGNOLIA
45	5/30/58	Enewetak	Barge	11.60	HARDTACK I	TOBACCO
46	5/31/58	Bikini	Barge	92.00	HARDTACK I	SYCAMORE
47	6/2/58	Enewetak	Barge	15.00	HARDTACK I	ROSE
48	6/8/58	Enewetak	Undrwtr	8.00	HARDTACK I	UMBRELLA
49	6/10/58	Bikini	Barge	213.00	HARDTACK I	MAPLE
50	6/14/58	Bikini	Barge	319.00	HARDTACK I	ASPEN
51	6/14/58	Enewetak	Barge	1,450.00	HARDTACK I	WALNUT
52	6/18/58	Enewetak	Barge	11.00	HARDTACK I	LINDEN
53	6/27/58	Bikini	Barge	412.00	HARDTACK I	REDWOOD
54	6/27/58	Enewetak	Barge	880.00	HARDTACK I	ELDER
55	6/28/58	Enewetak	Barge	8,900.00	HARDTACK I	OAK
56	6/29/58	Bikini	Barge	14.00	HARDTACK I	HICKORY
57	7/1/58	Enewetak	Barge	5.20	HARDTACK I	SEQUOIA
58	7/2/58	Bikini	Barge	220.000	HARDTACK I	CEDAR
59	7/5/58	Enewetak	Barge	397.00	HARDTACK I	DOGWOOD
60	7/12/58	Bikini	Barge	9,300.00	HARDTACK I	POPLAR
61	7/14/58	Enewetak	Barge	LOW	HARDTACK I	SCAEVOLA
62	7/1/58	Enewetak	Barge	255.00	HARDTACK I	PISONIA
63	7/22/58	Bikini	Barge	65.00	HARDTACK I	JUNIPER
64	7/22/58	Enewetak	Barge	202.00	HARDTACK I	OLIVE
65	7/26/58	Enewetak	Barge	2,000.00	HARDTACK I	PINE
66	8/6/58	Enewetak	Surface	FIZZ	HARDTACK I	QUINCE
67	8/18/58	Enewetak	Surface	0.02	HARDTACK I	FIG

Sources: U.S. Department of Energy, United States Nuclear Tests: July 1945 through September 1992. Document No. DOE/NV–209 (Rev. 14), December 1994. RMI Nuclear Claims Tribunal. Annual Report to the Nitijela For the Calendar Year 1996. Majuro: 1997.

TABLE I.—CUMULATIVE DOSES BY EVENT AND LOCATION

(Finite Dose to Next Event)—mr

EVENT	BRAVO	ROMEO	KOON	UNION	YANKEE	NECTAR	TOTAL
Days between events	26	11	19	9	9	10	
AERIAL MONITORING							
Lae	5.5	12	12	7.5	78	95	125
Ujae	6	32	17	9.5	48	1.4	114
Wotho	250	270	110	55	95	4	784
Ailinginae	[1] 60,000	3,400	3,300	8	600	70	67,000
Rongelap	[1] 180,000	11,000	6,000	3,400	1,700	300	202,000
Rongerik	[1] 190,000	9,000	5,000	550	1,400	280	206,000
Taongi	280	60	9.5	10	10	.....	370
Bikar	[1] 60,000	3,000	1,200	650	1,700	150	67,000
Utirik	[1] 22,000	1,200	700	100	330	50	24,000
Taka	[1] 15,000	800	1,000	120	380	50	17,000
Ailuk	5,000	410	110	100	500	20	6,140
Jemo	1,200	410	130	18	200	20	1,978
Likiep	1,700	170	80	30	200	16	2,196
Namu	1.8	90	100	0	25	0	216
Ailinglapalap	7.2	140	100	8	0	0	255
Namorik	20	160	70	2	0	0	252
Ebon	20	250	50	8	25	0	353
Kili	20	200	70	0	0	1.3	291
Jaluit	20	300	70	8	0	2.6	401
Mili	60	160	200	20	0	1.3	441
Arno	60	200	300	8	25	1.3	594
Majuro	200	200	50	20	0	1.3	471
Aur	40	200	50	8	40	2.6	341
Maledlap	350	120	50	0	25	4.0	549
Erilaib	390	200	50	0	0	6.5	647
Wotje	1,800	300	200	13	220	10	2,543

[1] Based on arrival estimated from Rongerik data.

TEEN PREGNANCY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to be here this evening, because it is Teen Pregnancy Awareness Month, to address this epidemic of teen pregnancy in our country. It is a reality that affects our entire society and it deserves not only our attention but it also deserves a series of remedies.

Teens are often a group invisible to health policymakers and providers because they are generally in good physical health and they have limited contact with health care providers. Parents and health care providers often believe that young equals healthy.

Unfortunately, the United States not only leads the Western industrialized world in teen sexual activity and teen pregnancy but there is double the rate of these activities in the United States than in other industrialized nations. That is shocking.

Teen sexual activity has led to 3 million teens acquiring sexually transmitted diseases each year along with one of the fastest rising rates of AIDS cases. The National Institute of Allergy and Infectious Diseases reports that 25 percent of new HIV infections are occurring to people between the ages of 13 and 20. Teen mothers are less likely to graduate from high school and nearly 80 percent of teen mothers turn to welfare.

These circumstances have had a detrimental effect on our children and obviously on our society as a whole.

The problem is apparent. But now what can we do? Teens who engage in risky behaviors such as sex at an early age may be attempting to mask or cope with emotional school or family problems, and these behaviors may be a call for help. By understanding and valuing the concerns of young people, adults can help develop and encourage safer options that are attractive to adolescents and teens.

For the past few years, we have seen a slow decline in our Nation's teen pregnancy rates. We can be grateful for that. Communities all over the country have reached out to their teens by providing information and support.

□ 1830

But what we need to know is we need to know what works. I am pleased to be a sponsor of H.R. 1636, the Teen Pregnancy Reduction Act introduced by the gentleman from Delaware (Mr. CASTLE) and supported and endorsed by many of the people who will be speaking this evening, including the gentlewoman from North Carolina (Mrs. CLAYTON), who is involved with this special order.

That legislation calls for an evaluation of the best methods of communicating with our youth about sex, and uses these programs as models for areas that are in need around the country. It is a nonpartisan approach, and it would include experts who would collaborate on the most effective method of getting in touch with teens and therefore decreasing teen pregnancy rates.

Some of the organizations leading this effort in battling teen pregnancy that would be called on in this legislation are the Centers for Disease Control and Prevention, the Office of Population Affairs, the National Institute of Child Health and Human Development, and the National Campaign to Prevent Teen Pregnancy.

It is obvious that a cookie cutter approach to teaching our teens about sex and how to reduce risky behavior will not be enough to minimize pregnancy rates. Now we as policymakers need to provide methods that work.

As a cosponsor of that Teen Pregnancy Reduction Act and a member of the House Advisory Panel to the National Campaign to Prevent Teen Pregnancy, and as a mother and as a grandparent, I urge our colleagues to join with us to combat this epidemic of teen pregnancy in our country.

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

(Mr. RUSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PASS THE HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, I rise today to commend Deputy Attorney General Eric Holder, who yesterday correctly testified before Congress that current Federal hate crime laws are inadequate in the fight against crimes of hate. Present laws do not prohibit crimes against individuals based on their sexual orientation or gender. Deputy Attorney General Holder urged Congress to pass legislation that would expand Federal authority to prosecute those responsible for such crimes.

On May 3, 1999, I hosted a community discussion at Clark University in Worcester, Massachusetts, on this timely and important piece of legislation, H.R. 1082, the Hate Crimes Prevention Act of 1999.

The forum brought together scores of community leaders and organizations, including the National Conference for Community and Justice, the Human Rights Campaign, the Safe Homes

Project, the Massachusetts Rehabilitation Center, and the Jewish Federation of Central Massachusetts.

Over the past few months we as a country have witnessed horrific crimes motivated by hate. Last year James Byrd, Junior, a 49-year-old black man, was murdered in a brutal attack in Jasper, Texas. His alleged assailants, three white men, dragged him for 2 miles while he was chained to the back of a truck.

Four months later Matthew Shepard, an openly gay student at the University of Wyoming, was kidnapped, robbed, beaten, and burned by two men on a cold October night. This young man, with a promising future, died 6 days later.

Recently in Littleton, Colorado, certain high school students appeared to have been specifically targeted and murdered because of their race and chosen faith. In my own district, the Jewish Community Center in Worcester, Massachusetts, experienced the evils of anti-Semitism when Nazi swastikas were painted throughout the facilities.

Those who participated in the community meeting last week shared moving accounts on the effects of intolerance. These crimes attack the very democratic foundation of our country.

The Hate Crimes Prevention Act would expand the situations where the Department of Justice can prosecute defendants for violent crimes committed because of the victim's race, color, religion, or national origin.

It would also authorize the Department of Justice to prosecute individuals who commit violent crimes against others because of the victim's sexual orientation, gender, or disability. Current Federal law does not cover crimes with these motives.

In 1997, the latest year for which FBI figures are available, over 8,000 hate crime incidents were reported. That is nearly one hate crime every hour. Clearly the time to pass the Hate Crimes Prevention Act is now.

Over 40 States have hate crimes statutes, including, I am proud to say, my home State of Massachusetts. However, only 21 cover sexual orientation, 22 cover gender, and 21 cover disability. By strengthening the Federal law, State and local authorities will be able to utilize Federal personnel and investigative resources.

Hate knows no boundaries. We need a law to protect all Americans. Tough Federal hate crimes legislation would give our justice system the tools and authority to recognize acts of violence committed on the basis of a person's gender, race, ethnicity, sexual orientation, or religion.

By recognizing these incidents and punishing those responsible, we can begin to eradicate these acts of hate from our schools, our neighborhoods, and our country.

Dr. Martin Luther King, Junior, believed that injustice anywhere is a threat to justice everywhere. By passing this legislation, Congress will send a clear and powerful message that we will not tolerate these violent acts which not only change the life of the victim, but affect the entire community. The ripple effect caused by these crimes sends shock waves throughout the targeted community, often leaving fear, despair, and loneliness in its wake.

We all need to join together to break down the walls of ignorance and to build a community founded on tolerance, justice, and compassion. The allies of hate are not just the perpetrators. Silence and complacency are allies, as well. The enemy of hate is a community and a Congress that does not tolerate hateful messages, words, or deeds.

We must take a stand and pass the Hate Crimes Prevention Act of 1999 now; not next year or sometime in the future, but now.

ENCOURAGING MEMBERS TO SUPPORT THE TEENAGE PREGNANCY PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I want to thank all of those who have joined me, and the gentlewoman from Maryland (Mrs. CONNIE MORELLA) who has spoken earlier, and several others. The gentleman from Delaware (Mr. CASTLE) is here, and the gentlewoman from California (Mrs. CAPPS) is here, who are all taking active time out to speak.

Mr. Speaker, we are here this evening because we care about our young people. We are here because we recognize that May has been designated as Teenage Pregnancy Month.

We are here to acknowledge the success of efforts that have been made as a result of communities working together and a variety of communities doing different things, pulling together parents, schools, communities, churches; understanding that there are no easy answers to teenage pregnancy, but understanding that it is a serious problem that indeed deserves our concentration and a concentrated effort on the part of all of us.

Abstinence certainly is the main program that we advocate, and feel that it is one sure method that young people can be assured of, if indeed they have that and practice that. Abstinence certainly would not only reduce and prevent teenage pregnancy, but it also will reduce and prevent many of the transmitted disease as they relate to being sexually active, none more drastically than the spread of AIDS, which takes too many lives.

However, abstinence alone will not do it, because too many young people, obviously, are involved. So we also advocate that there should be Planned Parenthood, there should be contraceptives, there should be a variety of educational counseling, health clinics.

There should be the community, the church, faith-based activities that encourage young people's development. We believe that if young people have a strategy for the future and have hope about their career and have economic security, they are more likely to be about developing themselves, rather than getting involved in behavior that is self-destructive, including premature sex.

Once a young person is pregnant, there are no good choices. Indeed, we know, because there is research that shows without a doubt teenage pregnancy not only brings stress to the teenage mother or the teenage father and their family, and the young person that is born, but also it is costly to society.

Research has shown that a teenaged daughter giving birth to a daughter, that daughter grows up and is 83 percent more likely to be a teenage mother herself. A son who is given birth by a teenage mother, that young man has a likelihood 2.7 times greater to get in trouble and to either have as his hope for the future going to prison or death. Those are not statistics that we can look and think that this is an easy answer by saying that that is just one approach. Several approaches must be used.

This is a serious problem because we think that teenage destructive behavior eventually is a continuum, whether it is getting involved with premature sexual activities or involved in drugs or involved in crime, all of the things that do not allow that young person to be the person that he or she has the potential of being and making a contribution. Society loses, not only through the costs to imprison that young man or the costs for sexual disease and transmission of those diseases, but the loss of the contribution that those young people could make is even more severe.

So we are here tonight to tell young people and adults that this is a serious problem. We are here to reinforce their value to us, and how we care about them.

I just want to mention things that we do in our district. We have now had several forums. This year alone we have had two. We had one last Saturday, where we had more than 50 young people and adults to come. We had ministers, we had counselors, we had health professionals, we had young people who were engaged with other young people. They had a teen summit where they talked to each other. It is surprising what teenagers say to themselves and to each other. They indeed can give some of the best wisdom.

I urge all of our colleagues to engage themselves with young people. Again, I want to thank all the Members who have come to speak on this important subject.

TEENAGE PREGNANCY, A CONCERN FOR EVERYONE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. CASTLE) is recognized for 5 minutes.

Mr. CASTLE. Mr. Speaker, I will be brief, but I did want to join in the participation of what we have seen here tonight.

I am the cochair person of the Congressional Advisory Committee to Prevent Teen Pregnancy. But I think we all should be cochairs of that. I think that is a subject of huge importance to everybody in America today.

We still in America have the highest rate of teen pregnancy, higher than some of the Third World countries, in the world, which is pretty amazing when we consider the advances which have been made in American society in so many other ways, because I consider this to be, frankly, a high negative.

We are doing better. Our statistics in the last 3 or 4 years indicate that we are starting to go down in the rate of teenage pregnancy. It is a tremendous problem, obviously, because we have a lot of unwed very young mothers with absolutely no income sources whatsoever; with young men out there who do not have a clue about how to do anything about a family, or earn any income or whatever it may be. So it is almost a direct descent into some sort of economic help from the government in the form of welfare or something else.

In fact, the statistics are something like that if you graduate from high school and you wait until 20 to get married and you never have a criminal record, the chances are something like 80 percent you will never be in poverty. But if indeed any of those things happen, if you get pregnant early or do not graduate from high school or have a criminal record, the chances are almost overwhelming that you are going to live in poverty at some time during the course of your life.

So it is very evident, with perhaps a few exceptions, it is evident that we are all far better off if we indeed wait with respect to the concept of giving birth and getting pregnant. Obviously, I guess we would preach abstinence first.

That has a lot of good tones to it in terms of what it means in the sense that you do not have any of the mental concerns of having been sexually involved, and of course you are going to prevent disease because you have not been involved, and obviously no pregnancies are going to take place. But at some point it often goes beyond that with our young people, and they do get involved.

At that point we need to talk about planning and contraceptives. I think we have a more open approach. The idea is to avoid pregnancy. By avoiding pregnancy, you avoid all of those problems, and of course avoid the horrible problem of abortion, which is something that is abhorred by practically everybody in the country, whether they are pro-choice or pro-life.

□ 1845

So we have to do these things. I see it. I see it in my State of Delaware. I have seen it in Dover High School at a wellness center just last week, last Friday. I talked to four or five kids who are going through programs there to help deal with the subject of pregnancy. They are talking with each other.

We have wellness programs in all but one high school in the State of Delaware now that we did not have before. They have sessions in which they can actually get together and begin to talk about these issues.

That is why I think we are starting to make an impact with respect to the rate of teen pregnancy in the United States of America, which again is a positive sign. But there are still, as I said, other things that we have to do to continue to build on this recent record of success.

So I know a lot of the Members of Congress are vitally interested in this subject, and we thank them for their time and attention on it. Hopefully, the public will weigh in as well. If we do, we can prevent a lot of the hardship, a lot of the problems, a lot of the stress and strain on individuals and families that occur in this country because of teenage pregnancy that takes place across the United States. I think we can do it, and I am pleased to help be a part of this effort.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, I rise today to pledge my full support to efforts across this country to reduce teen pregnancy. It is a pleasure to speak today in cooperation with my colleagues, the gentleman from Delaware (Mr. CASTLE), the gentlewoman North Carolina (Mrs. CLAYTON), the gentlewoman from Maryland (Mrs. MORELLA), all of us working here in the Congress on this goal.

Before I came here, I spent 20 years working as a school nurse in my community of Santa Barbara, California, in the central coast. During that time, for a large portion of that time, I was the director of a program at one of our largest high schools for teen parents and their children. So I know about this topic firsthand.

This program, which I fully support, encourages teenage parents, both mothers and fathers, to stay in school for their own success and the success of their young families. It provides child care, parenting education, gives them access to support services in addition to a high school diploma and further. It is a strong intervention program.

While I was with these young moms and dads, I learned firsthand the struggles that they face on a daily basis to survive and to make something of their lives. It turns out that teenage parents are some of the strongest advocates for preventing teen pregnancy. They did and do this still in my community in a very dramatic and loving way with their peers.

They know that prevention is the key, and parents are the key to prevention. Parents need to be reminded, we all do as parents, that, first and foremost, parental guidance is the best deterrence for teenage pregnancy. Teens want to learn and hear more at home. They want to hear about values and have value role models for them in their homes and to have personal responsibility discussed.

We need to work as a community to prevent teen pregnancy with child care programs and after school programs so that our teens are busy and engaged and their energy is used in productive, supervised activities. Most importantly, we need to give them goals for the future.

Class reduction in our schools is a good thing for preventing teen pregnancy. So are partnerships that I have seen in my community between businesses and our schools that provide mentorship that light a fire in the students and give them motivation to know that they have a future for themselves and they can begin to set meaningful goals.

Some want adults in the community to talk with them about their goals and to support them in reaching these goals. This is really good pregnancy prevention that I watched and was part of firsthand.

I am very proud of all that the PACE center has achieved, the teen parent program that I was so much involved with so long and from whom I learned so much, and that these programs are alive and well and thriving in my community.

I strongly support them and other groups around the country that work with young parents helping them to keep their lives on track and teaching them to be nurturing and good parents.

But I look forward to the time when we will not need so many of these programs. We know now as we have watched pregnancy prevention programs and parents and communities, religious leaders working together that our teenage pregnancy rate has declined. But we must continue to strive.

That is why I am so pleased to be the newest member actually of the House Advisory Panel for the National Campaign to Prevent Teen Pregnancy. We have a job to do here in Congress, and my colleagues have spoken to this today.

It is an honor for me to be a cosponsor of the Teen Pregnancy Reduction Act by pulling together the best of ideas from around the country, interactions in our communities with young people taking the lead, and their families and community leaders, the ideas

that are working, model programs that we can hold up for the rest of the country to follow.

Together we can demonstrate that, when our families lead the way, that we can do something in our community to make sure that each child born is born to a loving and a family able to care for them; and that teenage pregnancy can continue to see a decline in enrollment, in numbers; and that we can support young parents where we need to. It is a pleasure and an honor to be a part of this program.

STRENGTHENING U.S.-INDIA ECONOMIC TIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, the recent disputes between the United States and India over nuclear and missile testing issues have not only resulted in political and diplomatic setbacks in our bilateral relationship. One of the major casualties of this year of antagonism has been the economic relationship between our two countries.

The historic free-market economic reforms that India initiated at the beginning of this decade have created vast opportunities for American participation in India's economic future. India's huge middle class represents a significant market, while India's infrastructure development needs offer opportunities for cooperation that will benefit both countries.

Unfortunately, Mr. Speaker, this past year has seen us lose some of the momentum of the previous 6 or 7 years. I am hoping to contribute to putting the U.S.-India economic relationship back on track, and I would like to offer some ideas on how we can do that.

Today I am introducing legislation to suspend all of the unilateral sanctions that the United States has imposed on India. Last year, Members of Congress, working on a bipartisan basis, approved a provision in the fiscal year 1999 Omnibus Appropriations bill that gave President Clinton authority to waive the sanctions during the fiscal year. But I think that a more permanent and less discretionary approach is now necessary.

There are some other legislative initiatives being proposed in this body and in the other body, the Senate; and this progress is encouraging, although some of the proposals may not go far enough.

My bill is drafted in such a way as to remove the current discretionary approach for waiving sanctions on a selective basis or an exchange for certain concessions by India. In a response to a letter I sent him earlier this year, President Clinton indicated that his administration will pursue an incremental approach to lifting sanctions in exchange for nonproliferation steps by India. But I do not think that this is the way to go.

I have been calling for months for a U.S. policy that turns away from the current stance of confrontation with India and towards recognition of India's legitimate security needs and the prospects for greater Indo-U.S. cooperation in both strategic and economic areas. Negotiations over our disagreements concerning nuclear issues should not destroy the burgeoning economic relations between America and India.

I am not only pushing for this legislation because of my concerns for how the sanctions impact on the people of India, although that is extremely important to me. As a U.S. Congressman, I am concerned that the remaining sanctions are causing American companies to lose opportunities to do business in India, while our economic competitors in Europe and Japan gain a major foothold in this great, emerging market.

Mr. Speaker, India is the fifth largest economy in the world. The private sector accounts for 75 percent of GDP. The country has 22 stock exchanges, over 9,000 listed companies, as well as the commercial banking network of over 63,000 branches. It has had stable democratic government since 1947. It has an independent judicial system and positive foreign investment policies. There is a skilled work force, including professional and managerial personnel. English is, of course, the preferred language for business and is spoken widely and fluently.

During a recent congressional delegation visit to India, the leadership of the Confederation of Indian Industry, considered to be India's major business organization, presented a wish list to radically improve our economic ties. Foremost on the list was, of course, the lifting of the sanctions.

CII's newly installed president has called on India's government to speedily approve economic reform legislation.

Prime Minister Atal Behari Vajpayee currently leads a caretaker government, and new parliamentary elections are not scheduled until September. But the caretaker government is empowered to push through 11 key pieces of economic legislation that have been introduced in Parliament and vetted by the relevant committees. They include bills governing insurance regulatory authority, money laundering and foreign exchange management, securities contract and export/import. CII is also calling for reform in 19 key sectors of the economy, ranging from the financial sector and capital markets, to infrastructure and agriculture, to continued privatization.

It is clear that the leaders of India's private sector are intent on promoting an improved climate for trade and investment and are encouraging their government to do everything possible to achieve this.

I have spoken with many American business leaders, and it is clear that the U.S. business community is concerned about improving relations, and that lifting the sanctions is also on the top of their list.

Mr. Speaker, we must finally get beyond the unproductive approach of confrontation and work towards policies that will promote improved opportunities for cooperation between the world's two largest democracies. I hope that the legislation I am introducing today will contribute to that process.

FRAMEWORK FOR NEGOTIATED SETTLEMENT WITH KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Weldon) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to describe a plan that we have been working on for the past 5 weeks in cooperation with the various parts of the administration to provide a framework for a negotiated settlement of the Kosovo crisis.

Today, for approximately 1 hour, 11 members of this body who traveled with me to Vienna, Austria, 2 weekends ago to meet with our Russian counterparts in the Duma met with the Secretary of State Madeleine Albright in her office. She was accompanied by the Under Secretary of State, Tom Pickering.

It was a very constructive discussion with Members on both sides of the aisle engaged in a constructive way to let the Secretary know that our ultimate objectives and purpose are identical to what the President and what she wants to achieve, and that is an honorable settlement that is done in line with the five principles that the NATO countries have agreed to.

We spent a great deal of time outlining the process that we have used, and we cited the fact that we were asked to get involved by our Russian Duma counterparts approximately 5 weeks ago.

We explained to the Secretary that tomorrow, in the Committee on International Relations, there will be a public hearing where all 11 Members of Congress from the far right to the far left will present an overview of why this particular framework should move forward and why this Congress and this House should go on record in sync with the work of the Russian Duma to provide a process whereby the U.S. and Russia can assist in getting the objectives that NATO wants, and that is to bring Milosovic to understand that the world community is coming together in an effort to solve this crisis quickly.

Timing is of the essence, Mr. Speaker. Russia is going through turmoil right now. I just got off the phone with my second conversation with the Duma leadership today. As you know, they have sacked Primakov. On Saturday of this week, the Duma will vote on whether or not to impeach Yeltsin as the President of Russia.

We need to understand that we have a significant opportunity here, an opportunity to work constructively with the Russians, using their leverage to bring Milosovic to terms that our government, that our President, that our Secretary of State want to see achieve.

I encourage all of our colleagues on both sides of the aisle to support the bipartisan work of the 11 Members of Congress who are reaching out to provide a framework that will allow this conflict to be ended.

I am more optimistic than ever. The Russians are faxing us a letter at this very hour expressing their desire to pass the same document in the Russian Duma. Let us not lose this opportunity to show Milosovic that Russian leaders across the spectrum, American leaders across the political spectrum are coming together with a common agenda which says Milosovic must in the end agree to the conditions that NATO has established to end this conflict. Together I think we can finally end this crisis.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I am honored to be here tonight to discuss the problem of teen pregnancy. May is Teen Pregnancy Prevention Month, and it is a perfect time to focus our attention on this problem.

Let me start by saying that teen pregnancy prevention is a classic case of good news/bad news. The good news is that we are making progress, but the bad news is there is still much to be done.

Let me begin by focusing on the good news. Teen pregnancy rates have dropped, and we should congratulate those who are working hard on this problem. There are many, many programs of all different kinds out there making a real difference.

In Milwaukee, Wisconsin, the area I represent, our community has responded to the problem of teen pregnancy by mobilizing residents, community-based organizations, the faith community, government, and the private sector in a results-based consortium designed to reduce teen pregnancy and promote programs and services for teen parents and their families.

We also cannot overlook the efforts of parents who are taking the time to have those difficult discussions with kids about responsibility and teen pregnancy. Studies show that teens want to hear from their parents and that this has had a positive effect. We need to congratulate those teens who are making responsible choices in a very pressured world.

□ 1900

All of this has helped bring the rate of teen pregnancies down from a peak of 117 for every 1,000 young women from ages 15 to 19 in 1990 to 101 in 1995. This is a 14 percent drop, which brings the rate to its lowest level since 1975. It dropped again 4 percent between 1995 and 1996.

In this decade, the birthrate for these teens has dropped 16 percent and it has dropped among all races, and the birthrate among 15 to 17-year-olds declined faster than 18 to 19-year-olds. In Wisconsin, my home State, there has been a 16 percent drop in the teen birthrate from 1991 to 1996.

This is real progress, but this in no way means the problem is solved. We have a long way to go and we cannot give up. We must support programs that work. For that reason, I am proud to be an original cosponsor of the bill sponsored by the gentlewoman from New York (Mrs. LOWEY), which would arrange for evaluation of public and private prevention programs for effectiveness and feasibility of replication and would give grants for effective programs.

If we let up, then the bad news of this story gets bigger and our kids lose. If our kids lose, then all of society loses. And here is the bad news. The United States still has the highest teen birth rates in the developed world. Four out of 10 American girls become pregnant at least once by the age of 20.

In Wisconsin, we still have a teen birthrate of 37 per 1,000 females, and in Wisconsin 84 percent of these occur to unmarried teens, while 21 percent of teen births are repeat births.

Children born to teenage parents are more likely to be of low birth weight, to suffer from inadequate health care. They are more likely to leave high school early without graduating. They are more than 10 times more likely to be poor than children born to women age 20 and over. They are more likely to continue a cycle in their family of poverty and lack of choices. And they are twice as likely to be abused and neglected as are children of older mothers. Nearly 80 percent of teen mothers eventually receive public assistance, and two-thirds never finish high school. And let us not forget one of the most important statistics: Girls of teen mothers are 22 percent more likely to get pregnant as teens themselves.

So what are we to do? First, we have to find programs that work and make sure they are funded. Again, to that extent, the bill of the gentlewoman from New York should be passed. We need to keep our eyes and ears open in our communities to find out what works, for example, after-school activities, and then come back here and integrate that into policymaking.

Most importantly for young girls, they have to have hope in their lives. They have to have a dream. They have to be able to look beyond their teenage years and know that there is a reason to wait before becoming a mother. And the same is true for young boys. We have to include boys in this discussion as well.

As parents, we need to talk to our kids. Again, studies show that teens want to hear from their parents. The National Campaign presented figures last year that show that one-fourth of parents say that the biggest barrier to talking to their kids about sex is that they are uncomfortable talking about it. Only 17 percent of teens feel this is the biggest barrier. As parents, we just need to get over this. The positives so outweigh any uncomfortableness that we may feel.

We have to make sure that there is adequate, effective information out there for teens. Some teens cannot or will not ever get the information from their parents. We need to support the organizations that get the materials out there, so that when teens rely on other teens for information, it is correct and positive.

Most importantly, we must never stop loving our teens, we must never stop loving our children and we must never give up.

INTRODUCTION OF H.R. 1512, THE FIREARM CHILD SAFETY LOCK ACT OF 1999

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, children are killing children. This madness, this destructive behavior must stop. Gun-related violence has plagued our Nation and jeopardized the safety of our children.

According to statistics from the Centers for Disease Control, more than 5,000 innocent boys and girls have lost their lives due to unintentional firearms related deaths. Between 1983 and 1994, 5,523 males between the ages of 1 and 19 were killed by the unintentional discharge of a firearm.

Currently, a child dies from gunfire every 100 minutes in America, 12 times the rate of the next 25 industrialized nations combined. Each day in America, 14 children die from gunfire, a classroom full every 2 days.

Mr. Speaker, it is our responsibility, no, it is in fact our obligation as parents and leaders to protect our Nation's children from the senseless deaths caused by the unintentional and intentional discharge of firearms.

To address this problem, I have reintroduced my bill, the Firearm Child Safety Lock Act of 1999. My bill, H.R. 1512, the Firearm Safety Lock bill, will prohibit any person from transferring or selling a firearm in the United States unless it is sold with a child safety lock. In addition, this legislation will prohibit the transfer or sale of firearms by federally licensed dealers and manufacturers unless a child safety lock is part of the firearm.

A child safety lock, when properly attached to the trigger guard of a firearm, would prevent a firearm from unintentionally discharging. Once the safety lock is properly applied it cannot be removed unless it is unlocked. This legislation will protect our children and increase the safety of firearms.

The bill also has an education provision, which provides for a portion of

the firearm's tax revenue to be used for education on the safe storage and use of firearms.

This bill in no way prohibits a buyer from purchasing a firearm unless it is sold without a child safety lock. A child safety lock will be included in the firearm when it is purchased.

Knowing that many citizens are concerned about gun laws, because they believe these laws may affect their constitutional rights, I would like to make it clear that this bill does not interfere with a citizen's constitutional rights. It only gives our children the right to life without the fear of another Jonesboro, Edinboro, Fayetteville, Springfield, Richmond, West Paducah and Littleton.

We must create a safe environment in our Nation's urban, rural and suburban areas for our children. We must avoid the continued senseless bloodshed and loss of life of children around this country. We must be proactive, Mr. Speaker, and address this problem. This bill does just that. It protects our children and it protects their future.

COPS PROGRAM GOOD FOR COMMUNITIES

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

Mr. STUPAK. Mr. Speaker, this week is National Police Week. Today I was at the White House Rose Garden for the unveiling of the COPS program, which calls for an additional 50,000 police officers. I want to thank President Clinton for his efforts in bringing community-oriented policing services to towns and cities all across America.

I have served as both a city police officer and a Michigan State police trooper for approximately 12 years. When I was elected to the Michigan Legislature in 1988, I authored legislation to bring community policing to Michigan. I have always advocated bringing police officers and citizens together, coming together, working together to solve neighborhood and community problems.

As a police officer and as a Congressman of an extremely rural district, I would like to thank the President for the 195 police officers the COPS program has brought to my northern Michigan communities, 28 counties in the northern part of Michigan.

The COPS program's harshest critics are the people it searches, the chiefs of police and the local sheriffs. Yet no matter what their party affiliation, whether they be Democrat, Republican or Independent, they have all praised the ease of handling of the COPS program and the one-page grant application.

Nationally, we are witnessing a dramatic decrease in crime rates. More cops on the street, coupled with a booming economy, helps to decrease crime. Yet, we are haunted by recent events of unforeseen violence in our Nation's schools. I hope and pray that today's COPS initiative becomes a commitment not just for our Nation but also for our schools through the School Resource Officer Program, COPS in schools.

COPS working in partnership with our teachers and our students to solve crime can stop the unprecedented violence. COPS and School Resource Officers cannot be a 1-year program, a 3-year program, or a 5-year program. It must be a commitment of our generation to save future generations. It is with this COPS initiative and a commitment to the School Resource Officer program that we can duplicate the success of the COPS program to reduce violence in schools.

I have brought my years of service as a police officer to the Congress. One of the things I did when I first got here was to form a Congressional Law Enforcement Caucus to start a dialogue between Members of Congress and police officers. President Bill Clinton has always joined in our dialogue, and we appreciate this administration's continued commitment to law enforcement.

Together, the Law Enforcement Caucus and this administration have looked out for the health and safety of law enforcement officers throughout the Nation. Together, we have passed legislation to provide education benefits for dependents of slain and disabled police officers, appropriated grant monies so local law enforcement officers can purchase bulletproof vests, waived the Federal income tax on pension benefits of slain officers, and of course initiated the School Resource Officer program.

So I would like to thank the President not just for caring about reducing the Nation's crime rate but helping to take care of America's crime fighters.

But no matter how much we do, no matter how much we try to ensure the safety of the men and women in law enforcement, we know that death is possible and it strikes suddenly and swiftly, without warning.

Approximately 1 year ago today I was on this floor arguing for more bulletproof vests for more law enforcement officers when Sergeant Dennis Finch lay on the front porch dying, shot by a deranged gunman, who kept other fellow officers and paramedics from going to Dennis' aid. Sergeant Dennis Finch of the Traverse City Police Department died the next day.

Tomorrow night I will join Dennis' family, fellow officers, and other officers from all around this Nation at the Police Memorial in Judiciary Square here in Washington, D.C. at a candlelight vigil to honor Dennis and 157 other fallen law enforcement officers who were killed in 1998.

Every other day a law enforcement officer in the United States is killed. So as I advocate for the new COPS program, as I advocate for greater benefits for fallen officers and their families, and greater protections for all law enforcement officers, I am pleased to say that as a cop I know what it means to have a good partner: That is one you can count on. And we in law enforcement have no better partners in our fight against crime than President Bill Clinton and Vice President AL GORE and the Democratic party.

I salute all current and past law enforcement officers and our fallen officers. May God grant them and their families peace.

SUCCESS OF UNITED STATES SOFTWARE INDUSTRY IS JEOPARDIZED

The SPEAKER pro tempore (Mr. RYUN of Kansas). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, I came to the podium today to talk about technology, but hearing the eloquent statement by the gentleman from Michigan (Mr. STUPAK), I want to associate myself with his comments, particularly since I lost my cousin, Mark Brown, of the Kent County Sheriff Department, who died in the line of duty several weeks ago.

I just want to tell my colleagues there are many things we can do for our law enforcement officers, but I want to say that it has made me a person who stops when I can and thank our uniformed police officers for their duty of getting up every day and wondering if they are coming home, and I know other Members feel as I do.

Mr. Speaker, I would like to address some good news in our economy, and that is the incredible success of our software industry. None of us can turn around without reading of a new brilliantly creative and dynamic invention by the software industry. There is plentiful good news in this segment of our economy. But there are two things that this Congress needs to help this industry with that I would like to address tonight.

The first thing is that the U.S. Congress and the U.S. Executive needs to be more aggressive to make sure that our trading partners across the seas stop stealing software from American software workers. We have a lot more software workers than we used to. In 1990, we had 290,000 employees in software.

□ 1915

We now have over 60,000 Americans involved in developing software, and they put their hard-earned efforts and their creative genius in it. And then all too frequently, people across the waters, our good trading partners, steal that software that they have designed with their hard-earned labor. And we are making an effort, the administration, and I laud the administration for their efforts to try to get some of our trading partners to agree to stop those practices, to have more vigorous enforcement of copyright protections and intellectual property rights.

But now that we have just started to get some of those agreements on paper, it is time to get them in reality. And during the upcoming WTO talks in Seattle this fall, we are encouraging the administration and all of our trading partners to join us in making sure that we shine a spotlight on some of those agreements to find out if those agreements indeed are being honored, to help our trading partners recognize that, while we go forward on trade, we are going to go forward on protecting intellectual property; that, while we have got agreements in writing, now we have to have them in reality. Obviously, we hope, with our growing relationship with China, we will have this discussion.

Recently, I spoke with the ambassador from China, was in the audience, and reminded the ambassador that we are happy about the progress that we have made in our agreements with China in the hopes that they would help stop some of this piracy of intellectual property rights but that we wanted to use our future discussions to make sure that we help China move forward in reality to prevent the piracy that has gone on.

And I do not mean to single out China. This has been a difficult situation in many parts of the world. I simply think that we have got to be more aggressive in asserting our rights.

Secondly, Mr. Speaker, I want to talk about what I think is one of the saddest failures of American public policy recently, and that is we have been abject failures at training people to fill high-tech and software jobs.

We have had tens of thousands of jobs go begging every year, go begging, because we have not educated our youth to take these jobs in a very high-paying industry, a very dynamic industry. And we ought to, in this Congress, look for every single way we can to develop the opportunities for our children so that they can take the jobs in the high-tech industry and, in fact, we do not have to go offshore, where we have been forced to go.

It is time for us to recognize our responsibility to our children and to our economic futures to make every child have access to training so that they can go into the software industry and the high-tech industry.

One little project we are working on in my district in the north Seattle area is with Edmunds and Shoreline Community College to try to build a tech center, the Puget Sound Technology Center, to try to get thousands of kids who now want access to this training to give them that opportunity to help fill these spots.

Mr. Speaker, these are the two things. This Congress can help truly the most dynamic industry perhaps in human history since the invention of the wheel, stop piracy of the hard-earned work of our software workers and let us make sure that our children can get into the industry.

The SPEAKER pro tempore (Mr. RYUN of Kansas). Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

(Mr. TOWNS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TEEN PREGNANCY PREVENTION MONTH—MAY 1999

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Mrs. MEEK) is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I rise to commend my colleague, Congresswoman EVA CLAYTON, for addressing a major concern in our society—teen pregnancy. The care and protection of children is, first and foremost, a family concern. When teenagers have babies, the consequences are felt throughout society.

Children born to teenage parents are more likely to be of low birth-weight and to suffer from inadequate health care, more likely to leave high school without graduating, and more likely to be poor, thus perpetuating a cycle of unrealized potential.

Despite a 20-year low in the teen pregnancy rate and an impressive decline in the teen birth rate, the United States still has the highest teen pregnancy rate of any industrialized country. About 40 percent of American women become pregnant before the age of 20.

The result is about 1 million pregnancies each year among women ages 15 to 19. About half of those pregnancies end in births, often to young women and men who lack the financial and emotional resources to care adequately for their children.

When parents are financially and emotionally unprepared, their children are more likely to be cared for either by other relatives, such as grandparents, or by taxpayers through public assistance.

We must have a goal that requires an unwavering commitment and aggressive action by both communities and families. It must be recognized that there is no magic solution to reducing teen pregnancy, childbearing, and STD rates, nor will a single intervention work for all teens. Because the decline from 1990 to 1996 is attributable to many factors, it is essential to continue and expand a range of programs that embrace many strategies. Experts agree that holistic, comprehensive, and flexible approaches are needed.

Taken as a whole, society has to view the dangerous consequences of teenage sexual activity as an ongoing challenge. We should want to protect our teenagers from the risk of premature parenthood and from disease, and we should want to protect the children they would struggle to raise. If we are serious about breaking the cycles of poverty and underachievement that, too often, result from kids having kids, then we must not be satisfied with the recent downward trends.

We must expand our efforts to help those teens who are at the greatest risk. Rather than becoming complacent because of the recent downturn, we must be more aggressive in implementing the positive lessons that contributed to the downswing and redouble our efforts to cut the teen birth rate even more significantly.

We must begin to speak up and out to our young ladies about sex at an early age to prevent teen pregnancy. I thank my dear colleague for her leadership.

TECHNOLOGY ISSUES FACING CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I appreciate the opportunity to talk a little bit tonight on technology issues.

But first I would like to commend the preceding speakers, the gentleman from Washington (Mr. INSLEE) and the gentleman from Michigan (Mr. STUPAK), for their important remarks about our police officers.

I was pleased to be with the President earlier today when he announced that, as of today, we are announcing grants for the officers that will bring the total up to 100,000 officers on the streets, in the neighborhoods, in the schools as part of the community-oriented policing program. I think it has been a great success, and today is a fine day to pay tribute to our police officers.

I would now like to turn to the subject of technology in our society and science and research and development. I am a scientist and a teacher, and before coming to Congress, I was Assistant Director at the Princeton Plasma Physics Laboratory. I hold a patent for a solar energy device.

I have been using computers since the days that they were room-sized mainframes; and that is why I feel strongly about the role that technology plays in our lives, whether in education, in medicine, or in trade; and that is why I have spent a good deal of time in my first 4 months here on the job in Washington working on science and technology issues.

We live in a world where investment capital races around the globe at the touch of a key; where cars that we drive have more computing power than an Apollo spacecraft; where, in our economy today, there are no unskilled jobs.

Technology advances our society and opens up exciting new worlds of opportunity. Over the past century, Federal investments in computing, information, communications, and other sorts of R&D have yielded spectacular returns. Yet our Nation is underinvesting in long-term, fundamental research.

The fact is that, on the whole, Federal support and corporate support for research in technology and in science is seriously underfunded. Research programs intended to maintain the flow of new ideas and to train the next generation of researchers are funded at only a fraction of what is needed, turning away hundreds of excellent proposals.

Compounding this problem, Federal agency managers are often faced with insufficient resources to meet all the research needs and, as a result, they are naturally favoring research that has short-term goals rather than long-

term, high-risk investigations. While this is undoubtedly the correct short-term decision, the short-term strategy for each agency, the sum of these decisions threatens the long-term welfare of our Nation.

In one area, the President's Information Technologies Advisory Committee recommends that Federal investment in information technologies research and development be increased by more than $1 billion over the next 5 years, something that I support.

We need to invest in our future and in our citizens. For example, there are today more than 340,000 high-paying information technology jobs open. They are open right now in the United States despite efforts in the past year to relax our immigration regulations in large part to fill those positions. We cannot seem to fill these jobs fast enough. Our educational system has not caught up to the demand for high-technology workers.

As a member of the Committee on Education and the Workforce and the Committee on the Budget, I have begun work to enhance our Nation's technology education programs so we can have students who are ready to enter the workforce with the skills they need and to have teachers who know how to teach them.

Only 20 percent of teachers say they feel qualified to use modern technology and to teach using the computers that are available to them. Only 20 percent. How can we expect students to learn if teachers are not up-to-date on what to teach?

I make a point of visiting schools in my district, schools like the Hi Tech High in Monmouth County that I visited last week. I know that we are making progress, but we have a ways to go.

I believe when it comes to technology, and for just about any other issue, the Federal Government should help, not hamper, innovation.

One of my first acts after taking office was to round up the New Jersey delegation and, together with my Republican colleague, the gentleman from New Jersey (Mr. FRELINGHUYSEN), send a letter to the House Committee on Ways and Means chairman, the gentleman from Texas (Mr. ARCHER), supporting the Federal R&D tax credit, the permanent extension of that tax credit.

How can we in Congress expect business to plan for the future, especially in a technology-driven State like New Jersey, unless they know that they can count on this deduction permanently? We have renewed the R&D tax credit nine times. It is high time now that we make it permanent.

Mr. Speaker, this is important. Making these crucial investments will help our people in areas like education in the workplace and in solving the problems in everyday life.

WHAT IS GOING RIGHT WITH YOUNG PEOPLE OF AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, this evening I would like to address two different areas.

The first area I would like to talk a little bit about is, I have been back to my district, which is the State of Colorado. I go back to my district every weekend. But, obviously, with the tragic situation that took place there a couple weeks ago, that is a large topic of discussion; and, of course, it should be. So this evening I would like to talk a little bit about our young people, our young men and women, of that generation, that age group, the situation out there in Colorado.

Then I would like to shift focus and cover a second area that I think should be of keen interest to all of us, an area in which we have a lot of interest right now, whether by choice or not, we do have a lot of interest, and that is in Kosovo, and talk in some detail about what do we do now in Kosovo.

Let me say that, in regards to the situation at the Columbine High School in Colorado and parents and teenagers and adult relationships with their children, there are a few areas that I would like to cover.

First of all, I want to stress about what is going right. Obviously, what has gone wrong has been the front news story in all of our national newspapers and our national publications and our topics of discussions; and sometimes we seem to focus a little more on what is going wrong than what is going right. So I want to talk a little bit about that this evening.

I want to move from that to talk about the TV shows, Jenny Jones, some of these other people in the talk shows. I will move from that to talk a little on moments of silence in schools. We will talk a little about video violence. We will talk a little bit about what the responsibilities are of Hollywood, of the Internet and, finally, what the responsibility should be of our law enforcement and, of course, things like gun shows and so on.

Let me, first of all, start out with, and I think it is very important that I precede the extent of my comments with what is going right with these young people.

I have for years since I have been in the United States Congress had the privilege of going to a variety of schools throughout my district. Now, my colleagues have got to picture the Third Congressional District. It is a very interesting district in the State of Colorado.

First of all, geographically, it is larger than the State of Florida. Second of all, there are lots of economic diversity within that congressional district. For example, some of the wealthiest communities in the United States are in the congressional district that I represent, Aspen, Colorado; Vail, Colorado; Beaver Creek, Steamboat, Telluride, Durango, Crested Butte, a number of communities like that that have a great deal of wealth.

But at the same time, down in the southern part of the district that I represent, we have the poorest area of the State of Colorado: the San Luis Valley community, San Luis Castilla, Conejos, and so on. So there is a lot of diversity.

But I teach in schools regardless of the economic diversity. I teach in schools throughout the district. And I wanted to relate to my colleagues a few of the things that I find when I go out there and talk to these young people and listen to these young people and visit with these young people.

Let me say this, and I want to make it very, very clear: Despite what has happened in the last couple of weeks, we all should remember that, with this generation, these young men and women, that there is a lot more going right with that generation than there is going wrong.

This situation that we had in Colorado is much like a horrible plane crash. The morning after, we get up; and we are suspicious of all airplanes; we are suspicious of the industry. And the same thing happens here, and we focus on the disaster that took place.

Clearly, it is appropriate that we focus on that so we can hope to avoid that in the future. But do not let it darken the cloud about how many good kids we have out there, good young men and women, and good parents, by the way.

It is amazing when I go to these classes, class after class after class, they are not a bunch of rotten kids out there. Sure, we came up with a couple rotten apples down there at Columbine. They did a horrible thing. These are bad kids. And I am not one of these people reluctant to say that these two young men that shot and murdered all those people were bad kids.

But, in my opinion, that is not reflective of that generation. That generation has some of the brightest and most capable individuals of any generation this country has ever had. There is a lot that we can look forward to in this country. There is a lot that that generation can look forward to with our country.

□ 1930

First of all, obviously the United States of America has more freedoms than any other country in the world. We have more to offer this generation than any other country has to offer their similar generations. We also have a lot of other things going. We do have the strongest educational system in the world in this country.

I have had the privilege and the good fortune to travel the world throughout my years in political office and so on, and I can tell you that having been in contact with the leaders, what you

would call in some countries the upper echelon of those particular countries, it is interesting that these families who can pretty well choose to send their children anywhere in the world they would like to send them, when it comes to education, a lot of them send their kids, their young people, to this country for their education.

In fact, when it comes to health issues, if one of their young people or anybody in their family gets sick, they send them to the United States for their health care, because this country has some of the best health care if not the best health care throughout the entire world. This country does more for its young people than any other country in the world in my opinion.

Now, that is not to discount at all, it is not to discount in any regards the situation that occurred at Columbine. But it is to highlight, in fact, what is going right with these young men and women. I have now been in Congress long enough to have one of the highlights of any congressional person's service in the United States Congress, and that is to witness and get to see some of the young people that you have nominated to go to our service academies, the Air Force Academy, West Point, the Naval Academy, the Merchant Marine Academy, to watch these young people graduate. I have been in Congress 7 years, so I have now gotten to see some of these young people graduate. Every year I get involved in the nomination process of this generation that is applying to go to our military academies. It is amazing to me, because every year it appears to me that these young people are brighter and more capable than even just the year before, and the year before was the cream of the crop. You have got a lot to be proud of with this generation.

Let me talk about parents for a minute. I have talked about how fortunate I think we are in this country to have this young generation. I have lots of confidence in them. And I think that the reflection of this last 2 weeks is unfortunate because I think by far, by far that generation of young men and women, the same generation that lost their lives in Littleton and those people, they have got so much to offer and contribute to this country, but as I said, I want to talk about parents for a minute. I do not think that we need to go on an apology mission. There are a lot of good parents in this country. There are a lot of parents who have done a good job, have done a terrific job, have shown a lot of love, have shared a lot of time, have been very proud of their children. There are a lot of good parents in this country. There are a lot of good parents at the Columbine High School. There are a lot of good parents at any school in this country.

I have seen some talk shows and some news articles and some people talking about how parents do not care about their children anymore and about this disaster in Colorado is a result of parents not paying enough attention to their children and parents dropping the ball. In some cases that might be true. I guess in every generation in the history of the world we will find parents who did not give appropriate attention to their children. But our focus cannot be entirely on that and we should not beat ourselves on our back because some parents drop the ball. Clearly we want to figure out how we can improve that. How can we take parents who are not close to their children, who are not spending the appropriate time with their children, how can we bring them closer and mold that together, how can we stress the importance of that?

This evening a previous speaker talked about the importance of single parenthood, about the problems that it has caused, about the importance of stressing to our young people that single parenthood is not the way to go. So we can figure out ways to bring that together. But at the same time I am standing here tonight to thank my colleagues here and to thank parents throughout this country and to commend you.

A lot of you are good parents. In fact, probably a lot of you have been able to spend more time with your children than maybe your parents or grandparents were able to spend with you. We have made a lot of progress. I do not want that progress to be hidden by this horrific tragedy that we had in Colorado.

I would like to mention a couple of other facts that I think are important. Last year in this country about 2,300,000 young people graduated from our high schools. Between 1979 and 1997, here are a few statistics that we can be darn proud of. As parents, as educators, as lawmakers, as citizens, we can be proud of these statistics. The percentage of students completing high school, getting their high school degree went up from 78 percent to 87 percent, a 10 percent jump. Remember, you are at the very high end of the scale. So that 10 percent is a huge jump. It is not like you are way down here and you jump 10 percent. It is you are up here and you jump that final 10 percent. Actually the final 22 percent that remained that were not getting high school diplomas, we cut that in half. In this period of time, we took half of the students that were not getting their high school degrees and were not completing high school, we have gotten them now to go through high school, to get that high school degree.

The percentage of high school graduates with some college, that went up almost 20 percentage points, from 44 to 65 percent. You can be proud of that. That is a good statistic. That means something. That means these young people are getting the opportunity to go on to college. The percentage of high school students who got 4 or more years in college, that rose 10 percent, from 22 percent to 32 percent. These are good jumps. These are fairly dramatic jumps. And in 1996, 50 percent of the students in grades 6 through 12, half of the students out there in junior high and high school participated in community service. I think in the last few years, to a large extent and in many different ways, our communities have been strengthened.

Now, remember the dynamics have changed in the last 25 to 30 or 40 years. We do have more families where both parents have to work outside the home, driven by economic necessity, some driven by choice. We have different factors. Instead of having one TV per home, we have several TVs. We used to be critical of watching too much TV. Now we are not even watching TV as a family because there are two or three different TVs in the house. Those kind of dynamics have changed. But on the whole take a look at the positive aspects. The positive aspects are, parents, there are a lot of you out there that ought to be very proud of the mission that you have accomplished. For that generation, that young generation in high school right now and the one behind them and the ones that have just graduated, I want you to know, we are darn proud of you.

By far, as I said earlier, most of you are going to go on and you are going to make something of yourselves. Most of you have the dedication and the focus to know that there is personal responsibility, there is discipline and that if you exercise a little knowledge and you exercise a little energy, you are going to find out that in this country, it is not so bad. There are a lot of great things that you can do.

Let me move on to a couple of areas where I think we do need to focus a little more, where society needs to say, all right, we acknowledge what the Congressman says, we acknowledge that a lot of things are going right. But let us focus on that little part of it where things are going wrong. There are some areas in our society where we can accept more responsibility or those parts of our society can accept more responsibility?

I am not a plaintiff's lawyer. I do not get too excited about plaintiff's lawyers. I think in fact our society, there is a statement I saw the other day where in Japan they have this many lawyers and this many engineers. In our country it is just the reverse. We have this many lawyers and this many engineers. But I was pleased last week to see a case handed down by a jury where they awarded $25 million in damages against the talk show, the TV by ambush Jenny Jones. That show is simply entertainment by humiliation and that is exactly what the lawsuit was about. Do you have the right to entertain to the extent that it could cause physical harm by humiliation? Is that what entertainment is about? Have the talk shows gotten out of hand? Well, Jenny Jones did.

What was interesting to me is I read some newspaper articles about this that said it puts a chilling effect out

there on the first amendment. Number one, it does not take away the rights of the first amendment. But sometimes society needs to speak out and sometimes society says, we need to douse this with a little cold water. We need to put a chilling effect on this. Should we have TV talk shows based on humiliation? Should we have TV based on ambush? What does it do to a society? So as you hear and as you read in the periodicals, the weekly periodicals that will come out next week, take a look at what happened in the Jenny Jones case and see if you do not feel pretty comfortable with the way our courts are going in some regards.

Some courts get a little out of line. We had a court this week that awarded $581 million in punitive damages for a satellite worth $1800, a satellite disc that was sold to somebody. I am not talking about the extremes. I do not want to talk about the extremes. But I do want to talk about situations like the Jenny Jones. I think society, and I think in the light if there is anything that could come out of the Columbine school situation that might be good is, one, I think we will spend even more time with our children and that cannot hurt things, but I think society as a whole is also going to look at things like the Jenny Jones talk show.

I think they are going to take a look at the Internet. I think they are going to take a look at Hollywood, and I think they are going to take a look at gun shows and laws that are being broken. Let me for a moment talk about something that I cannot figure out. It has confused me. I have studied history. I have been around the bend a couple of times. I cannot figure out for the life of me why we have such a strict prohibition against moments of silence in our schools. Do you know that in our schools you can go into the hallway of a school, you can do what Jenny Jones did, you can tease other students, you can talk about Hitler, you can do a lot of things that I would say are on the verge of misconduct, and you can get away with it under freedom of speech or other issues. But the minute you pull out a Bible, the minute you hold another one of your student's hands and say a prayer on school property, boy, does everything come loose. And I think we have got to take a look at that.

I am not a religious zealot. I am not a part of any kind of organization that is advocating, a one issue person that is thinking about prayer in school or things like that. But I do think that our society has to say, have we come too far in prohibiting even moments of silence between two students? If the students want to get together on the football field and hold their hands and say a prayer in common, what is wrong with that? What do we accomplish by trying to break up the one peaceful and loving situation that may have been the only one that occurred that day between a group that large?

I will give you an idea of the extremes. We have got a case in New York City, we have a schoolteacher there. One of the students in the class drowned, that morning had drowned. Tragic, tragic death. Needless to say, the deceased students, the deceased person's fellow students were all beside themselves. They were horrified, they were crying, they were sad, depressed, and their schoolteacher got them all together in the classroom and said, let's say a prayer for Annie or whatever the small child's name was that drowned. So they said a prayer. The teacher did not lead them in prayer. They said let's just get together and hold hands, let's give some thought in prayer. You pick your own prayer, but let's say something. And what happened? They fired the teacher. One of the quotes was, look, we pay this teacher to teach, not preach.

Come on. One factor that would help our society as much as anything that I can think of is a little common sense, a little common sense in your gut right here. What does common sense tell you about that kind of situation? Should you fire the teacher that allows the students to hold hands and have a moment of silence when they have just lost one of their fellow students in a tragic accident? Is that so appalling to our society that we should fire the teacher? Is it so appalling to our society, is it so counter to common sense that we should go to a baccalaureate ceremony or we should go into the hallways of a school or we should go onto the sports field and say to the student athletes who voluntarily hold hands and have their own moment of silence that they cannot do that, that it is somehow a prohibition against the freedom, or separation between church and state? That is something we ought to assess. That is something we ought to think about. Have we gone too far?

There are other areas we ought to think about. I think Columbine demonstrates it, the Columbine disaster. Let us take a serious look at Hollywood. There were two tremendous individuals last year, they were honest, they had lots of integrity, they were wholesome, they delivered a message to America that was really wholesome. It was down to earth.

□ 1945

They were in their times some of the most popular people in the United States, and we lost them last year. They passed away. What happened to some of those days? Hollywood did not have to do what it does today. I will give my colleagues examples:

Jimmy Stewart and Gene Autry.

Jimmy Stewart; remember Jimmy Stewart? How often did Jimmy Stewart have to say a four-letter word on the film? How often did Jimmy Stewart have to do some of the things that we see demonstrated, use some of the vulgar tactics, just as soon the language, to sell that movie? Jimmy Stewart did not have to do that.

And how about Gene Autry's music? How often did the lyrics of his music have to be vulgar, or talk about shooting cops or doing other things that common sense tells us, look, we do not need that; we do not need that out there for entertainment; it is not necessary.

Take a look at what these two tremendous entertainers offered to our society.

I think Hollywood has a responsibility to look out there and say:

Look, constitutionally we may be protected, constitutionally we have the right to put out something like the movie Basketball Diaries where, by the way, somebody walks into a classroom in a trench coat, shoots people with sawed-off shotguns, just like the Columbine school; constitutionally, we should fight for this, we have the right of freedom of speech to do these kind of things.

Granted, I will give it to you; let us not argue the Constitution, let us argue common sense. Let us argue what is good for this country. My colleagues do not need to test the Constitution with these movies. It is not necessary. Let us do the Jimmy Stewart kind of thing. Let us try and send a message out to America. Let us send out a good, loving message to America.

Those films I saw, my colleagues, do not need to go to that extent. I really truly believe some of these films are produced just to see how vulgar they can get, to see how horrible they can make the movie, to see whether or not it can be pushed to the edge or the boundary of the Constitution.

Well, in my opinion there are not a lot of people that want to debate us on that issue. Hollywood, but they are saying: Hollywood, give us some good movies, and you have got a lot of them, a lot of great movies out there that you have produced.

Let us take those few movies; and, by the way, I think most of the movies produced by Hollywood are good movies; and I think most of the people involved in Hollywood really would agree with me that common sense ought to dictate how close to that boundary of vulgarity and tragedy and so on we ought to make these movies. So Hollywood, I think, will also.

And I think we will also reassess, and I think a lot of the reassessment will be self-reassessment. I do not think the government is going to need to come down on Hollywood. I think there are enough professionals in Hollywood, enough family people in Hollywood, enough people that know the difference between right and wrong in Hollywood, enough people that can accept personal responsibility in Hollywood. I think they are going to self-enforce. I think we are going to see the movies like The Basketball Diaries and some of these songs that have been put out by the music industry, I think we are going to find they are in disfavor.

It was interesting the other day. I saw that the poll numbers, or the rating numbers I guess is the appropriate way to describe it, on these talk shows

are dropping. People are going to be getting to realize that common sense tells us it is not the way to go in the future, it is not what we need to do to a movie, it is not what we need to do to music to sell it. In other words, they can have good, heart-filled music or a movie with a good theme to it, and it is going to sell.

Let us talk about the Internet. That is a whole new responsibility, and there is a lot of responsibility on the Internet that falls on the individuals who use the Internet. Those of us who use the Internet should not patronize those Internet web sites that do things like tell people how to make bombs.

In fact, every time one of us who uses the Internet spots a web site that is offensive in its nature or does something like tell us how to make a bomb or how to machine gun somebody or how to make a legal weapon illegal, we ought to complain about it. My colleagues and I have a responsibility to write or to contact the provider of those Internet services and say: Here is a web site we object to. This web site should not be on your service. Do something about it.

We ought to boycott some of those things. We boycott it simply by a letter of one. Even one letter sometimes makes the difference. And I can say to the providers of Internet services out there: You, too, as a provider, you, too, have a responsibility, a personal responsibility, a professional responsibility to take off your Internet services web sites that might provide people with information of how to make bombs or web sites that have some kind of fantasy involved in killing people and so on and so forth.

Granted, like with the movies, like with music, they have a constitutional right, perhaps freedom of speech, to put this on the provider service. But I do not think they need to do it. We do not need to do it.

My colleagues think that bomb site on the web service that these two young murderers out there at the Columbine school, my colleagues think those two young murderers, think that web site to make a bomb was necessary for the profit for that Internet provider? My colleagues think it was necessary for that Internet provider to grow, for that Internet provider to become more popular, that that bomb site be put on there? No, it was not. It is not. Common sense tells us that. And the Internet providers, a lot of them do exercise common sense, but it is going to take more self- enforcement within their own industry.

So the Internet cannot escape this either.

I do want to mention, because I am a strong, and I know this is controversial out there, I am a strong believer in the second amendment. I am a strong believer in the right to possess firearms. But I also believe that there are a lot of people out there or some people out there who are not exercising responsibility, and as a result they are putting a very dark cloud over those of us who enjoy the right to bear arms, who enjoy hunting, who enjoy the right to protect ourselves.

And let me say I just saw in the news today, they showed some people at a gun show, some gun show here in the country where they went in and they broke up the gun show, and they found some illegal weapons. The portrayal of that gun show, frankly, was that anybody that is at a gun show is there illegally, that all they do at these gun shows are sell illegal weapons. That is unfortunate. What they should have said, made it very clear, the people that were at that gun show who were selling these weapons illegally should not have been there, they were breaking the law, and they should have arrested them immediately.

I think I advocate the position of a lot of people who believe in these rights, and that is if one has got somebody breaking the law, prosecute them to the fullest extent of the law. We do not want people out there breaking those laws. We do not want people like these young murderers at Columbine walking around with sawed-off shotguns. We do not want them making bombs. We do not want them breaking the laws. If we got somebody breaking the law, let us go after it.

On the other hand, let us respect the rights of the people who obey the laws. Let us not penalize the possession, let us penalize the misuse. And let us do not automatically say that the misuse equates to simple possession.

But I think that we are going to have, maybe we will have an opportunity to close some loopholes. If there are some loopholes that exist out there, I think even those in the gun business, the feeling or the protectors of the second amendment right, they also have a responsibility. If we have got a loophole, let us close it up because we want to retain a right, a constitutional right. But, once again, as I said about the Internet and Hollywood and so on, we have got to use some common sense.

But let me wrap up this subject before I move on to the next one, because I think the next one is going to be very important for all of us. Let me just summarize it by saying this.

In the last 20 minutes or so I have spoken about the tragedy in Colorado, about some of the things I think we can do as a society to help bring families closer together to help avoid these disasters. But I hope that colleagues saw that the primary focus on my comments regarding that tragedy in Colorado were to say that this should not overshadow the good things in our society that are going on, the right things that our parents are doing, the amount of involvement that parents have today in this country, the amount of involvement that parents have with their children prior to this tragedy, the fact that it is just a very, very minute percentage of these young people that went out and would go out and do what these two young murderers did.

So the focus here is remember in this country what that generation, what that young generation, those fine young men and women, that there is a lot more that goes right with that generation than there is that goes wrong, and we have a lot of reasons to be proud of that generation.

Let me shift gears. I want to spend the next or the balance of my time talking about Kosovo and the situation in Yugoslavia.

Let me start out by saying I noticed recently in a local newspaper in my district there was a letter to the editor. It was not directed at me, but it was directed to Congress, and it questioned whether or not the votes or the debate back here on the policy, it did not question. It really implied that anybody who would dare stand up and question the policy or vote on the question of whether we put ground troops in or to what extent we give the President authority to conduct whatever kind of military operations he wants to, that the simple expression of that would somehow signify a lack of support for our American ground troops.

At the very beginning of my comments, let me dash that very quickly, let me strike that down, and the easiest way to do it is to tell my colleagues that on March 24, on March 24 there was a vote, there was a resolution, and let me read the bill or the resolution.

This bill expressed support, expressed support from the House of Representatives for the members of the United States Armed Forces engaged in military operations against the Federal Republic of Yugoslavia. This resolution was to show our support for those military troops. Do my colleagues know what that vote was? I do; 424 in favor of the resolution; one vote against it; one vote against it.

I need to make it very clear to my colleagues here that when you stand up and disagree with the policy, that should not be interpreted as a lack of support for the troops that are over there serving us so well. As indicated by this vote, 424 of us on this floor, 424 of us voted to support the troops. One person in the facility voted against it.

There is strong, unified, bipartisan support for our military troops, frankly, wherever they are in the world. We want them to have the best equipment. We want them to have the best conditions we can give them. We want them to be safe. They have a mission to carry out.

But do not let anybody put a guilt feeling on any of us because we support the troops that, therefore, we should blindly follow a policy as set forth by an administration or set forth by some other purpose. We need to question those policies. That is the checks and balances that our forefathers put into our Constitution and our originating documents in this country. We need checks and balances. We want debate on whether or not the policy is the right policy to follow especially, especially in the time of war.

I want to visit a little on Kosovo here. We are going to talk about the results, what kind of results we are getting as a result, because of this action. The refugee problem, the destruction that is going on out there, the cost to rebuild, what is our clear-cut mission? What is our national interest in this regard? And who is picking up the load?

Let me begin by pointing out something that I think is very, very important on Kosovo, this sentence:

Do not measure by intentions, measure by results.

The intentions here, the intentions, I think, were good. There were some tragedies, there were some atrocities going on over in Yugoslavia, so the intentions were good. I have not heard anybody who really questioned the intentions of going over there and trying to save some lives, but we cannot measure by intention. We have to measure by results.

What are the results? What are those results as a result of us being over there in Kosovo? In Yugoslavia? We know, for example, we have had hundreds of thousands of refugees who have now left their homes. They are in countries that are not their home country. We know that we have caused massive destruction in Kosovo as a result of NATO bombing, and we are not the only ones. Do not forget on the other side; I am not. This Milosevic is a murderer, but the Kosovo Liberation Army, which is a side we seem to have taken, was listed by our own State Department as terrorist a year ago.

This incident started about the latest flare-up over in Yugoslavia, which, by the way, is a sovereign country, but the dispute with its citizens within their own boundaries arose when some members of what is called the Kosovo Liberation Army started shooting and assassinating Serbian citizens, and then Milosevic took his troops and went in there to settle the score and started shooting innocent Kosovo people. But they are all Yugoslavian citizens.

What are the results that we have to measure by? Everyone of us in these Chambers have a responsibility and obligation to sit down and take a look at what has happened in the last 3 weeks or so of bombing and ask ourselves a couple things.

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Number one, what is the national interest? What really is the national interest that we have here? Is it a security threat to the United States of America? No, it is not. Is it an economic threat? No. Is it really truly a threat to the European continent? I say no, but if someone else says yes then why are not the Europeans carrying the biggest share of the load here?

Who is carrying the biggest share of the load? The United States of America. Who has the heaviest backpack on their back? The United States of America. Whose taxpayers are going to end up paying, in my belief, in excess of $100 billion to rebuild everything that has been bombed? The United States of America.

Whose problem is it? I think the United States of America has a problem. I think it is called a humanitarian problem. Our country was made great because we were able to go out and help people in need of assistance, and I think in this particular situation the question we ought to ask is should not the United States be focused on humanitarian aid and let the Europeans shoulder the responsibility of the military aid?

Furthermore, when we ask about the last three or four weeks, question what is the legal right. We went to war with Iraq because Iraq invaded Kuwait. We went to war because they invaded the sovereign boundaries of another country. Now NATO, for the first time in its history, has gone across the sovereign boundaries of another country to resolve a dispute by the citizens within the boundaries of that country, in other words, a civil war. We need to ask those kind of questions.

Then we need to ask the question, how do we get out of it? I will say an article that I read, and I want to recommend it, I am going to put it in the RECORD, this is Newsweek, May 17, so it is the most recent Newsweek. In fact, it has Star Wars on the front so it is one that probably would be pretty popular to purchase. Take a look at page 36. There is an article by a gentleman named Fareed Zakaria, I think is the correct pronunciation. The article is titled, What Do We Do Now? What Do We Do Now?

There are several things in this article. I hope everyone has an opportunity to go out and buy this. I think this article is one of the finest articles that I have read. It is bipartisan. I think it is a very fair article. It is one of the best articles I have read about the situation we now have in Yugoslavia. Go out and buy this. If not, I want to read just a couple of things.

First of all, I will start with the very last sentence, the very last sentence of the article. The author says, why should we be involved in this crisis? Why should we be involved in this crisis? Because we made it worse. That is what the author says, why should we be involved in this crisis? Because we made it worse. That sentence says a lot.

Let us visit for a minute here. Let me read this, the start of the end game, how do you start the end game? How do you get out of Yugoslavia? How are we going to resolve this thing? First of all, we risk a lot of human lives. We have diluted our military. I talked about that at some length last week. And what is the end game? The start of the end game would, however, and I am quoting from the article, bring several unpleasant questions back to the forefront.

For 7 weeks, NATO and the media have been obsessed with how the Yugoslavia war has been going, how many targets were being hit, what planes were being used and so on. Now they must ask again, why exactly we went to war, why exactly we went to war. Only if we are clear about our interests and our goals can we know whether we have achieved them. Otherwise, we have stumbled into an ill-considered war and will preside over an unworkable peace.

That is exactly on point. Until we can define exactly what our interests were, we have taken this country, the administration has taken this country, into an ill-considered war. If we reach some kind of resolution, we are about to, as this article says, preside over an unworkable peace.

We talked about ground troops. There is a lot of discussion out there about it and it is covered in this article. There is discussion about ground troops. I want to quote on the ground troops because I think that is important, too.

If only we would use ground troops, some hawks now respond, none of this would have happened and certainly the decision to go to war carelessly and in haste before amassing ground troops in Albania and Macedonia was a historic blunder. Ground troops would have proved a potent threat but even with the troops the war would have begun with days of air strikes and it would have been near impossible to invade Kosovo while hundred of thousands of refugees were swarming across its roads, bridges and mountain passes.

Those today who still advocate the use of ground troops speak of its military benefits which are real. They do not, however, mention its costs, which are political. A ground invasion would fracture NATO. Germany, Italy and Greece are strongly opposed to the use of ground troops. A majority of Italians and more than 95 percent of the Greeks are opposed to even air strikes. An invasion would probably split Germany's governing coalition. Russia and China would both actively oppose it and veto any U.N. involvement with Kosovo.

So when people talk about ground troops, think of the reality of being able to put ground troops in there. Number one, we do not have them amassed on the border. Number two is a logistical challenge and it takes a lot of time. It would take weeks, at best, months more likely, to move the kind of ground force which by the way would not be a European ground force in majority, it would be United States troops under the auspices of NATO, it would take a great deal of effort to be able to put those in location. Then we have to find a country that would allow us to stage our ground troops in that country. Albania probably would be willing to do that, one of the few countries over there that would be, but Albania is so poor they do not even have cranes at their harbor capable of taking a tank off a ship. My understanding is their airport does not even have radar.

Ground troops simply are not a feasible alternative at this point. We should have amassed the ground troops, as this article I think accurately points out, prior to the air strikes but now to amass them and move them over there would be somewhat of a real stretch for us to do that.

Even more than that, take a look at the ramifications to NATO as a whole. It would fracture NATO. It could perhaps throw the coalition government in Germany into chaos. So ground troops, for all practical purposes, are not any kind of an immediate answer to force peace.

Some people argue, and I think this article does a good job of addressing it, what about American credibility? What America has at risk in Yugoslavia is its credibility. I think this article addresses that better in two or three paragraphs, which I will quote in just a moment. I think this article does the best job of addressing that of any editorial or any type of assessment that I have read.

Let me read it and then think about the words as I talk. What about American credibility? Concerns about American reputation and resolve are serious, which is why we must end this intervention with some measure of success, but credibility is often the last refuge of bad foreign policy. When policy is no longer justifiable on its merits, people shift gears and say, well, if we do not win at all costs we will lose face. But what about the loss of face in continuing a failing mission?

A variant of credibility logic holds that dictators around the world would be emboldened if America does not win decisively. But would they?

America won a spectacular victory in the Gulf War, televised live across the globe. It did not seem to deter the Serbs, the Croats, the Somalians, the Sudanese, among others. Whether America wins or loses a particular contest, the world will keep turning, bringing forth new dictators and new crises.

Global deterrence against instability is a foolish and futile goal. It sets America up for failure. Those two paragraphs accurately address that situation, or that question, what about America's credibility?

Let me reemphasize one point that I think is important for us to consider, and that is what about our partners? If any of us had a business partnership, or even their own personal partnership which would be their marriage, we do not see a lot of successful marriages where one spouse carries out 90 percent of the obligation and the other spouse kicks in about 10 percent, and we are not going to have a successful business partnership, generally speaking, when one partner carries almost all of the load and the other partner does not, the other partner almost skates.

Why are not the Europeans carrying a fairer load? Well, some would say because the United States has the military capability to carry out the air strikes; we are the ones with the airplanes, we are the ones with the carriers, we are the ones with the technical expertise. I grant that that is probably true, but at some point this administration has to come forward and say, all right, America has done its share. Now America is going to shift from a military mission to a humanitarian mission. That is what we do pretty darn well.

We know how to take care of people. We can move a lot of supplies, medicine, food, clothing. In fact, throughout a lot of grocery stores in this country we will see boxes today asking for food contributions for the refugees, for food contributions to the people that are oppressed over in Yugoslavia. So at some point, especially as I think this thing, I hope, heads towards some type of resolution, America needs to step forward and say to our European partners, hey, you are good partners and you are going to have to carry your fair share and your fair share starts today. America shifts from military to humanitarian aid and the Europeans shift from minimal involvement to oversight of the resolution of this and carrying forth the military mission from that point forward.

In my opinion, it should be a European force that goes into Kosovo to enforce any kind of peace accord that is made.

Let me stress once again, because I think it is so excellent, for those and for our students out there, for our college students, anybody really that wants to learn or is learning all they can about the situation in Yugoslavia, pick up this week's Newsweek. Again, it is the May 17. It is an easy one to figure out. It has Star Wars on the front, and take a look at that article in there about what we are doing in Yugoslavia. I think it addresses the situation very well.

Let me talk about a couple of other issues that I think are important for us to consider in Yugoslavia, and that is I want people out there to understand that we have not entered into a fight between a good guy and a bad guy. We have entered into a domestic dispute contained within the boundaries of a sovereign country, and if we study the history of what has gone on here, and history is so, so important for us because it reflects a very accurate picture of what we are really facing over in Yugoslavia, what we are facing over there, in my opinion, from the leadership point of view, not from the people, not from the average citizen, the average citizen over there on both sides of this battle are innocent citizens, but the leadership and their military hierarchies and the Kosovo Liberation Army and the Yugoslavia Army under Milosevic, both of those characters, I mean, in my opinion, they are criminals.

In our country, as I said earlier in my comments, last year alone for the Kosovo Liberation Army, which is the ones that we are now talking about arming, which are the ones we are giving shield and food to and we are allowing supplies to go to them, we listed them as terrorists a year ago. What we are beginning to see in this country is a spin. Instead of being labeled as terrorists, as I think the Milosevic people are as well, they are now starting to call the Kosovo Liberation Army freedom fighters, or rebels. We are beginning to see this evolution here in our country.

The same thing is going to happen, I think, once this thing heads towards a peaceful resolution, which I hope it does in the not too distant future. We are going to see the same thing happening as far as trying to commit the United States to rebuild all the destruction that has taken place over in Yugoslavia, some of which we caused, a good deal of which we caused, through NATO bombing.

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Remember that prior to the NATO bombing, there were about 40,000 refugees in Albania and Macedonia and the surrounding countries. Today there are hundreds of thousands. Their economy was not a great economy, but they had an economy before NATO began its action.

Today there is no economy. It will require a massive commitment from somebody in this world to take those refugees back to rebuild their economy, rebuild their bridges, rebuild their roads, rebuild their buildings, put drinking water back in, heating facilities back in place.

What we have to be careful of is that the spin does not end up on the backs of the American taxpayers. I am afraid it will. That is why my prediction is that the American taxpayers will pay over $100 billion by the time this is all over.

I know here in Congress in the last couple of weeks we have been debating among ourselves whether we should do a $6 billion supplemental or a $13 billion supplemental. I am advising my colleagues, in my opinion, and I have some background in this area, in my opinion the $13 billion, which is the higher of the two figures that we debated, is simply a down payment, is simply a down payment that the taxpayers of this country will end up, as I just mentioned, paying somewhere close to $100 billion.

We also need to talk about the continuing test. I think as elected officials in this country, every day we are involved in this military action we need to ask ourselves if the national interest of this country, as elected officials, can provide us with the justification to look at a set of parents whose child, young child, young man or woman, are serving in the military forces, or the spouses of some man or woman that is serving in our military forces, if our national interest gives us the justification to look these people right in the eye and say, the loss of your son or your daughter or your spouse's life was

necessary for the best interests of this country.

The day that Members do not think they can look them right in the eye and meet the standards of that test is the day that Members ought to stand with me at this podium and say, Mr. President, Mr. NATO, we need to bring this thing to a close. We need to find a resolution. We need to do it as quickly as we can.

Unfortunately, this mission was begun, I think, with not the kind of preparation, not with the kind of anticipation, not the kind of planning that was necessary. But it is time to bring it to a closure if we can do it. It is time for the United States to say to its partners, you, too, have a responsibility. You, too, are going to have to carry your fair load.

Let me wrap this up and summarize it by reminding all of my colleagues here on the House floor, when we talk about Yugoslavia or when we talk about any action that we take, we cannot measure by our intentions. Do not measure by intentions. It is kind of like Federal programs. We see a lot of Federal programs that have become boondoggles in our system back here, in our government. They all started out or almost all of them started out with good intentions.

But we do not measure those programs by the good intentions. We cannot. We need to measure them by the results. That is what we ought to be doing in Yugoslavia. Let us measure by the results. What are the results we have today of 4 weeks of bombing, of human lives being expended, of bombing the Chinese embassy and creating an international flak, pulling Russia and China even more into this very complicated web? What are the results we should be measuring, and what do those measurements tell us, and do those measurements support the continuation of this type of policy, or should NATO come to some kind of resolution that can give us the kind of results we feel comfortable with when we read the measurements?

Mr. Speaker, I include for the RECORD the article from the May 17, 1999, issue of Newsweek.

The article referred to is as follows:

[From Newsweek, May 17, 1999]

WHAT DO WE DO NOW?

(By Fareed Zakaria)

NATO was having a bad day. Friday morning a stray cluster bomb hit a hospital and market in the southern Yugoslav city of Nis. Serb officials said 15 civilians had died. Then, just before midnight, three bombs slammed into the Chinese Embassy in Belgrade, killing four and wounding at least 20 others. As smoke poured out of the embassy, Zelijko Raznjatovic, the indicted war criminal known as Arkan, bounded in front of the TV cameras assembled at the embassy. The Hotel Jugoslavia, which sits about 300 yards away from the embassy, is said to house his infamous paramilitary henchmen, the Tigers. The hotel was also hit, but an outraged Arkan told reporters, ''Luckily we didn't have any casualties.''

The alliance of nations fighting Slobodan Milosevic could use some of that luck. In the hours that followed the embassy attack, NATO officials confessed that it had mistakenly targeted the building and scored a direct hit. Newsweek has learned that targeters believed the embassy building was the Federal Directorate for Supply and Procurement, an arms-trading company known by the initials SDPR. The SDPR, part of the military-industrial complex the bombing campaign has been seeking to destroy, is about 250 yards from the Chinese Embassy.

Friday's accidents are tragic reminders of the hollowness of NATO's policy in Yugoslavia—its desire to wage a war whose cardinal strategic objective is the safety of its own pilots. From the start of this campaign, Western leaders have hoped that they could get the benefits of war without its costs. They have delighted in standing tall, speaking in Churchillian tones and issuing demands to Milosevic. But leaving aside ground troops, they have been reluctant even to order the military to fly low, risky missions against Serb forces in Kosovo. This combination of lofty goals and puny means will have to change to bring a decent end to our Balkan misadventure. At last week's meeting of G–8 foreign ministers, the yawning gap between NATO's rhetoric and reality began inching smaller. Western leaders stopped insisting that after the war Kosovo could be policed only by NATO forces and agreed to an international ''civil and military presence,'' involving Russia, neutral countries and the United Nations. (The latter will be possible only with Chinese support.) At the same time, NATO is waging a more intense bombing campaign—Friday's raids were the heaviest so far.

The start of an endgame would, however, bring several unpleasant questions back to the fore. For seven weeks NATO and the media have been obsessed with how the Yugosla war has been going—how many targets were being hit, what planes were being used and so on. Now they must ask again why exactly we went to war. Only if we are clear about our interests and goals can be know whether we have achieved them. Otherwise, having stumbled into an ill-considered war, we will preside over an unworkable peace.

The debate over whether America has interests in the Balkans is now somewhat irrelevant. Our commitments have created interests, even though in foreign policy it should usually be the other way around. We have two sets of concerns relating to Kosovo, humanitarian and strategic. Sadly, in both our goals will end up being to undo the consequences of the war. The humanitarian goal is to reverse the flow of refugees out of Kosovo. The strategic goal is to stabilize the region—particularly Macedonia and Albania—which is straining under the weight of the refugees and the war.

NATO began bombing, let us remember, not for the refugees but to get Yugoslavia to sign the Rambouillet accords. And once the war began, several Western leaders, most prominently Britain's Tony Blair, suggested that their war aims had expanded to include Milosevic's head. Milosevic has been strengthened at home and even abroad, where most countries see him as the victim of an arbitrary exercise of Western power. The Rambouillet accords are dead. The Kosovo Liberation Army announced last Friday that it rejects them because they do not provide for an independent state. For their part, the Serbs are unlikely to agree to a referendum on independence in three years, and NATO is no longer even demanding that they do so. The requirement that NATO disarm the KLA seems increasingly farfetched. Providing Kosovars with some protection and autonomy is now the best NATO can hope for.

The Clinton administration's overriding objective is to stop the exodus of refugees and have them return to Kosovo in safety. This does not figure in any of the original statements on the war, and for a simple reason. There was no refugee exodus until the bombings began. NATO angrily denies the connection, but the facts are clear. The United Nations High Commissioner for Refugees estimated that there were 45,000 Kosovars in Albania and Macedonia the week before the bombing. Today they number about 640,000.

As the Serbian sweep through Kosovo began and tens of thousands of refugees poured into Albania and Macedoma, Secretary of Defense William Cohen asserted, ''We are not surprised,'' making one wonder why NATO was so utterly unprepared for something it had expected. In fact, a high-ranking administration official admits frankly, ''Anyone who says that we expected the kinds of refugee flows that we saw is smoking something.

What Milosevic planned was a campaign called Operation Horseshoe. It was to be a larger version of a brutal offensive in 1998 that attacked and destroyed KLA strongholds and killed, terrorized and expelled civilians in areas that supported the group. Most Western observers—including the CIA and the United Nations—estimated that this ugly action would result in an outflow of a maximum of 100,000 refugees abroad.

The decision to wage an air war against Milosevic involved a fateful preliminary move. The 1,375 international observers posted in Kosovo had to abandon the province, as did all Western journalists and diplomats. Brussels and Washington may not have recognized what this meant, but people on the ground did. As one Kosovar said to a departing British journalist: ''From now on it's going to be a catastrophe for us, because the [observers] have gone.''

The human tragedy that resulted should teach a sobering lesson to all those who goaded the administration to stop planning and start bombing, who urge that force be used as a first resort in such crises and who want military might used as an expression of moral outrage. Being righteous, it turns out, does not absolve one of the need to set clear and attainable political goals, relate your means to them and make backup plans. The philosopher Max Weber once noted that a statesman is judged not by his intentions but by the consequences of his actions. It is well and good to clamor for a blood-and-guts foreign policy, but until now it has been Western guts and Kosovar blood.

If only we would use ground troops, some hawks now respond, none of this would have happened. And certainly the decision to go to war carelessly and in haste, before massing ground troops in Albania and Macedonia, was a historic blunder. Ground troops would have proved a potent threat. But even with troops, the war would have begun with days of airstrikes. And it would have been near impossible to invade Kosovo while hundreds of thousands of refugees were swarming across its roads, bridges and mountain paths.

Those who still advocate the use of ground troops today speak of its military benefits, which are real. They do not, however, mention its costs, which are political. A ground invasion would fracture NATO. Germany, Italy and Greece are strongly opposed to the use of ground troops. A majority of Italians and more than 95 percent of Greeks are opposed even to the airstrikes. An invasion would probably split Germany's governing coalition. Russia and China would both actively oppose it and veto any U.N. involvement with Kosovo.

These are staggering obstacles, and not because Washington should pander to Chinese

or Russian prerogatives. The eventual settlement in Kosovo—even after an invasion—will have to be a political one, involving Yugoslavia, its neighbors and other major powers. (Remember the strategic goal was to bring stability to the region.) It will be a more durable, lasting settlement if it is not a unilateral American fiat. Even in the gulf war, even in World War II, the endgame was as much political as it was military.

Of course, Washington could just go ahead and do whatever it wanted. It is certainly powerful enough. But it would mean not just as American invasion of Yugoslavia itself, but also its occupation—it used to be called colonialism. The problem, of course, is that as America gets sucked deeper and deeper into the Balkans, one has to ask, is it worth it? Even if we have ''self-created'' interests in the Balkans, are they of a magnitude to justify a full-scale war, massive reconstruction and perpetual peacekeeping? Sen. John McCain urges that we fight the war ''as if everything were at stake.'' But everything is not at stake. One cannot simply manufacture a national emergency. For seven weeks now the war has been going badly, during which time the stock market has hit record highs, a powerful indication that most Americans do not connect even a faltering war in the Balkans with their security. (By contrast, markets everywhere reeled last July when Russia announced merely that it was defaulting on its debts.)

What about American credibility? Concerns about America's reputation and resolve are serious—which is why we must end this intervention with some measure of success. But credibility is often the last refuge of bad foreign policy. When policy is no longer justifiable on its merits, people shift gears and say, well, if we don't win at all costs we will lose face. But what about the loss of face in continuing a failing mission? A variant of the credibility logic holds that dictators around the world will be emboldened if America does not win decisively. But would they? America won a spectacular victory in the gulf war, televised live across the globe. It didn't seem to deter the Serbs, the Croats, the Somalis, the Sudanese, the Azerbaijanis, among others. Whether America wins or loses a particular contest, the world will keep turning, bringing forth new dictators and new crises. Global deterrence against instability is a foolish and futile goal. It sets America up for failure.

In the weeks ahead, despite the Chinese disaster, NATO must intensify the air war—and hit tanks and troops. It must also intensify its negotiations. The careful use of diplomacy might well resolve what the careless use of force has not. (If the Senate acts speedily on his nomination as U.N. ambassador, Richard Holbrooke's considerable skills could prove invaluable.) During this intervention, many have made analogies to the Vietnam War. Some are more appropriate than others. What is most relevant, however, is not how we entered that war but rather how we left it. After four presidents had made commitments to the people of South Vietnam, in 1973 Washington abruptly abandoned them to a terrible fate. This time let us be clear; our obligations now are not to vague notions of credibility and deterrence. We have a specific commitment to the people of Kosovo to negotiate a decent settlement for them and help rebuild their country. Western nations will have to provide assistance to the southern Balkans as a whole (minus Serbia for now). America having paid for most of the war, Europe should pay for most of the peace, but it must happen in any case. It is not a commitment that requires that we send in ground troops or pay any price, but it is one we cannot walk away from. There is an answer to the legitimate question: why should we be involved in this crisis? Because we made it worse.

THE 2000 CENSUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes as the designee of the minority leader.

Mr. GONZALEZ. Mr. Speaker, it is a great privilege tonight to address a very important matter that seems to have been forgotten with the current crisis in Kosovo and some of the pressing matters before the Congress. That is the Census. Today is May 12, 1999. We are just 10 months and 19 days away from the official beginning of the 2000 Census.

Article 1, Section 2 of the United States Constitution requires the Census to be conducted every 10 years for the purpose of reapportioning seats in Congress among the States. Since the Supreme Court's decision in 1962, one man-one vote, the ruling in Baker versus Carr, censure data has also been used for redrawing legislative boundaries to seek equal population and fair representation in each legislative district.

This country has come a long way since the first Census was conducted in 1790. Back then there were no address lists, no maps, not even a mailout questionnaire. Instead, the U.S. Marshals traveled on horseback as they individually counted the population of the original 13 States.

The 2000 Census will be the 22nd national census, and it will be the largest peacetime mobilization in the United States since the Great Depression. The 2000 Census will consist of counting 275 million United States residents at 120 million households, more than half a million Census takers, 500 local Census offices, with 12 regional Census centers and four data processing centers, 500 local area networks with 6,000 personal computers, 8 million maps, 79 million questionnaires, and 8 to 9 million blocks across the country.

With the annual fate of $180 billion Federal dollars resting on the accuracy of the 2000 Census, the importance of this historic undertaking is all too clear. The 1990 Census 10 years ago resulted in 26 million errors. Thirteen million people were counted in the wrong place, 4.4 million people were counted twice, and 8.4 million were missed. The majority of those that were missed were poor people, children, and minorities.

The national net undercount was 1.6 percent of the total population. That is 4 million Americans, 4 million people, who simply did not count. Minorities were undercounted at levels considerably above the national average. Five percent of Hispanics were missed, 4.5 percent of American Indians, 4.4 percent of African Americans, and 2.3 percent of Asian and Pacific Islanders were not counted.

Even more unfortunate is the fact that children were missed nearly twice as often as adults, and again, minority children had the highest undercounts, and later we will discuss the repercussions.

We cannot and should not allow this to happen again. That is why I agree with President Clinton, that improving the Census should not be a partisan issue. It is not about politics, it is about people. It is about making sure that every American really, literally counts.

We must support the Census Bureau and its plan to incorporate the use of modern scientific methods and an aggressive enumeration process to provide the most accurate count possible. Otherwise, the voiceless will continue to have no voice in this country, the unrepresented will continue to be unrepresented, and the American dream will remain just that, just a dream, never a reality, for those who are not counted.

Joining me tonight in this effort is my neighbor and my colleague, and my good friend, the gentleman from Texas (Mr. CIRO RODRIGUEZ). I yield to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman very much for yielding to me. It is a pleasure to be with him tonight. I want to congratulate him on his efforts as we move forward on this important issue.

As the gentleman well indicated, we recognize that every 10 years this country has an obligation to make sure that everyone gets counted. I want to share with the Members in terms of where we find ourselves now.

The gentleman from Illinois (Speaker HASTERT) recently submitted a proposal that indicated that he wanted to move forward on the Census and to let the courts resolve the remaining issues.

Why should we let the courts resolve the issues? I was real pleased to see Democratic leader, the gentleman from Mississippi (Mr. GEPHARDT) offer a counterproposal that includes three components of a compromise on the Census. I want to share these three components.

The first one is to completely lift the current June 15 cutoff of funding for 1999, Commerce, Justice, State appropriations at the earliest possible opportunity. We need to allow this agency to move forward. For us to cut the funding on June 15 is going to have a detrimental effect on the Census and being able to do an accurate Census, thereby allowing full funding for the rest of the fiscal year. It is only the most appropriate thing we can do.

Secondly, we should provide full funding for the year 2000 Census Bureau activities within the normal 2000 Commerce-Justice-State appropriations process without limiting or any other conditions. We should not wait on the court. We have an obligation to do the count as quickly as possible and as accurately as possible.

Thirdly, to also incorporate into a single compromise authorization bill those elements of the act, which is the America Counts Today, and initiatives proposed by Republicans that are consistent with what the Census Bureau has determined is necessary to conduct an accurate and complete 2000 Census. So it becomes important that we do not play politics with the Census, and that we make sure that everyone gets counted in the process.

Members heard earlier the gentleman from Texas (Mr. GONZALEZ) indicate the disparities that occurred in the 1990 Census and how individuals were left behind. As a direct result of this undercount, many individuals were effectively denied government representation and many communities were adversely affected on Federal and State resources by schools, crime prevention, health care, and transportation.

One of the things that we need to recognize is that the count, the 2000 count, just like the 1990 count, is utilized for the purposes of distribution of resources, as well as reapportionment and determination of the number of Congressmen, for example, that each of the States will entail.

Based on projections now, Texas has indicated we might have up to two additional Congressmen. If we look at an appropriate count, and if we look at the number that we lost last time, there is a possibility that we might even get a third congressman. Texas was the one that had one of the highest figures of individuals that were undercounted, so it becomes really important for us to recognize the importance of this issue.

I also want to take this opportunity to appeal to the churches, the organizations, the neighborhood groups, the PTAs, the schools, the advocacy groups, to participate, to make sure that everyone gets counted as we move forward to the year 2000.

All of the groups and a lot of the experts that we have have indicated the importance of utilizing the most advanced methods to assure that this count can be the most accurate. If we do not utilize those methods, then we are bound to have even a worse situation before us than we had in the 1990s.

I want to share a couple of quotes. One comes from the Report of the Panel on Census Requirements in the Year 2000 and Beyond, Committee on National Statistics. This is the National Academy of Sciences.

They are quoted as saying: ''Physical enumeration or pure 'counting' has been pushed well beyond the point at which it adds to the overall accuracy of the census. . . Techniques of statistical estimation can be used, in combination with the mail questionnaire and reduced scale of follow-up of nonrespondents, to produce a better census at reduced costs.''

Remember, this sampling only occurs in those areas where, after everyone has had an opportunity to receive the mail and be able to respond, these are the areas of the nonrespondents, where they have a process of calling them, of visiting them, and continuing to visit them, and then doing a sample.

One of the things that I also want to mention, of the undercount, one of the biggest populations that is undercounted is children. So in those areas, especially urban areas and rural areas that are poor areas, usually they are the ones that are undercounted.

In areas of people that are a little more wealthy, that have several households, usually we have an overcount there, so there is a need for estimates and statistical data to be used in order to get a more accurate count.

Grassroot campaigns need to be undertaken to make sure we educate everyone in this process, but we as a Congress have an obligation to move now, before June 15, to make sure that we fund it appropriately. Not to move now is negligent on our part. To wait for the courts to make a decision, they did not elect us for that purpose. They elected us to make the decisions as we see fit, and to do the right thing. That is to move forward on the year 2000.

□ 2030

I want to thank the gentleman from Texas (Mr. GONZALEZ) for allowing me to make a few comments today on this very key issue that has an impact on everyone, not only just for some individuals but the entire community and the entire United States.

This particular issue of the 2000 Census once again has an impact on the number of resources that come into the community, the representation that we get, and also in terms of the redistricting that occurs.

Mr. GONZALEZ. Mr. Speaker, I also wish to point out something that the gentleman from Texas (Mr. RODRIGUEZ) touched on, and that is that numerous organizations support the Census Bureau's plan to utilize the modern scientific method. These are proven, reliable means.

Some of these organizations are as follows: the Leadership Conference on Civil Rights, the National Association of Latino Elected Officials, the Mexican-American Legal Defense Fund, the Rainbow Push Coalition, the NAACP, the National Puerto Rican Coalition, the National Congress of American Indians, the America Federation of Teachers, the National Education Agency, the American Civil Liberties Union, the Asian Pacific American Labor Alliance, the National Council of Senior Citizens, and many more organizations recognize the importance of an accurate census. Of course, they are making their voices heard.

Congress, by the same token, has a duty and obligation to listen to all of the people and these organizations.

I am glad that, again, we have another voice that is sounding loud and clear, and that is the gentleman from Texas (Mr. REYES).

Mr. Speaker, I yield to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, the census should not be a political game. The census should not be used as a political football to decide who is up and who is down. The stakes are too high in this issue.

As we all know, the census is the basis for almost all demographic information about the United States. Our government uses census data to decide which local communities need Federal funding for WIC, Head Start, Safe and Drug Free school funding, Medicaid, and other important programs.

Each of our communities will be hurt if there is an unfair and inaccurate census. Equally important, minorities across the Nation will be hurt by an inaccurate and unfair census.

In my State of Texas, 486,028 people were not counted in the last census. This undercount cost the State of Texas more than $934 million in Federal funds alone. My district, El Paso County, had an undercount of more than 25,000 and perhaps as high as 40,000 people that were not counted. Nationwide, my congressional district ranks 17th out of all the congressional districts which were undercounted.

As we have heard many times, the 1990 census, which used the conventional head count method, missed over 8 million people. Mr. Speaker, over 8 million people were missed in the last census; 4.4 percent of African Americans, 5 percent of Hispanic, 4.5 percent of Native Americans, 2.3 percent of Asian Americans, and 3.2 percent of children were missed in the last census.

Democrats want a fair, accurate, and complete census that counts everyone. To accomplish this, Democrats, the scientific community, and the Census Bureau favor using both the conventional head count method and the modern scientific method of statistical sampling in the 2000 Census.

It appears, however, that Republicans do not want an accurate census. They seem to be worried that it will endanger a fragile majority in Congress.

As I have said earlier, the census is too important to be used as a political football. This should not be a Democrat versus Republican issue.

Experts support the use of sampling. The National Academy of Sciences recently released the first report from the fourth panel to review the Census Bureau's plans for the 2000 Census. Once again, the experts convened by the Academy endorse the Census Bureau's plan to use scientific evaluation and to provide a correct census as a basis for their counts.

Mr. Speaker, it is time that we stop playing games and start taking care of those who need an accurate count, those in Texas, New Mexico, Arizona, and California. It has become common knowledge that those communities that suffer most are those communities along our border. We owe all Americans this basic right to be counted in the next census.

Mr. GONZALEZ. Mr. Speaker, we keep going back to the undercount, and it is quite serious for certain States more so than others, but this is an American problem because we are talking about Americans not being counted, and we are talking about individuals not being represented.

It is not just Texas, though I am going to dwell on Texas a little longer since I am from San Antonio and it has impacted my community more so than many others. But it is Arizona. The 1990 census missed more than 89,000 people in Arizona. In Florida, they missed 258,900 people. In New York, 271,500 people. California, 834,000 people were missed.

In a minute, I will tell my colleagues why that is so important, which has already been touched on by my colleagues. But let me go ahead and expand a little bit on some of the specifics.

The 1990 census resulted in an undercount of 482,000 Texans. Texas trailed only California as the State with the highest undercount. Of those 382,000 missed individuals, 228,300 children were missed in Texas. In my hometown of San Antonio, there were 38,100 people missed. Nearly half, 16,600 of those were children. That is enough, a number of children, to fill 29 schools with a total of 1,042 teachers. That is in San Antonio alone.

If we estimate as $650 in Federal resources annually per child, San Antonio unjustly lost $10,790,000 that should have gone to educate our children. We keep talking about money; and people say, oh, is this just about money? Maybe it is, in large measure. What is so unfair about that?

These are our tax dollars that flow from San Antonio, that flow from the State of Texas to the Federal Government. The Federal Government then devises a method of which they then allocate back to the States and to the cities. But if they are not counting us, we will never get what is justly ours. It is our contribution. This is what we should be getting back from the Federal Government as an investment in what we have put out.

The 1990 undercount cost Texas $1 billion in Federal funds. If the 2000 Census results in an equally unfair count, Texas stands to lose an additional $2.18 billion in population-based Federal funds. This is simply not fair to Texans. It is not fair to San Antonians. Beyond that, it is not fair to our children.

I keep saying Texans and San Antonians, but it really is all Americans. This is not a country that should, for whatever reason, whether we attribute it to political gain or to extract some sort of political advantage, that we should elevate that to the cost and the expense of educating our children, also funds for hospitals, for medical care, for our farmers, for our ranchers. It goes on and on.

I will be happy in a minute to highlight and explain to my colleagues how census figures translate to proportional amounts of money being deprived of those individuals who actually contribute to the Federal Government.

Mr. Speaker, I yield to the gentleman from San Antonio, Texas (Mr. RODRIGUEZ) to engage in a dialogue. I know I have gone over some points especially when it comes to children. I know how dedicated the gentleman is to education and education issues. I am aware that the gentleman taught for over 10 years. He was an educator. I am also aware that his wife is also an educator.

Mr. RODRIGUEZ. Mr. Speaker, the gentleman from Texas (Mr. GONZALEZ) is right. I have been an educator. I taught at Our Lady of the Lake University at the university level. My wife teaches first grade.

One of the key things to remember is that the census did not count the largest number of youngsters that were missed, that were the students and those youngsters. When we look at the amount of resources that come in based on what they call ADA, Average Daily Attendance, and other figures, they utilize the population figures to determine some resources for those areas. So if those youngsters are not counted, then we lose out on that, those resources that would go directly to those individuals in the form of access to health care, in the form of access to education, in the form of access to extracurricular types of programs that youngsters can participate in.

Let me just share, what is at question is the whole concept of trying to do the most accurate, complete 2000 Census. That should be our objective. I know the gentleman from Texas (Mr. GONZALEZ) would agree with me that that is what we need to do, to make sure everyone gets counted.

We also recognize, and all the people that have been involved in it, from the Academy of Science to all, they recognize that there is a need to use sampling and statistical method to determine that.

The Carter administration, the Bush administration, the Clinton administration all concluded that the Constitution permits the use of sampling and other methods or statistical methods as part of the census. They utilized that in the past.

In addition, one of the other things that is also important is that all courts that have considered the question have concluded that the Census Bureau may use sampling and other statistical methods to prove the accuracy and good faith and direct accounting of individuals.

Again, what is at question is to make sure that everyone gets counted and as accurately as possible. What the fight seems to be all about is politics and trying to determine that maybe certain States should not get as many congressmen as they are getting, to determine whether certain areas, as we draw the lines for the year 2000, as we draw the lines for every congressional district and all the other elected officials' districts, that that population utilization, if it is the areas that are poor areas that do not get counted, then those areas are going to be overrepresented in comparison to some of the other areas that have some of the more middle to upper income brackets, so that we will have congressional districts that will be way over the population figures than some of the others.

So that will create a disparity, not only in terms of representation, but a disparity as it deals with the funding. So the gentleman from Texas (Mr. GONZALEZ) has hit it right on the nail in terms of the fact that we need to make sure that we get the appropriate consensus.

Now the other thing that really we need to bring to light is the fact that we should not drag our feet, and we should be funding the census now. We should not be waiting and try to just fund them the next 6 months and the next 6 months, because that is creating some real serious problems; and that is definitely going to have an impact on whether we do a good job or not. I know the gentleman from Texas would agree with me.

The Census Bureau has been moving to try to streamline. In fact, we have been told that, for the Year 2000, the standard census form will be the shortest in 150 years. So they are already trying to streamline it to make it simpler. It will only have six questions. So that becomes important. Each individual is going to be getting that.

Where we have the difficulty is the nonrespondents. When we talk about the census, everything that we have done in the past, and that is the direct mail, the follow-up, the calls, the visits to those household that are nonrespondent, all that is going to be done.

But when all that is said and done, one of the key things is that we still had a problem in the 1990 census, and we want to make sure that we try to correct that as much as possible. That is why the statistical sampling is one of the areas that we need to make sure that is utilized so that we can get a more accurate count. I know that the gentleman from Texas (Mr. GONZALEZ) would agree with me.

Mr. GONZALEZ. Mr. Speaker, that is the important thing about this whole debate. We debated in the past in this Chamber on the floor here, and I do not think we have ever had a legitimate debate questioning the methodology that is to be utilized by the Census Bureau. This is a methodology that has been endorsed, accepted, approved, certified by the National Academy of Science.

It is not a question of legitimacy of the application of the methods. No one is really going to be attacking that. The reason they are not going to is because they surely will adopt it and want to use it in other areas. It is not a legitimate, well-founded and valid argument. So my colleagues are not going to hear that.

What it really comes down to, and I know that the American people would like to think there are certain issues that rise above political considerations. Kosovo is one of them, and it is important to us. It is not a Democratic issue, and it is not a Republican issue. The census is one when we are talking about the lives, the well-being, the quality of life, a standard of living for all Americans. It is not Republican. It is not Democratic. It is a people issue.

□ 2045

It is a people issue, and we should not do harm and injustice to it by somehow politicizing it and extracting partisan advantage, or perceived partisan advantage, because I do not believe that there really is any partisan advantage to either kind of fight on some of these issues, and the census does not lend itself to it.

Over and above the methodology that is going to be utilized by the Census Bureau, I also wish to touch on the community outreach, what the Census Bureau is doing to engage local communities, to gain the input of the local governments to assist them in making sure we have an accurate count early on. Because as the gentleman has indicated, if we drag our feet on this we cannot meet the certain deadlines. We will not have an accurate census count.

So I do want to go over some of the partnerships. Many of these effective partnerships have already been established with the Census Bureau and the following organizations. The American Association of Retired Persons, the Mexican-American Legal Defense Fund, the National Association for the Advancement of Colored People, the National Congress of American Indians, the National League of Cities, and dozens more have joined forces with the Census Bureau and other cities' governments across the Nation to educate people about the census.

This year the Census Bureau is looking to build upon the success of its previous partnership programs. Just last week the Census Bureau announced its partnership with Goodwill Industries, a national nonprofit organization who trained 320,000 people last year. Goodwill Industries has become known for training and placing former welfare recipients that will now assist the Census Bureau in its efforts to hire and train some of the nearly 850,000 census workers needed to conduct the 2000 Census.

We all need to work to assist the Census Bureau in establishing these partnerships with governments, organizations and businesses in our own districts. There is more to this effort by the Census Bureau, and I commend the Census Bureau for going out there in their outreach effort. There is also what is referred to as Census in the Schools, and it is a project that will strive to educate students about the census, its importance to them, their education, their families and their communities, and it is a darned good place to start in terms of education.

The goal is to increase participation by involving schools, teachers and students and engaging the parents. And there is no better way to get a parent's attention than to work it through the children and what is in their best interests.

In addition, the Census in the Schools project will serve as another tool to recruit some of the nearly 850,000 workers that will be needed to conduct the 2000 Census. Many of the schools across the country have already received information about the project, and I know that we will be visiting San Antonio and going to the schools and promoting the partnership program. For those who have not received the information, the education materials are available on the Census Bureau's web page, and that is www.census.gov, for government.

Mr. RODRIGUEZ. If the gentleman will yield, I wanted to indicate also the importance of the role that the community plays, and that is that every church, every minister, every organization out there has a role and a responsibility.

And I am glad the gentleman mentioned in terms of the involvement of the schools. I think there is going to be a need for all of us to make sure we all have that obligation, to make sure we all get counted. And when that form comes in, the sooner we can send it in, the better.

There is no doubt that if we do not send it in, we are going to get called, we are going to get mailed again, we are going to get visited, and we are going to get visited, and we are going to get visited. So I think it is important that when we get the particular mail out on the census that we fill it out as quickly as possible and send it in.

Neighborhood groups can play a very significant role. Earlier the gentleman was mentioning about the importance of what the experts are saying, and I want to quote a couple of things. This particular quote is from the U.S. General Accounting Office and it says, ''Sampling households that fail to respond to questionnaires produces substantial cost savings and should improve final data quality.'' That is the U.S. General Accounting Office in support of the use of statistical methods.

I also want to quote a little bit from the U.S. Department of Commerce, the Honorable Frank DeGeorge, Inspector General, that says, ''The Census Bureau has adopted a number of innovations to address the problem of past censuses; declining accuracy and rising costs. One innovation, which we fully support, is the use of statistical sampling for non-response follow-up.'' Those individuals that do not respond to those questionnaires initially.

Let me also quote from the American Statistical Association, where they say, ''Because sampling potentially can increase the accuracy of the count while reducing costs, the Census Bureau has responded to the Congressional mandate by investigating the increased use of sampling. We endorse the use of sampling for these purposes; and it is consistent with the best statistical practice.''

There are some additional individuals that have continued to indicate, and I want to read from the panel that evaluates alternative census methodologies, the National Research Council, and they state, ''Change is not the enemy of an accurate and useful census; rather, not changing methods as the United States changes would inevitably result in a seriously degraded census.'' So we run the risk of having one of the worst censuses ever in the Year 2000 if we do not allow both the appropriate funding to go as quickly as possible.

We need to move forward, instead of just putting a stop to it in June. We need to try to move it quickly, and also to allow the census itself to work. Politicians should not be involved in trying to dictate to them as to what they should or should not do. They should know what some of the best approaches are and they are the ones that should be able to do the job that needs to be done, and that is to make sure that every American gets counted.

Again, if we ask why it is so important, this is one of the constitutional obligations, as the gentleman well knows, that we have as a Congress, to make sure that every 10 years everyone gets counted. So it becomes real important.

Mr. GONZALEZ. I could not agree with the gentleman more.

We have gone over about the proven scientific method. I do not think there is any real legitimate attack on it. But I want to assure Members of the House, of course, that every effort will be made to go to the neighborhoods, to make sure the questionnaires are returned and they are answered. We will do everything that is humanly possible for an accurate head count.

But beyond that, we already know that is not accurate, and it is not going to result in accurate numbers for us. Knowing that, we have a proven, reliable method of establishing accurate numbers. There are many things that are out there now, and people may question, they may be worried when they hear the word ''sampling'', ''scientific method'', but I have already gone over that the National Academy of Sciences has approved it. This is something that the Bush administration even approved and sanctioned.

Even on the floor of this House, does anyone think that the writers of the Constitution, the framers of the Constitution, those individuals, those great geniuses, ever envisioned that we would be casting our votes electronically; that we would use this card that I hold in my hand; that we would put it in a slot and vote ''yes'', ''no'' or ''present'', and it would be going up on some electronic board; that these numbers would be calculated? I am sure there would be individuals that would

question that alone, that advance in technology, which speeds things along in this House. No doubt. The reason we trust it is because it is proven. It is reliable. We have tested it. And that is all we can ask of any method or any manner that we utilize today; that it be based on the best scientific method that is available to us; that it is proved correct and accurate time and time again.

Many individuals do not understand how important it is to have an accurate census and how it affects their individual lives. I am going to enumerate how these numbers are used year in and year out, and the most important thing to remember is that the census is decennial in nature. That means every 10 years. If we do not get it right that year, we have to live with those numbers for 10 years, just as Texas has lived with them for 10 years at a cost of a billion dollars to our children, our farmers, our ranchers and our citizens. We cannot repeat those mistakes.

Census numbers are required to enforce provisions under the Civil Rights Act, which prohibits discrimination based upon race, sex, religion and national origin. They are used by the Department of Veterans Affairs for State projections on the need for hospitals, nursing homes, cemeteries and other benefits for veterans. State and county agencies use the data to plan for eligibility under Medicare and Medicaid programs. Census data is used to determine the distribution of funds to develop programs for people with disabilities and the elderly under the rehabilitation act. Census data is used in evaluating the impact of immigration on the economy and the job market. The Small Business Administration uses census data to distribute funds for small business development centers. So important to our economy, since we know that over 85 percent of all businesses are truly small in nature.

Census data is used to help determine the effects of bank mergers under the Community Reinvestment and Bank Holding Company Acts. Census data is used by local governments to project the need for services such as fire and police services.

These are just a few of the number of ways census data is used.

Mr. RODRIGUEZ. Let me share with the gentleman, and what the gentleman just indicated is correct, that for those individuals that were not counted, for each individual, the figures are different for each State, but it has been estimated that in Texas if an individual was not counted, we lost $1900 for that individual for that year. So when we look at the whole decade, we can see a tremendous amount of dollars for each individual that was not counted. So that it adds up.

The gentleman was mentioning each of the programs. It is over a total of $180 billion of Federal funds that are at stake in terms of distribution and how that should go out. So that what is before us is not only in terms of resources and programs, but also, again, the whole issue of reapportionment.

And reapportionment means we have 435 Congressmen, so many from each State based on population. And I know that for those States that are growing it is important, and for the other States it is also important to know how many people reside in those States. I know that that is one of the biggest problems that some of the people have with their areas, and it should not be political, it should be about making sure people get counted appropriately and accurately.

So, again, in Texas we are scheduled to receive two additional Congressmen, if not three, and that would be based on the count. From the preliminary figures we have seen, we will gain at least two additional Congressmen because of the increase in population. I think that has a direct impact on representation in the State of Texas as well as throughout the country, California and the other States that are also impacted.

One of the things I wanted to share was that when we talk to people, we are not saying that we should not go and not do the traditional things. The census is still going to go out there and make sure that everyone gets their mail out, makes sure that everyone is followed up with a call if they do not respond, and if they still do not respond, that everyone gets a knock on their door. It is an effort that is extremely costly, but we also recognize that statistical methods work in determining a better accuracy.

In addition to that, there is going to be some additional advertising resources that are going to be utilized to make sure that people understand the importance of getting counted. And again, remember, if an individual does not get counted, we lose resources because of that. And for all practical purposes, that individual does not exist. And I think it is important that all individuals recognize that they have an obligation not only for themselves and for their families, but for their entire community, to make sure that everyone gets counted.

That is why organizations come into play, the ministers, the churches, and everyone has a role to play in educating ourselves about the importance of getting counted.

□ 2100

I want to also share with my colleagues that the same methods that have been utilized in the past are going to be utilized but, in addition to that, to get that better accurate count is sampling statistical methods and to look at going to the courts to try to throw that out just means that the 2000 census will even be worse than the 1990 census that lost a large number of individuals that were not counted. And my colleagues heard some of those figures.

Now, we also recognize that the Hispanic population is one of the ones that was the most undercounted, with about 5 percent, the African-American population with 4.4, the Asian population with 4.5. And again, low-income individuals, whether they are minority or not, are the ones that are least likely to get counted. And those that are above in the economic bracket usually get over counted because of the fact they have several households.

So it becomes important that we look at that as seriously as possible and we ask that the Congress seriously look at this and move forward and assure that the funding comes directly to the Census Bureau and that the politicians stay away from dictating as to what should be happening and the Census Bureau and the individuals that have been doing that and have the education and have the expertise in that area should be the ones dictating what should happen.

Mr. GONZALEZ. Mr. Speaker, I could not agree with the gentleman from Texas (Mr. RODRIGUEZ) more on that observation.

In summary, I just want to reemphasize some things. I do not believe there is any legal impediment to the utilization of the modern scientific method for the purposes of redistricting and, of course, the distribution of Federal funds. That goes unquestioned. If people want to take it to the courts, that is a right, as we enjoy so many in our democracy.

But again, if it is done for the wrong purposes, if it is just done to delay, to frustrate and thwart an accurate census so we have inaccurate numbers for 10 years, that is wrong. I do not believe it is American and I think it is abuse of the system. And if we ever had frivolous litigation, that is frivolous litigation.

I am going to wrap this up by going over other uses of these numbers because they truly are numbers that translate and affect the lives of human beings, though. Community agencies use the census data to target areas that need special programs, such as Meals on Wheels. The data is also used to allocate funds for programs that promote educational equality for women and girls under the Women's Educational Equity Act. And it creates prevention of violence against women's programs dealing with, of course, prevention and post-trauma assistance.

The Department of Health and Human Services uses data in its assistance program. Census data is used by State governments to support juvenile justice and create delinquency prevention programs. The Department of Education uses the information for preparing a report to Congress on the social and economic status of children served by different local school districts.

If they have faulty underlying data, they are not getting accurate information on which Congress can act. And local governments use the data to implement programs such as Head Start.

As we can see, virtually no one in this country goes untouched by the effects of an accurate or an inaccurate

census, for that matter. We have all been elected to represent our constituencies and to represent their best interests. An accurate census is in our constituents' best interest.

It reminds me, of course, as everyone thinks of an accurate census, ''how will that affect me?'' It reminds me of Hemingway's ''For Whom the Bell Tolls.'' And I will tell my colleagues now, if we do not realize an accurate census, that bell tolls for them, for me, our children, our constituents, and their children.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

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

Mr. LIPINSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

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

Mr. HERGER, for 5 minutes, on May 13.

Mr. BURTON of Indiana, for 5 minutes, on May 19.

Mr. HANSEN, for 5 minutes, today.

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

Mr. HILL of Montana, for 5 minutes, on May 18.

Mrs. MORELLA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CASTLE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. INSLEE, for 5 minutes, today.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 9 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 13, 1999, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2049. A letter from the Administrator, Commodity Credit Corporation, Department of Agriculture, transmitting the Department's final rule—Dairy Market Loss Assistance Program (RIN: 0560–AF67) received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2050. A letter from the Administrator, Agricultural Marketing Service, Department Of Agriculture, transmitting the Department's final rule—Dried Prunes Produced in California: Undersized Regulation for the 1999–2000 Crop Year [Docket No. FV99–993–2 FR] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2051. A letter from the Administrator, Agricultural Marketing Service, Department Of Agriculture, transmitting the Department's final rule—Melons Grown in South Texas; Change in Container Regulation [Docket No. FV99–979–1 IFR] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2052. A letter from the Director, Administrative Office Of The United States Courts, transmitting a proposed emergency supplemental request for fiscal year 1999 to provide for a necessary level of security for judges, support personnel of the federal Judiciary, and the public; to the Committee on Appropriations.

2053. A letter from the Under Secretary, Acquisition and Technology, Department of Defense, transmitting Certification with respect to the Patriot PAC–3 Major Acquisition Program, pursuant to 10 U.S.C. 2433(e)(2)(B)(i); to the Committee on Armed Services.

2054. A letter from the Executive Director, Presidential Advisory Commission on Holocaust Assets In The United States, transmitting a draft of proposed legislation to extend the Presidential Advisory Commission on Holocaust Assets in the United States by one year and to authorize additional appropriations for the Commission; to the Committee on Banking and Financial Services.

2055. A letter from the Chairman, National Endowment for the Arts and Member Federal Council on the Arts and the Humanities, National Foundation on the Arts and the transmitting the Federal Council on the Arts and the Humanities' twenty-third annual report on the Arts and Artifacts Indemnity Program for Fiscal Year 1998, pursuant to 20 U.S.C. 959(c); to the Committee on Education and the Workforce.

2056. A letter from the Acting Assistant Secretary for Environmental Management, Department of Energy, transmitting the Department's report on remediation of the radioactive Waste Management Complex located at the Idaho National Engineering and Environmental Laboratory; to the Committee on Commerce.

2057. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities List for Uncontrolled Hazardous Waste Sites [FRL–6338–5] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2058. A letter from the Director, Office of Regulatory Managment and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone (RIN: 2060–AH10) [FRL–6338–6] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2059. A letter from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, transmitting the Office's final rule—Initial Licensed Operator Examination Requirements [RIN 3150–AF62] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2060. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Law 5–11 ''To adopt the form and content for a personal financial disclosure statement for members of the District of Columbia Retirement Board'' received May 4, 1999, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2061. A letter from the District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1–732 and 1–734(a)(1)(A); to the Committee on Government Reform.

2062. A letter from the District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1–732 and 1–734(a)(1)(A); to the Committee on Government Reform.

2063. A letter from the Director, Office Of Management And Budget, transmitting the Office's final rule—discussing specific paperwork reduction accomplishments that these agencies have targeted for FY 1999 and FY 2000; to the Committee on Government Reform.

2064. A letter from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting the FY 2000 Annual Performance Plan for the Overseas Private Investment Corporation, pursuant to Public Law 103–62; to the Committee on Government Reform.

2065. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed under the Individual Fishing Quota Program [I.D. 030999C] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2066. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna [I.D. 021299E] received March 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2067. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Clean Water Act Regulatory Definition of ''Discharge of Dredged Material'' [FRL–6338–9] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2068. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses certain tax consequences for members of the Armed Forces; to the Committee on Ways and Means.

2069. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 99–21] received

April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Method of valuing farm real property—received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—last-in, first-out inventory methods [Revenue Ruling 99–22] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2072. A letter from the Secretary of Labor and Executive Director of the Pension Benefit Guaranty Corporation, Pension Benefit Guaranty Corporation, transmitting Administration of the Toxic Substances Control Act—the Corporation's financial statements a of September 30, 1998, pursuant to 15 U.S.C. 2629; jointly to the Committees on Commerce and Ways and Means.

2073. A letter from the Acting Secretary, Department Of State, transmitting the annual report for 1998 on voting practices at the United Nations, pursuant to Public Law 101–167; jointly to the Committees on International Relations and Appropriations.

2074. A letter from the Secretary of Defense, transmitting the unclassified version of the report ''Theater Missile Defense Architecture Options in the Asia-Pacific Region''; jointly to the Committees on International Relations and Armed Services.

2075. A letter from the Director, National Marine Fisheries Service, National Oceanic And Atmospheric Administration, transmitting a report on bluefin tuna for 1997–1998, pursuant to 16 U.S.C. 971; jointly to the Committees on Resources and International Relations.

2076. A letter from the Principal Deputy Assistant Secretary for Congressional Affairs, Department of Veterans Affairs, transmitting a draft of proposed legislation to provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, and for other purposes; jointly to the Committees on Veterans' Affairs and Government Reform.

2077. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses various management concerns of the Department of Defense; jointly to the Committees on Armed Services, the Judiciary, and Government Reform.

2078. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses various management concerns of the Department of Defense; jointly to the Committees on Armed Services, International Relations, Government Reform, Intelligence (Permanent Select), Education and the Workforce, and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 441. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas (Rept. 106–135). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 167. Resolution providing for consideration of the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 106–136). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[Omitted from the Record of May 11, 1999]

Pursuant to clause 5 of rule X the Committee on Commerce discharged. H.R. 775 referred to the Committee of the Whole House on the State of the Union.

The Committee on Armed Services discharged. H.R. 1555 to the Committee of the Whole House on the State of Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT:

H.R. 1763. A bill to amend the Endangered Species Act of 1973 to provide that the cost of mitigation required under that Act for a public construction project may not exceed 10 percent of the total project costs; to the Committee on Resources.

By Mr. EVANS (for himself, Mr. BILIRAKIS, Mr. FILNER, Mr. GUTIERREZ, Ms. BROWN of Florida, Ms. CARSON, Mr. REYES, Mr. RODRIGUEZ, Mr. SHOWS, Mr. MEEHAN, Mr. OBERSTAR, Ms. RIVERS, Mr. FARR of California, Ms. MCKINNEY, Mr. GREEN of Texas, Mr. POMEROY, Mr. FROST, and Ms. KILPATRICK):

H.R. 1764. A bill to amend title 10, United States Code, to provide limited authority for concurrent receipt of military retired pay and veterans' disability compensation in the case of certain disabled military retirees who are over the age of 65; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself, Mr. EVANS, Mr. QUINN, and Mr. FILNER):

H.R. 1765. A bill to increase, effective as of December 1, 1999, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ABERCROMBIE:

H.R. 1766. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the deduction allowed for meal and entertainment expenses associated with the performing arts; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1767. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for the allocation of any limitation imposed on school construction bonds with respect to which the holders are allowed a credit under the Internal Revenue Code of 1986, and to apply the wage requirements of the Davis-Bacon Act to projects financed with such bonds; to the Committee on Education and the Workforce.

By Mr. CONYERS (for himself, Mrs. MORELLA, Mr. NADLER, Ms. LOFGREN, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. MEEHAN, Mr. DELAHUNT, Mr. WEXLER, Mr. ROTHman, Mr. WEINER, Mr. ACKERMAN, Mr. ANDREWS, Mr. BARRETT of Wisconsin, Mr. BLAGOJEVICH, Mr. CROWLEY, Mr. CUMMINGS, Ms. DEGETTE, Ms. DELAURO, Mr. DIXON, Mr. FARR of California, Mr. HOEFFEL, Mr. KENNEDY of Rhode Island, Mrs. MCCARTHY of New York, Mr. MARKEY, Ms. NORTON, Mrs. TAUSCHER, Mrs. JONES of Ohio, Mr. VENTO, and Mr. WAXMAN):

H.R. 1768. A bill to strengthen America's firearms and explosives laws; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS:

H.R. 1769. A bill to eliminate certain inequities in the Civil Service Retirement System and the Federal Employees' Retirement System with respect to the computation of benefits for law enforcement officers, firefighters, air traffic controllers, nuclear materials couriers, and their survivors, and for other purposes; to the Committee on Government Reform.

By Mr. CUMMINGS (for himself, Mr. DAVIS of Virginia, and Mrs. MORELLA):

H.R. 1770. A bill to amend title 5, United States Code, to revise the overtime pay limitation for Federal employees, and for other purposes; to the Committee on Government Reform.

By Mrs. EMERSON:

H.R. 1771. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mrs. EMERSON:

H.R. 1772. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to certain senior citizens for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself and Mrs. EMERSON):

H.R. 1773. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide that any participant or beneficiary under an employee benefit plan shall be entitled to de novo review in court of benefit determinations under such plan; to the Committee on Education and the Workforce.

By Mr. GALLEGLY:

H.R. 1774. A bill to amend the Immigration and Nationality Act to not count work experience as an unauthorized alien for purposes of admission as an employment-based immigrant or an H–1B nonimmigrant; to the Committee on the Judiciary.

By Mr. GILCHREST (for himself, Mrs. TAUSCHER, Mr. FORBES, Mr. GOSS, Mr. BILBRAY, Mr. SHAYS, Mr. CARDIN, Mr. PRICE of North Carolina, Mrs. MORELLA, Mr. SAXTON, Mr. FOLEY, Mr. BENTSEN, Mr. MCDERMOTT, Mr. METCALF, Mr. SMITH of Washington, Mr. GREENWOOD, Mr. INSLEE, Mr. DICKS, Ms. DELAURO, Mrs. LOWEY, Mr. ENGLISH, Mrs. KELLY, Mr. TAUZIN, and Mr. LAMPSON):

H.R. 1775. A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO (for himself and Mr. LEACH):

H.R. 1776. A bill to expand homeownership in the United States; to the Committee on Banking and Financial Services.

By Mr. UPTON (for himself, Mr. TOWNS, and Mrs. EMERSON):

H.R. 1777. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to assure access to covered emergency hospital services and emergency ambulance services under a prudent layperson test under group health plans and health insurance coverage; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR (for himself, Mr. TANNER, Mrs. KELLY, Mr. PRICE of North Carolina, Mr. DUNCAN, Mr. ETHERIDGE, Mr. CHABOT, Mr. CLEMENT, Mr. HOBSON, Mrs. TAUSCHER, Mr. FRANKS of New Jersey, Mr. GORDON, Mr. FRELINGHUYSEN, Mr. MINGE, Mr. TAYLOR of North Carolina, Mr. BERRY, Mr. OXLEY, Mr. PASTOR, Mr. BRYANT, Mr. KILDEE, Mr. WALDEN of Oregon, Mr. GOODE, Mr. HOUGHTON, Mr. SMITH of Washington, Mr. HEFLEY, Mr. PHELPS, Mr. TANCREDO, and Ms. STABENOW):

H.R. 1778. A bill to prohibit certain election-related activities by foreign nationals; to the Committee on House Administration.

By Mr. GOODLING:

H.R. 1779. A bill to amend title 10, United States Code, to make changes to the overseas special supplemental food program; to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin:

H.R. 1780. A bill to provide for the settlement of claims of the Menominee Indian Tribe of Wisconsin; to the Committee on Resources.

By Mr. HINCHEY:

H.R. 1781. A bill to amend the Child Nutrition Act of 1966 to prohibit the donation of competitive foods of minimal nutritional value in schools participating in Federal meal service programs before the end of the last lunch period of the schools; to the Committee on Education and the Workforce.

By Mr. HOYER:

H.R. 1782. A bill to clarify the categories of children eligible for enrollment at the Library of Congress day care center; to the Committee on House Administration.

By Mr. ISAKSON:

H.R. 1783. A bill to amend the Internal Revenue Code of 1986 to extend the deadline for filing estate tax returns from 9 months to 24 months after a decedent's death; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 1784. A bill to terminate certain sanctions with respect to India and Pakistan; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H.R. 1785. A bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROTHMAN (for himself and Mrs. ROUKEMA):

H.R. 1786. A bill to enable America's schools to use their computer hardware to increase student achievement and prepare students for the 21st century workplace; to the Committee on Education and the Workforce.

By Mr. WALDEN of Oregon:

H.R. 1787. A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes; to the Committee on Resources.

By Mr. ISTOOK (for himself, Mr. ARMEY, Mr. CAMPBELL, Mr. COBURN, Mr. COX, Mrs. CUBIN, Mr. DEMINT, Mr. DOOLITTLE, Mrs. EMERSON, Mr. GOODE, Mr. HALL of Texas, Mr. HERGER, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. LAHOOD, Mr. MCCRERY, Mr. MCINTOSH, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PITTS, Mr. SANFORD, Mr. SCHAFFER, Mr. SHIMKUS, Mr. TALENT, Mr. TERRY, Mr. BURTON of Indiana, and Mr. TANCREDO):

H.J. Res. 53. A joint resolution proposing an amendment to the Constitution of the United States to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Ms. DANNER (for herself and Mr. BEREUTER):

H.J. Res. 54. A joint resolution granting the consent of Congress to the Missouri-Nebraska Boundary Compact; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H. Con. Res. 105. Concurrent resolution authorizing the Law Enforcement Torch Run for the 1999 Special Olympics World Games to be run through the Capitol Grounds; to the Committee on Transportation and Infrastructure.

By Mr. HASTINGS of Florida:

H. Con. Res. 106. Concurrent resolution expressing the regret and apologies of the Congress for the accidental bombing by the North Atlantic Treaty Organization (NATO) of the Chinese Embassy in Belgrade; to the Committee on International Relations.

By Mr. SALMON (for himself, Mr. DELAY, Mr. PITTS, and Mr. WELDON of Florida):

H. Con. Res. 107. Concurrent resolution expressing the sense of Congress rejecting the conclusions of a recent article published by the American Psychological Association that suggests that sexual relationships between adults and children might be positive for children; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself, Mr. GEJDENSON, and Mr. SMITH of New Jersey):

H. Res. 168. A resolution recognizing the Foreign Service of the United States on the occasion of its 75th anniversary; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

66. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Concurrent Resolution No. 107 memorializing the Congress of the United States to pass, and the President of the United States to sign into law, H.R. 351 or similar legislation which would ensure that the federal government will not seek to recoup any monies recovered by the states from the tobacco companies as a result of the national tobacco settlement or individual state settlements; to the Committee on Commerce.

67. Also,a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution 27 requesting that the Congress of the United States appropriate the necessary funds to complete the Wood River Flood Control Project; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. GRAHAM and Mr. BARR of Georgia.

H.R. 7: Mr. FORBES.

H.R. 14: Mr. LUCAS of Oklahoma.

H.R. 27: Mr. LUCAS of Kentucky and Mr. KUYKENDALL.

H.R. 38: Mrs. EMERSON.

H.R. 47: Mrs. EMERSON.

H.R. 48: Mr. MCKEON.

H.R. 49: Mrs. EMERSON and Mr. MICA.

H.R. 110: Ms. WOOLSEY, Ms. LEE, Ms. BALDWIN, and Mr. TOWNS.

H.R. 116: Mr. UDALL of New Mexico.

H.R. 126: Mr. PALLONE.

H.R. 212: Mr. MCDERMOTT, Mr. LUCAS of Oklahoma, Mr. HALL of Ohio, Mr. RANGEL, Mr. LUTHER, and Mr. BLUNT.

H.R. 274: Mr. LAHOOD, Mr. GILCHREST, Ms. PELOSI, Mr. MENENDEZ, Mr. PASTOR, Mr. LUCAS of Kentucky, Mr. SESSIONS, Ms. HOOLEY of Oregon, Mr. MARTINEZ, Mr. DELAHUNT, Mr. ORTIZ, and Mr. PRICE of North Carolina.

H.R. 288: Mrs. EMERSON.

H.R. 417: Mr. SAXTON.

H.R. 457: Ms. BERKLEY, Ms. DELAURO, and Mr. WATT of North Carolina.

H.R. 483: Mr. CLYBURN, Mr. ANDREWS, and Mr. GEJDENSON.

H.R. 486: Mr. WICKER and Mr. KUCINICH.

H.R. 488: Mr. DIXON.

H.R. 516: Ms. RIVERS.

H.R. 518: Ms. RIVERS.

H.R. 541: Mr. GUTIERREZ.

H.R. 555: Mr. VENTO and Mrs. MALONEY of New York.

H.R. 557: Mr. ENGLISH and Mr. MURTHA.

H.R. 614: Mr. SCHAFFER.

H.R. 625: Ms. KILPATRICK.

H.R. 685: Ms. MCCARTHY of Missouri and Ms. BERKLEY.

H.R. 693: Mr. PHELPS.

H.R. 716: Mr. DUNCAN and Mr. MCINNIS.

H.R. 730: Mr. LUTHER.

H.R. 735: Mr. LAHOOD and Mr. GARY MILLER of California.

H.R. 743: Mr. BARR of Georgia.

H.R. 764: Mr. BONIOR, Mr. PITTS, Mr. BLILEY, and Mr. GARY MILLER of California.

H.R. 827: Ms. PELOSI and Mr. MATSUI.

H.R. 828: Mr. HOEKSTRA.

H.R. 840: Mr. MCGOVERN, Mrs. MINK of Hawaii, Mr. RUSH, and Mr. UNDERWOOD.

H.R. 845: Mr. ENGEL.

H.R. 853: Mr. LINDER and Mr. BARR of Georgia.

H.R. 872: Mr. MEEHAN and Mr. GUTIERREZ.

H.R. 883: Mr. PEASE, Mr. THUNE, Mr. HOLDEN, Mr. CHAMBLISS, Mr. HANSEN, Mr. MCCOLLUM, and Mr. GEKAS.

H.R. 895: Mr. HOUGHTON, Mr. JEFFERSON, and Mr. LUTHER.

H.R. 900: Mr. RUSH, Mr. PALLONE, Mr. DIXON, Mr. LANTOS, Mr. MEEKS of New York, Mr. WAXMAN, Mr. WYNN, Mr. HINOJOSA, Mr. STENHOLM, and Mrs. MEEK of Florida.

H.R. 937: Mr. LARGENT.

H.R. 957: Mr. SESSIONS, Mr. BOEHLERT, Mr. PEASE, and Mr. GREEN of Wisconsin.

H.R. 1001: Mr. COOKSEY, Mr. THOMAS, and Mr. BATEMAN.

H.R. 1012: Mrs. NORTHUP, Mr. WYNN, Mr. EHRLICH, Mr. TANCREDO, Mr. DEMINT, Mr. SOUDER, Mr. SAM JOHNSON of Texas, and Mr. HALL of Texas.

H.R. 1052: Mrs. MEEK of Florida, Mr. ANDREWS, Mr. PAYNE, Mr. BOEHLERT, Mr. HOLT, Mr. GREEN of Texas, Mr. CAPUANO, and Mr. ROHRABACHER.

H.R. 1057: Mr. BONIOR, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. OLVER, Ms. RIVERS, and Mr. ACKERMAN.

H.R. 1070: Mr. SWEENEY, Mr. OSE, Mr. LUCAS of Kentucky, Mr. PORTMAN, Ms. DUNN, Mr. UDALL of New Mexico, Mr. BLUMENAUER, Mr. LAFALCE, and Mr. MORAN of Virginia.

H.R. 1071: Mr. PASTOR and Ms. STABENOW.

H.R. 1098: Mr. MCINTOSH.

H.R. 1130: Mrs. CHRISTENSEN, Mr. LUTHER, and Mr. QUINN.

H.R. 1154: Mrs. TAUSCHER and Mr. GOODE.

H.R. 1168: Mrs. MINK of Hawaii, Mr. DEFAZIO, Mr. PRICE of North Carolina, Mr. WEINER, and Mrs. EMERSON.

H.R. 1180: Ms. BERKLEY, Ms. DELAURO, Mr. GREEN of Wisconsin, and Mr. MORAN of Virginia.

H.R. 1194: Mr. KOLBE and Ms. KILPATRICK.

H.R. 1205: Mr. UPTON.

H.R. 1214: Ms. KILPATRICK and Mr. LUTHER.

H.R. 1217: Mr. LUCAS of Kentucky, Mr. JOHN, Mr. DEUTSCH, Mr. BARCIA, Mr. MALONEY of Connecticut, Mr. WEINER, Mr. CRAMER, Mr. BAIRD, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. HOLT, Ms. CARSON, and Mr. SAXTON.

H.R. 1222: Mr. GONZALEZ.

H.R. 1259: Mr. FOLEY, Mr. TERRY, and Mr. RYAN of Wisconsin.

H.R. 1298: Mrs. EMERSON.

H.R. 1300: Mr. DIXON, Mrs. FOWLER, Mr. SMITH of Washington, Mr. HASTINGS of Florida, Mr. ROEMER, and Mr. CHAMBLISS.

H.R. 1320: Mr. UNDERWOOD.

H.R. 1329: Mr. BILBRAY and Mr. HOUGHTON.

H.R. 1332: Mr. GUTIERREZ.

H.R. 1349: Mr. GREEN of Wisconsin and Mr. CONDIT.

H.R. 1350: Mrs. KELLY, Mr. HASTINGS of Florida, Mr. RANGEL, Mr. CONYERS, and Mr. DIXON.

H.R. 1385: Mr. OBERSTAR, Mr. BLUNT, Mr. COOKSEY, Mrs. TAUSCHER, Mr. BOYD, and Mr. DELAHUNT.

H.R. 1402: Mr. WAMP, Mr. KILDEE, Mrs. NORTHUP, Mr. HAYWORTH, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN of Texas, Mr. TRAFICANT, Mr. BRADY of Texas, Mr. CLAY, Mr. HILL of Montana, Mr. LARGENT, Mr. GOODLATTE, and Mr. NEAL of Massachusetts.

H.R. 1408: Mr. ROYCE and Mr. JEFFERSON.

H.R. 1445: Mr. SHERMAN, Mr. NEAL of Massachusetts, Mr. BARRETT of Nebraska, Mr. KENNEDY of Rhode Island, and Mrs. KELLY.

H.R. 1476: Ms. CARSON.

H.R. 1484: Mr. GREEN of Texas.

H.R. 1491: Mr. MCGOVERN.

H.R. 1496: Mrs. EMERSON, Mr. MOORE, and Mr. MCKEON.

H.R. 1507: Mr. HAYWORTH and Mr. SALMON.

H.R. 1514: Mr. BONIOR and Ms. STABENOW.

H.R. 1590: Mr. OBEY and Mrs. CHRISTENSEN.

H.R. 1620: Mr. ARMEY, Mr. BACHUS, Mr. CANADY of Florida, Mr. EHLERS, Mr. HEFLEY, Mr. HOBSON, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SOUDER, Mr. TIAHRT, and Mr. WELDON of Florida.

H.R. 1622: Mrs. MORELLA, Mr. WAXMAN, Mr. DICKS, Mr. CAPUANO, Mr. DOYLE, Mr. FARR of California, Mr. BLUMENAUER, Mr. MORAN of Virginia, and Mr. DEFAZIO.

H.R. 1627: Mrs. CHRISTENSEN.

H.R. 1676: Mr. BARRETT of Wisconsin, Mr. SANDERS, Mr. FROST, Ms. KILPATRICK, and Mrs. JONES of Ohio.

H.R. 1678: Mr. MCHUGH, Mr. MCNULTY, and Mr. WALSH.

H.R. 1679: Mr. MCHUGH and Mr. WALSH.

H.R. 1710: Mr. GILMAN.

H.R. 1751: Mr. FARR of California.

H. Con. Res. 60: Mr. TANCREDO, Mr. BISHOP, and Mr. SHAYS.

H. Con. Res. 75: Ms. KILPATRICK, Mr. VENTO, and Mr. OBERSTAR.

H. Con. Res. 78: Mr. LANTOS, Ms. HOOLEY of Oregon, Mr. SABO, Mr. TIERNEY and Mr. HOYER.

H. Res. 41: Mr. DEMINT.

H. Res 62: Mr. WOLF.

H. Res. 90: Ms. KILPATRICK, Ms. NORTON, Ms. FROST, and Mr. UNDERWOOD.

H. Res. 92: Mr. NCNULTY.

H. Res. 109: Mr. REYES, Mr. LUCAS of Kentucky, Mr. CLEMENT, Mr. LUCAS of Oklahoma, Mr. SIMPSON, and Mr. SUNUNU.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 329: Mr. SHOWS.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1555

OFFERED BY: MR. BARR OF GEORGIA

AMENDMENT NO. 1: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to Congress a report in unclassified form describing the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance.

(b) MATTERS SPECIFICALLY ADDRESSED.—The report shall specifically include a statement of each of the following legal standards:

(1) The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.

(2) The legal standards for intentional targeting of the communications to or from United States persons.

(3) The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.

(4) The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.

(c) INCLUSION OF LEGAL MEMORANDA AND OPINIONS.—The report under subsection (a) shall include a copy of any legal memoranda, opinions, and other related documents with respect to the conduct signals intelligence activities, including electronic surveillance by elements of the intelligence community, prepared by the Office of the General Counsel of the National Security Agency or by the Office of General Counsel of the Central Intelligence Agency.

(d) DEFINITION.—As used in this section:

(1) The term ''intelligence community'' has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term ''United States persons'' means a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.

H.R. 1555

OFFERED BY: MR. BARR OF GEORGIA

AMENDMENT NO. 2: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to the appropriate congressional committees a report in classified and unclassified form describing the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance.

(b) MATTERS SPECIFICALLY ADDRESSED.—The report shall specifically include a statement of each of the following legal standards:

(1) The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.

(2) The legal standards for intentional targeting of the communications to or from United States persons.

(3) The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.

(4) The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.

(c) INCLUSION OF LEGAL MEMORANDA AND OPINIONS.—The report under subsection (a) shall include a copy of all legal memoranda, opinions, and other related documents in unclassified, and if necessary, classified form with respect to the conduct of signals intelligence activities, including electronic surveillance by elements of the intelligence community, utilized by the Office of the General Counsel of the National Security Agency, by the Office of General Counsel of the Central Intelligence Agency, or by the Office of Intelligence Policy Review of the Department of Justice, in preparation of the report.

(d) DEFINITION.—As used in this section:

(1) The term ''intelligence community'' has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term ''United States persons'' has the meaning given such term under section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

(3) The term ''appropriate congressional committees'' means the Permanent Select

Committee on Intelligence and the Committee on the Judiciary of the House of Representatives, and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

H.R. 1555

OFFERED BY: MR. ENGEL

AMENDMENT NO. 3: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON KOSOVA LIBERATION ARMY.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report (in both classified and unclassified form) on the organized resistance in Kosova known as the Kosova Liberation Army. The report shall include the following:

(1) A summary of the history of the Kosova Liberation Army.

(2) As of the date of the enactment of this Act—

(A) the number of individuals currently participating in or supporting combat operations of the Kosova Liberation Army (fielded forces), and the number of individuals in training for such service (recruits);

(B) the types, and quantity of each type, of weapon employed by the Kosova Liberation Army, the training afforded to such fielded forces in the use of such weapons, and the sufficiency of such training to conduct effective military operations; and

(C) minimum additional weaponry and training required to improve substantially the efficacy of such military operations.

(3) An estimate of the percentage of funding (if any) of the Kosova Liberation Army that is attributable to profits from the sale of illicit narcotics.

(4) A description of the involvement (if any) of the Kosova Liberation Army in terrorist activities.

(5) A description of the number of killings of noncombatant civilians (if any) carried out by the Kosova Liberation Army since its formation.

(6) A description of the leadership of the Kosova Liberation Army, including an analysis of—

(A) the political philosophy and program of the leadership; and

(B) the sentiment of the leadership toward the United States.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section, the term ''appropriate congressional committees'' means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

H.R. 1555

OFFERED BY: MR. HINCHEY

AMENDMENT NO. 4: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY IN CHILE.

(a) IN GENERAL.—By not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report describing all activities of officers, covert agents, and employees of all elements in the intelligence community with respect to the following events in the Republic of Chile:

(1) The assassination of President Salvador Allende in September 1973.

(2) The accession of General Augusto Pinochet to the Presidency of the Republic of Chile.

(3) Violations of human rights committed by officers or agents of former President Pinochet.

(b) DOCUMENTATION.—(1) The report submitted under subsection (a) shall include copies of unedited documents in the possession of any such element of the intelligence community with respect to such events.

(2) Any provision of law prohibiting the dissemination of classified information shall not apply to documents referred to in paragraph (1).

(c) DEFINITION.—In this section, the term ''appropriate congressional committees'' means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives, and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

H.R. 1555

OFFERED BY: MR. RYUN OF KANSAS

AMENDMENT NO. 5: At the end, add the following new title:

TITLE VI—ESTABLISHMENT OF COUNTERINTELLIGENCE PROGRAM AT NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

SEC. 601. COUNTERINTELLIGENCE PROGRAM.

(a) ESTABLISHMENT AT EACH LABORATORY.—The Secretary of Energy, acting through the Director of the Office of Counterintelligence of the Department of Energy, shall establish a counterintelligence program at each of the national laboratories. The counterintelligence program at each such laboratory shall have a full-time staff assigned to counterintelligence functions at that laboratory, including such personnel from other agencies as may be approved by the Director. The counterintelligence program at each such laboratory shall be under the direction of, and shall report to, the Director.

(b) PROHIBITION ON ENTRY ON CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Subject to paragraph (2), a counterintelligence program carried out under subsection (a) shall prohibit the entrance to a national laboratory of any individual who is a citizen of a nation that is named on the sensitive countries list maintained by the Department. Such prohibition shall apply during the one-year period beginning on the date of the enactment of this Act.

(2) WAIVER AUTHORITY.—The Director may waive the prohibition in paragraph (1) on a case-by-case basis with respect to specific individuals whose admission to a national laboratory is determined by the Secretary to be necessary for the national security of the United States. In the case of a waiver granted by the Director under this paragraph, by not later than five days after granting the waiver, the Director shall submit to the appropriate committees a report describing the waiver and including such information as the Director determines appropriate.

(c) INVESTIGATION OF PAST SECURITY BREACHES.—The Director shall require that the counterintelligence program at each laboratory include a specific plan to investigate any breaches of security discovered after the date of the enactment of this Act that occurred at that laboratory before the establishment of that program at that laboratory.

(d) REQUIRED BACKGROUND CHECKS ON ALL FOREIGN VISITORS.—Before an individual who is a citizen of a foreign nation is allowed to enter a national laboratory, the Director shall require that a security clearance investigation (known as a ''background check'') be carried out on that individual.

(e) REPORT TO CONGRESS.—The Secretary, after consultation with the Director, shall submit to the appropriate committees a report on the status of counterintelligence activities at each of the national laboratories. The report shall be submitted not earlier than the end of the six-month period beginning on the date of the enactment of this Act and shall include the recommendation of the Secretary as to whether subsection (b) should be repealed.

(f) DEFINITIONS.—

For purposes of this section:

(1) The term ''national laboratory'' means any of the following:

(A) The Lawrence Livermore National Laboratory, Livermore, California.

(B) The Los Alamos National Laboratory, Los Alamos, New Mexico.

(C) The Sandia National Laboratories, Albuquerque, New Mexico.

(2) The term ''sensitive countries list'' means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

(3) The term ''appropriate committees'' means the Select Committee on Intelligence and the Committee on Armed Services of the Senate, and the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 6: At the end of title I, add the following new section:

SEC. 106. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the intelligence Authorization Act for Fiscal Year 1999.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 7: At the end of title I (page 8, after line 17), insert the following new section:

SEC. 106. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED; REPORT.

(a) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1999.

(2) EXCEPTION.—Paragraph (1) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

(b) REPORT.—

(1) STUDY.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a detailed, comprehensive report in unclassified form on the matter described in paragraph (2).

(2) MATTERS STUDIED.—(A) The bombing in March 1991 by the Armed Forces of the United States during the Persian Gulf War of a weapons and nerve gas storage bunker in

Khamisiyah, Iraq, and errors committed by the agency with respect to the location and contents of such bunker and the failure to disclose the proper location and contents to the Secretary of Defense.

(B) Errors with respect to maps of the Aviano, Italy, area prepared by the Central Intelligence Agency and used by aviators in the Armed Forces of the United States which may have resulted on February 3, 1998, in the accidental severing of a cable car device by a United States military aircraft on a training mission, which resulted in the deaths of twenty civilians.

(C) Errors with respect to maps of the Belgrade, Yugoslavia, area which resulted on May 7, 1999, in the accidental bombing of the Embassy of the People's Republic of China by forces under the command of North Atlantic Treaty Organization and the deaths of three civilians.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 8: At the bill, add the following new title:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1999.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by Section 201.

SEC. 602. REPORT ON EFFICACY OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a detailed, comprehensive report in unclassified form on the matters described in subsection (b).

(b) MATTERS STUDIED.—Matters studies for the report under subsection (a) shall include the following:

(1) The bombing in March 1991 by the Armed Forces of the United States during the Persian Gulf War of a weapons and nerve gas storage bunker in Khamisiyah, Iraq, and errors committed by the Central Intelligence Agency with respect to the location and contents of such bunker and the failure to disclose the proper location and contents to the Secretary of Defense.

(2) Errors with respect to maps of the Aviano, Italy, area prepared by the Central Intelligence Agency and used by aviators in the Armed Forces of the United States which may have resulted on February 3, 1998, in the accidental severing of a cable car device by a United States military aircraft on a training mission, which resulted in the deaths of twenty civilians.

(3) Errors with respect to maps prepared by the Central Intelligence Agency of the Belgrade, Yugoslavia, area which resulted on May 7, 1999, in the accidental bombing of the Embassy of the People's Republic of China by forces under the command of North Atlantic Treaty Organization and the deaths of three civilians.

(c) RECOMMENDATIONS.—The report under subsection (a) shall contain recommendations for such legislation and administrative actions as the Director determines appropriate to avoid similar errors by the Central Intelligence Agency.

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 9: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking ''an officer or employee'' and inserting ''a present or retired officer or employee''; and

(2) by striking ''a member'' and inserting ''a present or retired member''.

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 10: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

(a) IN GENERAL.—Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking ''an officer or employee'' and inserting ''a present or retired officer or employee''; and

(2) by striking ''a member'' and inserting ''a present or retired member''.

(b) IMPOSITION OF MINIMUM PRISON SENTENCES FOR VIOLATIONS.—Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended—

(1) in subsection (a), by inserting ''not less than five and'' after ''or imprisoned'';

(2) in subsection (b), by inserting ''not less than 30 months and'' after ''or imprisoned''; and

(3) in subsection (c), by inserting ''not less than 18 months and'' after ''or imprisoned''.

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 11. At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF COVERT AGENTS THROUGH IMPOSITION MINIMUM PRISON SENTENCES FOR UNAUTHROIZED DISCLOSURE OF THAT IDENTITY.

Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended—

(1) in subsection (a), by inserting ''not less than five and'' after ''or imprisoned'';

(2) in subsection (b), by inserting ''not less than 30 months and'' after ''or imprisoned''; and

(3) in subsection (c), by inserting ''not less than 18 months and'' after ''or imprisoned''.

H.R. 1555

OFFERED BY: MR. THORNBERRY

AMENDMENT NO. 12. At the end of the matter proposed to be added by the amendment, add the following new section:

SEC. 602. REPORTS TO CONGRESS ON FOREIGN VISITORS TO NATIONAL LABORATORIES.

(a) Background Checks on All Foreign Visitors.—(1) Notwithstanding any other provision of this Act relating to counterintelligence programs for a national laboratory, before any individual who is a citizen of a foreign nation may enter a national laboratory, the Director of the Office of Counterintelligence of the Department of Energy shall determine whether a security clearance investigation (known as ''background check'') is required to be carried out on that individual.

(2) The Director shall have sufficient opportunity to review all such individuals and sufficient time to conduct background checks and other investigative checks as appropriate before entry to a national laboratory may take place.

(3) The Director shall submit to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate by the 15th of each month a report on the foreign visitors program that includes the following information:

(A) The identity of each such individual allowed to enter a national laboratory during the previous month.

(B) The nature and duration of the visit to the laboratory.

(C) Whether a background check was performed on that individual.

(b) ADDITIONAL PROVISIONS REGARDING FOREIGN VISITORS.—Notwithstanding any other provision of this Act relating to counterintelligence programs for a national laboratory, the following provisions apply:

(1) MORATORIUM.—Subject to paragraphs (2) and (3), the Secretary of Energy may not allow the admittance to any facility of a national laboratory of any individual who is a citizen of a nation that is named on the current Department of Energy sensitive countries list.

(2) WAIVER AUTHORITY.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis with respect to specific individuals whose admission to a national laboratory is determined by the Secretary to be necessary for the national security of the United States. In the case of a waiver granted by the Secretary under this paragraph, by not later than five days after granting the waiver, the Secretary shall submit to the appropriate committees a report describing the waiver and including such information as the Secretary determines appropriate.

(3) TERMINATION OF MORATORIUM.—(A) The moratorium under paragraph (1) shall cease to be in effect when the Secretary of Energy, after consultation with the Director of the Federal Bureau of Investigation, submits to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a certification in writing of the following:

(i) That a fully functioning counterintelligence program is implemented and operating at each national laboratory as required in this section, and that each such counterintelligence program complies with the requirements of Presidential Decision Directive number 61.

(ii) That all personnel of the Department of Energy with access to classified information have been trained in appropriate security measures, including, secure computer operations.

(iii) That a system has been established by which the Secretary will act promptly to address any suspected compromise of classified information.

(B) If, at any time after the enactment of this Act, the Secretary determines that proper counterintelligence safeguards are not in place at the national laboratories, or if the Secretary determines that foreign visitors detract in any way from a completely functional counterintelligence program at the national laboratories, the Secretary shall suspend all foreign visits to the national laboratories in accordance with the paragraph (1). In the case of any suspension under this paragraph, the Secretary shall submit notice to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

H.R. 1555

OFFERED BY: MS. WATERS

AMENDMENT NO. 13: At the end, add the following new title:

TITLE VI—PROHIBITION ON DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY

SEC. 601. PROHIBITION ON DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) PURPOSES.—It is the purpose of this section—

(1) to prohibit the Central Intelligence Agency and other intelligence agencies and their employees and agents from participating in drug trafficking activities, including the manufacture, purchase, sale, transport, or distribution of illegal drugs; conspiracy to traffic in illegal drugs; and arrangements to transport illegal drugs; and

(2) to require the employees and agents of the Central Intelligence Agency and other intelligence agencies to report known or suspected drug trafficking activities to the appropriate authorities.

(b) PROHIBITION ON DRUG TRAFFICKING.—No element of the intelligence community, or any employee of such an element, may knowingly encourage or participate in drug trafficking activities.

(c) MANDATE TO REPORT.—Any employee of an element of the intelligence community having knowledge of facts or circumstances that reasonably indicate that any employee of such an element is involved with any drug trafficking activities, or other violations of United States drug laws, shall report such knowledge or facts to the appropriate official.

(d) DEFINITIONS.—As used in this section:

(1) DRUG TRAFFICKING ACTIVITIES.—

(A) IN GENERAL.—The term ''drug trafficking activities'' means the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer illegal drugs (as those terms are applied under section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)).

(B) INCLUSIONS.—Such term includes arrangements to allow the use of federally owned or leased vehicles, or other means of transportation, for the transport of illegal drugs.

(2) ILLEGAL DRUGS.—The term ''illegal drugs'' means controlled substances (as that term is defined section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) included in schedule I or II under part B of title II of such Act.

(3) EMPLOYEE.—The term ''employee'' means an individual employed by an element of the intelligence community, and includes the following individuals:

(A) Employees under a contract with such an element.

(B) Covert agents, as that term is defined in paragraph (4) of section 606 of the National Security Act of 1947 (50 U.S.C. 426).

(C) An individual acting on behalf, or with the approval, of an element of the intelligence community.

(4) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given that term under paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(5) APPROPRIATE OFFICIAL.—The term ''appropriate official'' means the Attorney General, the Inspector General of the element of the intelligence community (if any), or the head of such element.

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PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, WEDNESDAY, MAY 12, 1999 No. 68

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You have told us that as a person thinks so is he or she. You have given us minds to think, evaluate, and make decisions. Today, we praise You for the gift of intellect and the ability to learn. We want to love You with our minds. Clear away any debilitating memories that haunt us, preventing us from thinking clearly about present challenges. Give us Your mind about issues. Free us from muddled, fuzzy, or negative thinking. Make us receptive to new insight from You communicated by others, even though they may represent a different point of view. We want to be hopeful thinkers who know that we have barely begun to realize Your truth.

Today, gracious Lord, we are grateful for the life and distinguished career of Adm. James Nance, and we grieve over his death. Thank you for his leadership as staff director of the Committee on Foreign Relations. Be with his family.

And now, Dear God, we commit this day to You. Inspire our minds with Your Spirit. Bless the Senators and those who advise them and those who assist them in carrying out the heavy responsibilities of their office. Here are our minds. We want our thinking to be a vital part of Your plan for our world today. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

SCHEDULE

Mr. HATCH. Mr. President, this morning the Senate will resume consideration of the juvenile justice legislation. Pending is the Leahy amendment with a 1-hour debate limitation. Therefore, Senators can expect the first vote of today's session at approximately 10:30 a.m. Following the disposition of the Leahy amendment, Senator BROWNBACK will be recognized to offer a code of conduct amendment with the time for a vote to be determined. It is hoped that significant progress can be made on this bill, and therefore Senators can expect votes throughout today's session of the Senate with the possibility of votes into the evening.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 254, which the clerk will report.

The bill clerk read as follows:

A bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile individuals, punish and deter violent gang crime, and for other purposes.

Pending:

Leahy Amendment No. 327, to promote effective law enforcement.

AMENDMENT NO. 327

The PRESIDING OFFICER. There will now be 1 hour for debate on the Leahy amendment No. 327 to be equally divided in the usual form.

Mr. HATCH. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without it being charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. President, I understand we are now on the Leahy amendment to S. 254.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I thank the Chair.

Mr. President, this amendment is intended to address the problem of youth violence with tough law enforcement initiatives at the Federal level, with assistance to State and local law enforcement, proven prevention programs for juvenile delinquency, and measures to keep guns out of the hands of children.

Many of the proposals in this amendment were part of a bill I introduced, along with Senator DASCHLE and other Democratic Members, last year in the Safe Schools, Safe Streets and Secure Borders Act of 1998. That was S. 2484. We have introduced it this year as S. 9.

These are carefully crafted proposals. They were not done as knee-jerk responses to the school shootings, or even the most bloody murders in Littleton. We talked with prosecutors and police officers and teachers and everybody else in putting these proposals together. The series of proposals in the amendment have been ready since last year, but this is our first opportunity to present them to the Senate for discussion and a vote. While these proposals predated the events at Columbine High School, it escapes nobody's notice that the events at the high school give them added urgency.

This amendment is part of the Democratic multipronged agenda for action that embraces tough and more aggressive law enforcement initiatives, plus those initiatives in our other amendments to help teachers, counselors, parents, and children with afterschool

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

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programs, with effective and proven school safety strategies and, of course, treatment programs for high-risk youth. It faces the reality that we live in a different world, not like when I was going to school, or when most of us in this Chamber went to school. It is a complex world and you do not attack the problems of it on just one front; you have to attack them on many.

We Democrats look forward to the Senate debating and taking action on proposals that can be enacted now and working over the long haul on additional structural remedies. No matter what legislation we pass this week, we also need long-term solutions to school violence. These solutions include getting smaller classrooms; smaller schools—not these schools that are cities in and of themselves where students don't even know each other and the teachers don't know them—helping parents spend more time supervising their children, realizing that is the bond that is often broken in today's society; and working constructively with the movie, television, and video game industries to adopt rating systems that parents can understand and use.

This law enforcement amendment is substantial and comprehensive. It has five separate parts. I will highlight a few of the important proposals in this amendment. It addresses some of the same subject matter areas as S. 254. I will highlight some of the differences in our approaches.

In the area of federalization, my amendment also proposes reforms in the Federal juvenile justice system. We do so without Federalizing run-of-the-mill juvenile offenses and ignoring the traditional prerogative of the States to handle the bulk of juvenile crime. Too often when we have talked about crime on the Senate floor in recent years, we basically have told the States, the State legislatures, State law enforcement, and State prosecutors, that they are irrelevant, that we will run everything out of Washington, and the Federal Government knows better. I don't believe that.

My proposal for reforming the Federal juvenile justice system heeds the advice of Chief Justice Rehnquist and the Federal judiciary and reflects the proper respect for our Federal system.

Let me explain. My amendment retains the provision in current law which establishes a clear presumption that the States should handle most juvenile offenders. S. 254 repeals that provision.

Furthermore, current law directs that most juveniles ''shall'' not be proceeded against in Federal court, unless the Attorney General certifies certain things—in most cases, that the State does not or refuses to exercise jurisdiction over the juvenile. Judges may review that certification to see whether the threshold for exercise of Federal jurisdiction has been met. S. 254 changes that.

As I mentioned in my statement yesterday, the bill before us gives conflicting signals. S. 254 contains one welcome change over S. 10 from the last Congress by requiring the Attorney General or the U.S. attorney, depending on the charge, to ''exercise a presumption in favor of referral'' of juvenile cases to the appropriate State or tribal authorities, where there is ''concurrent jurisdiction.'' But, in contrast to the law today, that certification is not reviewable by any court. My amendment would continue to permit such court review in most cases but not cases involving serious violence or drug offenses.

Because of the repeal of the important State presumption provision and the lack of review of the Federal prosecutor's decision to proceed against a juvenile federally, many rightly fear that the State prerogative to handle juvenile offenders will be undermined by this bill. My amendment would not do that. Basically, what I am saying is that we are not going to stand in the U.S. Senate and tell the 50 State legislatures that they are irrelevant and tell the prosecutors of the 50 States that they are irrelevant because 100 U.S. Senators know better and we can do it better from Washington.

Ironically enough, some of the same people who will vote for something that would take it away from the States and turn it over to Washington are the same ones who go back to their States and give great speeches about: We know better here in our State, and we don't need Washington to tell us what to do. And then they come up here time after time and vote to federalize cases that are being handled by the State courts and make irrelevant the State legislatures, State prosecutors, and State law enforcement. Sooner or later, some of those speeches are going to catch up with us and haunt us.

Our law enforcement officials should be proud of the decline of the violent crime rate and murder rate we have experienced since 1993, because it is largely due to their efforts and innovative programs like the COPS Program and community policing. There is nothing like seeing a police officer on the corner to make a criminal move on. We want that decline to continue, particularly in schools. Certainly, it does not take a criminologist to know that if you have the presence of the police, crime will go elsewhere, or not occur at all.

The strong bipartisan report for this proposal was demonstrated yesterday on passage of the amendment by Senator GREGG, which was cosponsored by Senator BOXER and myself. That amendment set up a new grant program with eligibility requirements to put cops in schools. The proposal in my amendment would expand the COPS Program and waive the matching non-Federal fund requirement to put more police in and around our schools.

My approach builds on a program with a proven track record. It is not a hypothetical. The States are familiar with it. We, at the State level, know how it works. This amendment extends grants to local law enforcement for other programs, such as rural drug enforcement and Byrne grant funding.

My amendment also provides, in section 124, funding for the juvenile State court prosecutors. Yesterday, the Senate passed the Hatch-Biden-Sessions amendment which authorizes $50 million per year for prosecutors. As I pointed out yesterday, this amendment does not authorize any additional money for judges, public defenders, counselors, or correctional officers. By leaving them out, you could end up exacerbating the backlog in the juvenile justice system rather than helping it, because it requires all those parts within the juvenile justice system to make it work.

In contrast to Hatch-Biden-Sessions, my amendment authorizes funding for ''increased resources to State juvenile court systems, juvenile prosecutors, juvenile public defenders, and other juvenile court system personnel.'' I hope that will be something my distinguished friend from Utah, the exemplary chairman of the Senate Judiciary Committee, might support.

We need to do more to protect our children from drugs. My drug amendment would increase certain penalties for drug sales to children or near schools or for using children in the illegal drug trade.

As terrible as it sounds, Mr. President, we see this—where children are being used in the drug trade and where they abuse children as runners for distributors. It is one of the cruelest, most cynical things that can be done.

We also establish juvenile drug courts that are modeled on the successful drug court programs for adults, because it gives special attention to supervision and treatment of offenders, and how to get them clean.

It doesn't do any good to simply prosecute a drug offender if they are going to come back out and be just as addicted. We should try to get them off their dependence on drugs.

Let's talk about guns. Everybody tiptoes around this Chamber when it comes to the question of guns. On the one hand, you have people who feel there should be no guns at all, who couldn't even conceive of handling a gun, to those who feel that everybody should walk around with their own arsenal. The reality is somewhere in between.

Growing up in Vermont in a rural State, I grew up with guns. I have owned guns from the time I was a youngster. I went through the usual gun safety courses, became a champion marksman in college, and, in fact, competed in schools all over the country, and still shoot competitive target shooting.

I also taught my two sons and my daughter how to use and enjoy guns safely. We have very strict rules, and still have very strict rules at our home in Vermont in using guns, or in target practice—a lot stricter rules than most gun clubs would have.

But having said all of that, every gun owner, or not, is sickened by the school shootings and the tragic murders of the young children and dedicated teachers.

We recognize we have to take steps to protect our children from gun violence—steps that might go beyond just one parent to their child. Nothing can substitute for parental involvement and supervision.

Let me emphasis that. Most of us know as parents that nothing substitutes for parental involvement and supervision. But we also know we can take constructive steps to keep guns out of the hands of children when they are not under that kind of parental involvement and supervision.

The statement of administration position on S. 254 points out that this bill does not include any provisions on guns, and that this should be part of the broad-based, comprehensive approach to juvenile crime.

This amendment contains a number of proposals to protect children from guns.

I ask Senators: Are you willing to stand up and vote for or against these proposals?

Let me tell you what you are going be voting on, that every Senator is going to determine whether they want to vote for it or against.

We ban the transfer to and possession by juveniles of assault weapons and high-capacity ammunition clips.

Are you for or against that?

We increase criminal penalties for transfers of handguns, assault weapons, and high-capacity ammunition clips to juveniles.

Senators are going to have to ask themselves when they vote on this: Are we for or against that provision?

We ban gun sales to persons who have violent crime records, even if those crimes were committed as juveniles.

Senators, are we for or against this provision?

We increase penalties for certain gun offenses involving minors.

Senators, are you for or against this provision?

We provide grants for the children's gun safety programs and for juvenile gun and youth violence courts with dissemination of model programs via Internet web sites.

Senators, are you for or against this provision?

We expand youth crime gun interdiction efforts in up to 250 cities by the year 2003.

Senators, are you for or against this provision?

We grant priority for tracing of guns used in youth crime, with increased Federal resources dedicated to the enforcement of firearm laws.

Senators, are you for or against this provision?

We have heard that this administration is not enforcing our gun laws. Let's stop the political mudslinging and ignoring of important facts and realize that as Americans we are in this together. The murder rate for juveniles rose sharply in the late 1980s and the early 1990s due to a rise in gun violence. Since then, with some strong programs by this administration, the murder rate is on the decline. In fact, juvenile murder and non-negligent manslaughter arrests declined almost 40 percent between 1993 and 1997.

According to the Justice Department, Federal enforcement has focused on serious firearm offenders. These prosecutions are up 30 percent from 1992—up 30 percent. Federal and State law enforcement are working together more and more resulting in a 25-percent increase in combined annual firearm prosecutions since 1992—a 25-percent increase. The violent crime rate has come down. The murder rate has come down. The prosecution of gun offenses has gone up.

Those are indisputable facts. But having said that, we should strive to improve enforcement of our gun laws. That is why my law enforcement amendment provides $100 million for the next 2 years dedicated to Federal firearm prosecutions.

It also establishes grant programs to replicate successful juvenile crime and truancy prevention programs, such as the program in Boston where they had a terrible, terrible slew of juvenile murders. They started this program and the murders stopped. We can replicate that in other cities.

As an aside, I strongly urge that those who prosecute cases involving weapons—be it at the Federal level or the State level—do what I did as a prosecutor. When I had a case involving a weapon of any sort—a gun, a knife, in a couple of instances a baseball bat—I sought, under our State law, a law that is similar to almost every State, an additional penalty for the use of a weapon. It can be anything that was used as a weapon in the commission of a crime. The word got around pretty quickly that if you used any kind of a weapon in a crime, assault, or burglary, or anything else, you were going to pay some additional penalty and you served additional time.

Finally, we commit resources and attention in this amendment to preventing juvenile crime with grant programs to youth organizations for supervised youth activities and after-school programs.

The amendment would authorize spending $2 billion over the next 2 years on juvenile crime prevention and intervention.

Mr. President, everybody in law enforcement will tell you the same thing. The easiest crime to handle is the crime that never happened. And our crime prevention programs are modeled after what the police and others have told us work the best to prevent crimes.

I do not know and have never worked with a police officer who hasn't told me to help them prevent the crime from happening in the first place—juvenile crime especially. There are proven ways that work.

We are talking about spending billions and billions and billions of dollars more on the Kosovo crisis, along with the billions and billions and billions of dollars we spend in bombing Belgrade and elsewhere. Why don't we take a small part of that and invest it on our children, the safety of our children in a nation of a quarter of a billion people? Why not spend some money to protect our children within our own borders?

Similarly to S. 254, my amendment would reauthorize the Juvenile Justice and Delinquency Prevention Act. But in contrast to S. 254, my amendment preserves intact four core protections for youth in detention, but it also grants flexibility for rural areas.

We can come to the floor of the Senate and vote for feel-good proposals. We can pass resolutions condemning crime and violence—as though any Senator within this debate is for crime and violence; we are all against it. The reality is sometimes more difficult than the rhetoric. We need more than feel-good efforts. Parents and children in this country want concrete proposals. We give them those in this amendment.

As I said earlier, the question will be, Are Senators for or against them? We will have the vote and we will make that determination. These are proposals put together by Senators whose political philosophies go across the spectrum, by law enforcement officials who have testified and given Members their best analyses, by those who have run successful juvenile programs that have lowered juvenile crime and have stopped juvenile violence. We have put all this together. We have taken off any mantles of partisanship. These are proposals that we know work, not pie-in-the-sky but proven proposals.

The American people send Senators here to do a job, to pay taxes, to help parents seek a life where they do not have to fear for their children when they go to school, where parents do not have to fear for their children while they are at school, where there will be some control of juvenile violence. That is what is in this amendment.

How much time remains for the Senator from Vermont?

The PRESIDING OFFICER (Mr. SMITH of Oregon). Seven minutes 45 seconds.

Mr. LEAHY. I reserve the remainder of my time.

Mr. HATCH. Mr. President, I enjoyed listening to my colleague and I appreciate his efforts.

Before I move into the substance of Senator LEAHY's substitute, which is essentially an amendment, I note that we have had very little time to study and consider this amendment. We saw this amendment, which is 211 pages long, for the first time yesterday. The Senate has held no hearings—none whatsoever—on this amendment, nor has the amendment ever been referred to the committee as a bill or otherwise. Consequently, not only has the Senate

not considered Senator LEAHY's substitute, no outside groups in law enforcement or the juvenile justice communities have had the opportunity to examine this amendment. Having said that, that doesn't mean we should not consider it at this time.

By contrast, the Judiciary Committee has worked on S. 254 and its predecessor, S. 10, for more than 2 years. The Youth Violence Subcommittee, under the leadership of Senators SESSIONS and BIDEN, has held numerous hearings on S. 254 and its predecessor. These hearings have examined S. 254 from different angles and perspectives. A variety of experts have testified in favor and in detail about this bill. S. 254 is the most thoroughly considered juvenile crime legislation in my 23 years in the Senate and service on the Judiciary Committee and it has bipartisan support, as we saw yesterday on the vote.

Senator BIDEN, the ranking member of the Youth Violence Subcommittee, one of the leading Senators on crime issues, supports S. 254. We appreciate the efforts he has made. Moreover, the Fraternal Order of Police, the National Sheriffs Association, the International Association of Chiefs of Police, the Boy and Girl Scouts, and the National Collaboration for Youth, among other organizations, have examined S. 254 in detail. These groups have written letters of support for S. 254. Needless to say, these groups have not endorsed Senator LEAHY's substitute, because they have not had a chance to consider the amendment.

I don't mean to imply that this substitute does not contain some good proposals. In certain ways it is similar to S. 254. For example, I commend Senator LEAHY for including funds for juvenile prosecution and drug treatment, but funding for these purposes is already in S. 254. In fact, virtually every basic fund for prevention is in S. 254. Also, this substitute changes procedural reforms to the Federal prosecution of juveniles that are very similar to S. 254, the bill before the Senate. Again, we address this area in the underlying bill.

In particular, the substitute contains a reverse waiver that allows Federal district court judges to reverse any Federal prosecutor's decision to prosecute a juvenile as an adult. Under both S. 254 and Senator LEAHY's substitute, the juvenile defendant must prove by ''clear and convincing evidence'' that he or she should not be tried as an adult.

In short, there is much in the Leahy substitute that Senators will have the opportunity to vote for when we pass S. 254.

Despite some positive provisions, the Leahy substitute is, in my opinion, badly flawed. For example, the Leahy substitute changes the provision to encourage and assist States to upgrade and share juvenile criminal records. One of the major features of our juvenile justice bill is improving criminal records sharing—I might add, that is a uniquely Federal role—but the Leahy amendment does not improve juvenile records in a meaningful way. It would effectively strike the provisions governing the upgrading and improving of juvenile felony records. This is an important part of our bill. We found that if we don't keep these records, people don't realize when violent juveniles reach the age of maturity, or of majority, they don't realize what these young people may have done with regard to violence in their youth.

In addition, the Leahy substitute is not a balanced approach toward the accountability program. It provides only $150 million for accountability programs, such as graduated sanctions and detention for juveniles, out of an annual authorization of $1.86 billion in that bill, in that substitute. In other words, only 8.9 percent of the total funding goes to accountability programs. We all want prevention, but accountability is important, too. I have worked long and hard to remedy what some have thought in the past to be a failure to have enough prevention in these bills, as we are concerned about accountability. So we have made those changes on S. 254 to try to make this a more bipartisan bill for all Members to support.

We need to support and encourage a full range of graduated sanctions from the earliest acts of delinquent behavior to help ensure that early acts of delinquency do not grow into more serious problems.

This chart indicates that the earliest acts of delinquent behavior start at age 7, the green line. That is the average age where behavioral problems really come into focus and start with young people. They continue to grow worse as they get older if there is no effective intervention. The underlying bill, unlike my colleague's substitute, recognizes this and addresses it thoroughly.

Although we showed this chart yesterday, it is worthwhile going over it again and again. People need to understand the history and the probabilities of misbehavior by young people. Minor problems of misbehavior generally start at age 7, usually because of broken families or the lack of a father in the home, with the mother doing her best to try to help the children but having to work generally or, if not working, on welfare. It starts then. It isn't necessarily the child's fault. So we need to do what we can to intervene at that time when we have some of these minor behavior problems. That includes both correction and enforcement.

Now, moderately serious problem behavior really starts gaining focus at 9.5 years. As a child grows to 9.5 years old, if that child has not been helped between 7 and 9.5, you start to get moderately serious problem behavior.

Then it becomes serious delinquency by almost 12 years of age, or 11.9 years of age. Then the first court contact generally, for index offenses—in other words, offenses that are quite serious—happens really at about 14.5 years of age.

This is important stuff, because we have to balance both sides of this equation, not just prevention but accountability as well. If we do not expect young people to be accountable and we don't put the resources into helping them be accountable, they are going to get to 14.5 years and we are going to be left with a hoped-for prevention that really isn't going to work in many cases. It may work, but we almost guarantee it will work if we can require a certain aspect of accountability during these years of age, 7 to 14.5.

That is one of the things we are trying to do in this bill. This is not a partisan bill. This is not a bill that is a triumph of Republican principles over Democrat principles. We have taken the best from both parties and tried to mold it together into a bill that really will work and make a dent in some of these problems that really are despoiling our society.

Prevention programs are not effective unless there are some accountability measures to reinforce them. Providing only 8.9 percent for accountability measures is not a balanced approach. S. 254, by contrast, provides approximately 40 percent for accountability programs. We balance the two.

By the way, we are spending an extra half billion dollars, if we pass the Leahy substitute, an extra half billion dollars on top of what we are spending, which is a monumental amount of money, over $1 billion, $1.1 billion in the Hatch-Biden-Sessions bill. It is important we do the accountability aspects of this.

On what does Senator LEAHY's amendment propose spending funds? In enforcement, it authorizes rural drug training, grants for State courts and prosecutors, and the Byrne Program. All of these are generally worthy programs, and I commend the Senator for recognizing them. Indeed, I have been a vocal critic of the recent efforts of the Clinton administration to cut funding for some of these very same programs. What of the $200 million the Leahy amendment purports to spend on more police officers in schools? This is in reality just an extension of the existing COPS Program, and it is not targeted at juvenile crime. Some COPS funding can of course be used for school security. In fact, Republicans last Congress, led by Senator CAMPBELL, amended the COPS Program to allow its grants to pay for school security officers. But to call this general reauthorization a program dedicated to cops in schools is a bit inaccurate.

What is left of the Leahy amendment? Prevention, which of course we all agree is important, no question about it. The Hatch-Biden-Sessions amendment the Senate adopted yesterday increases our bill's commitment to prevention to $547.5 million per year, as this chart indicates.

Just so we all understand this, from the juvenile crime prevention standpoint, the funding of the OJJDP prevention programs, you can see that in 1994 we spent $107 million on these juvenile justice delinquency prevention programs—$107 million, which many in that year thought was quite a bit of money. I did not. Senator LEAHY did not. I don't think Senator BIDEN did. But the fact is it was $107 million.

We have in 1995 jumped to $144 million, and in 1996 as well. Then in 1997 we went to $170 million; then in 1998, $201.7 million. We have been bringing it up gradually. But look, in our bill we put it up to $267.6 million. As we have gradually worked hard to do, we put it up. Then in our bill, starting in the year 2000, we go all the way up to $547.5 million. We double the money in this bill. That is a lot of money. And we ought to make sure that money works. We should not get into a contest of throwing money at these problems and saying that is going to solve them.

We have a balanced bill here that takes care of the accountability aspects, about 40 percent of our bill, and about 60 percent is for prevention. Those green lines, from 2000 through 2004, represent almost $600 million a year on top of other prevention funds we already have in other programs. So it is not as if we are letting prevention down. In fact, we have balanced it so we have both accountability and prevention.

I might add, our prevention is more balanced than that in the Leahy amendment. Mr. President, $850 million of Senator LEAHY's amendment's ''juvenile crime prevention'' is focused exclusively on crime prevention. I think that is important, but we do that as well. And $400 million of that funding is not even dedicated to the juvenile drug problem. So that bothers me a little bit, too. We are now working on a juvenile drug bill.

Yesterday, we got into a little bit of a hassle on the floor because Senator ROBB and Senator KENNEDY and others wanted to add SAMHSA money, mental health moneys, to this bill. We provide that our prevention moneys can be used for mental health, but we do not try to rewrite in the bill the whole of mental health legislation in this country. We are going to do that later. I will help them do that, because I am as concerned about mental health issues as Senators KENNEDY and ROBB and the others who voted for that. But that is not the purpose of this bill, when we provide that is one of the alternatives, one of the options that State and local governments will have in resolving this.

It is the same thing with juvenile crime prevention and drug prevention. We provide for that in this bill. Moreover, this substitute, the Leahy substitute, is not narrowly focused on the problem we should be debating, and that is juvenile crime. Indeed, of the advertised $3.581 billion over 3 years, by my count, only $1.6 billion, or 45.6 percent, is dedicated to addressing juvenile crime.

We would like to make this bill be a juvenile justice/juvenile crime bill, and not make it a big social spending bill, when we have other programs that literally can be beefed up for those purposes. I am not necessarily against doing that in other programs, but this bill is balanced and we want to keep it that way.

So of the advertised $3.581 billion over 3 years, only $1.6 billion, or 45.6 percent, is dedicated to addressing juvenile crime. My omnibus crime bill, the 21st Century Justice Act, which is S. 899, is a comprehensive approach to our general crime problem. But the bill we are debating today is a juvenile crime bill, and that ought to be our focus, our total focus. If we can pass this bill, we will do more to solve and resolve juvenile crime problems than almost anything we have done in history. That is why it is such an important bill, especially when we have had to go through some of these very difficult times that this country has gone through recently.

In short, the Leahy substitute is no substitute for the effective comprehensive approach to juvenile crime proposed in the underlying Hatch-Biden-Sessions bill. So I urge my colleagues to reject this amendment, as much as it is well intentioned, as much as I respect my colleague. I really do respect my colleague, who works very hard on the Judiciary Committee. I know he is sincere in presenting these matters. But I want this bill to be balanced. I want it to be tough and lean—and work. We have added plenty of money, as you can see. We are jumping those funds dramatically in 1 year to where we have very significant amount of funds. We have doubled them, in essence.

There will be people around here, no matter how much money you spend, who will always want to spend more. There comes a time when you have to do what is best under the circumstances and what is right under the circumstances. That is what will get this bill through both Houses of Congress and will do what really needs to be done for our young people in this society who are troubled and who have difficulties and whom we can save if we pass this bill. We can prevent some of the things that have happened in the past that have literally disrupted our society and hurt so many people.

Finally, S. 254 is supported by real people who took the time to get involved in juvenile justice. For example, more than a year ago, I received a letter from a woman named Cris Owsley in Sunnyside, WA. She wrote about how her son, Shaun, was knifed to death by a 15-year-old attacker in January of 1997. Shaun was just 2 days past his 18th birthday, and he was murdered at his birthday party.

Shaun's parents are courageous people. They took their grief and turned it into activism. Working with other parents and the State legislature, they became advocates for laws that would appropriately punish juveniles like the murderer who killed their son. Then they contacted me and asked what they could do to promote reform nationally. I invited them to Washington last summer where they joined me and others on the Judiciary Committee and numerous law enforcement groups to urge passage of this juvenile crime bill. I am sure they will approve the amendment we adopted yesterday, the Hatch-Biden-Sessions amendment. They have set up a web site to advocate the passage of S. 254. That is how much it means to them and, really, millions of parents across this country.

I close my remarks with this exhibit. This box that I have contains more than 1,000 letters in support of S. 254 generated by these folks. These are real people who have endorsed this bill. Given their support, I urge the Senate to reject the Leahy substitute and support S. 254, and let's get this done. I hope we can move this ahead today and get it done today, because the sooner we get this bill passed, the more likely we are going to have greater tools and greater efforts to resolve some of these problems that are tearing our society apart. This is an extremely important bill. It is a bipartisan bill. It is a bill that will make a difference, and I think we ought to do this as quickly as we can.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, first off, I thank my good friend from Utah for the kind words. I am reminded of Shakespeare and Julius Caesar: I am here not to praise Caesar but to bury him. I think my friend from Utah has expanded on that. He wants to both bury me and praise me. I thank him for one-half of that equation and regret the other half.

I will point out a few errors, though, in his statement. One, this is an amendment. It is not a substitute. It is not intended as a substitute. It would not begin to be a substitute because there are many parts of S. 254 with which I agree.

The distinguished chairman has talked about the hearings on S. 254. In fact, there have been no hearings on S. 254; not one, not one at all. In fact, my amendment, which is basically what was introduced over a year ago and not something that popped out here yesterday, has had just as many hearings as S. 254.

There are things in S. 254 I like. I praised Chairman HATCH for including my reverse waiver in the bill. That is very good. Senator DEWINE of Ohio and I worked on it, and we adopted a technology grant, the DeWine-Leahy-Hatch Law Crime Identification Technology Act that provides a $250 million block grant for States to upgrade their criminal records. It will be funded this year to help States upgrade their criminal history records.

My amendment provides money for both intervention and primary prevention programs because we need primary prevention programs before children get into trouble. In some ways we fail, because the only time we step in is after they get into trouble. Let's stop it before they get into trouble.

The distinguished chairman said that it is a lot of money, that I am adding $½ billion for prevention for children. Let's talk about this. That is a lot of money. That is close to $2 a person in this country. I think the math probably works out to about $1.85 or $1.90 per person every year. That is almost enough to buy a small soda at a movie, or that is almost enough to buy a comic book.

Let's be realistic. To help keep our children out of trouble, can we not afford $1.85 or $1.90 a year? Ask the parents in Littleton, CO, whether they would spend that kind of money, or ask the parents in any town in Vermont, California, Oregon, Utah, or Alabama if they would.

We want to address youth violence and school violence problems in this country. This is a problem that is a lot bigger than just whatever happens in our courts, once the crime has happened, once the juvenile has been apprehended.

We need an approach obviously to handle juvenile crime after it happens, but let's spend that extra $1.85 or $1.90 to try to use programs that have been proven to work, that our own hearings have shown work to prevent a crime from happening in the first place.

How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. LEAHY. I yield 2 minutes of that to the distinguished Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from Vermont.

I rise because I think it is very important to point out to my friend, Senator HATCH from Utah, that what we are trying to do on this side of the aisle, under the leadership of the Senator from Vermont, is put more of a stress on prevention.

Here is the point. The good Senator from Utah, working with Senators LEAHY, BIDEN, and SESSIONS, had an excellent amendment that moved more toward prevention. We, on our side of the aisle, support the enforcement part, the tougher penalties part, but we want to see even more of a balance. There is still an imbalance.

I say to my friend from Utah, and I know he has had a similar experience or I think that he has, if you talk to law enforcement—and I have so many times in my State—they tell me: Senator, once the kids get into these teenage years, until they are 19, 20, 21, it is too late to turn them away from crime. Do more for prevention.

Law enforcement has been the driving force behind my afterschool bill because they understand if the kids get the attention after school, they will not go home, get in trouble, and choose a life of trouble.

What the good Senator from Vermont is doing in this amendment, and I hope he will get bipartisan support, is to say, let's stress prevention as much as we do enforcement. He has pointed out quite eloquently, yes, we are talking about a couple of dollars out of the pockets of the average American every year, a couple of dollars to prevent crime from happening in the first place. I can assure you, Mr. President, it is much cheaper. Many have said, and it is a fact, that it costs more to imprison one of our youngsters than it does to send him or her to Harvard for a year.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. We know what we are doing. I ask for 30 more seconds to wrap up.

Mr. LEAHY. I yield 30 seconds.

Mrs. BOXER. Mr. President, to address the issue that Senator HATCH raised, the vast majority of the programs in Senator LEAHY's amendment are proven programs. A couple of them that are new are essentially taking adult programs and applying them to the juveniles in our country. So this is a tried and true amendment.

I am very hopeful it will pass. It would put more cops on the street. Senator LEAHY waives the matching requirement if you place a community policeman in a school. This is very important. I think those of you who really want to help our children should vote yes on the Leahy amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Utah has 10 minutes.

Mr. HATCH. I want to yield some time to my distinguished colleague, the chairman of the subcommittee. We are both thinking of the same thing. If I could just take a minute.

Mr. SESSIONS. Please.

Mr. HATCH. And you can reemphasize it, if you could.

Look, one of the things that has always bothered me about Washington, and especially the Congress of the United States, is no matter how much money you put up that is reasonable, there is always going to be somebody who says we have to spend a lot more. Generally, it does come from the other side of the floor.

In this particular case, we have just shown you how we double the prevention moneys for the next 5 years, each year, over what they are today and how they have gone up. They will go up about five times what they were in 1994.

Now look, today, before this bill passes, let me show you the imbalance in the law right now. We are spending $4.4 billion on juvenile prevention programs—117 programs. That is what we are spending. That is going to be spent whether this bill passes or not.

We are going to add another $547 million to that. It will bring it up to about $5 billion that we are spending on juvenile prevention.

One of the problems I have with the amendment of Senator LEAHY—he says it is not a substitute. That is fine. But one of the problems I have with his amendment is he is only spending 8.9 percent on the accountability side of the equation, where we spend 40 percent in our bill.

Look how much we are currently spending: zero dollars for juvenile law enforcement or accountability. You wonder why kids are in trouble today. We made the case. The troubles begins at age 7; they escalate until age 14½, when it is too late, and they then go to court. That is what accountability is going to do. It will help to make them accountable up to age 14½, and hopefully the prevention moneys will work then, because you will have both sides of the scale, admittedly not an awful lot for accountability in comparison, but we will have accountability money and we will have even more prevention money.

I yield the remainder of my time to the distinguished Senator from Alabama, who has made this case over and over.

But what never ceases to amaze me is, whatever money we put in these programs, there is always going to be someone who wants to spend a lot more. The point we make is there is a lot more there now, and we are going to add a lot more. And we do not need to add $400 million for each year for the next 5 years.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the distinguished chairman of our Judiciary Committee, Senator HATCH. He is right on point.

I have a similar chart here. There has been $4.4 billion spent on juvenile prevention programs, 117 separate juvenile programs. We have had no money for law enforcement, make no mistake. The point I really want to make is, when you spend money strengthening our juvenile justice system, giving juvenile judges alternatives and possibilities to intervene effectively through the appropriate discipline when young people go wrong, that is prevention—that is prevention.

Fox Butterfield in the New York Times had a front page article about Chicago's juvenile court system. They spend 5 minutes per case. It is just a revolving door. We need to strengthen the ability of juvenile judges to intervene effectively when kids first start getting into trouble, because if you have a limited amount of money for prevention, you should apply it where it works best, for those people who are already beginning to get into trouble.

Let me show you a Department of Justice study done recently by a professor at the University of Maryland on behalf of Attorney General Reno.

The chart says, ''The findings of the Department of Justice Prevention Evaluation Report.'' What did they find? Most crime prevention funds are being spent where they are needed least. That is a condemnation of us in Congress and the Department of Justice. Most prevention money is being spent where it is needed least. That is President Clinton's own Department of Justice.

Most crime prevention programs have never been evaluated. We have 117 of them. They have 4–H Clubs in inner cities that are supposed to keep people from committing crime. I do not know if that works or not. I used to be in a 4–H Club, but I do not know whether that is a good idea. There are 117 of these programs.

Among the evaluated programs, some of the least effective receive the most money. We want to just do more, more, more.

We have worked for over 2 years on this legislation. We have given it a lot of attention. Chairman HATCH has given it his personal attention. We have now worked with Senator BIDEN and have his support. In the committee, the bill came out with bipartisan support last year. It has bipartisan support.

Here we have an amendment of 100 or more pages, submitted by the distinguished Senator from Vermont. I know that as a former prosecutor he cares about these issues, but we get it this morning—I think my office got this morning probably the only two copies in existence. He wants to spend, what, $3.8 billion—just $3.8 billion. We have not even had time to read the amendment.

There are a couple of things that are important to me. There is no money dedicated for law enforcement. I tell you, the people think juvenile judges do not care about kids. The Juvenile Judges Association is supporting this effort because the money is coming in a way that requires a committee, a coordinated committee in a community. Our vision is that the community would come together—the judge, the prosecutor, the sheriff, the probation officers, civic leaders—and prepare a plan to deal with young people who are getting into trouble.

Everyone needs to be drug tested upon arrest. If you do not care about the kids, you will not drug test them. If you love them and care about them, you will find out if part of their criminality is being driven by drug use; and if so, then you need to have treatment and continued monitoring of them if they are let go.

Parents need to know if the reason their children got involved in theft was because they were strung out on drugs. That is an important thing. That is how you intervene effectively. The power of a court gives credibility to the process that no other drug treatment center or mental health center can give because a judge can order things to happen. You talk to your prevention people, the drug treatment people, the mental health people. They like the order of a judge requiring these things to happen.

So I believe that a good criminal justice system is prevention. And what they comment on is a ''lock them up'' mentality. This is what our accountability block grant provides: drug testing of juveniles upon arrest; and it provides the money for State and local people to do that, and the renovation or expansion of detention facilities.

The truth is, we have quadrupled the amount of bed space for adults coming in and have driven down adult crime dramatically because we focused significantly on repeat, dangerous adult offenders. But we have spent very little money at the same time that juvenile crime has been increasing dramatically.

That is why, as frugal as I am about government money, I think it is appropriate for us as a nation to rise up and address the shortcomings in juvenile court systems in America and try to give them some strength. You have to have some detention.

People across the aisle have a little mantra. They are saying: Well, we want to really lock up these tough kids. But when you have three times as many people committing murder as a juvenile, three times as many committing assault with intent to murder, and rapes, and that kind of thing in the last 15 years, then we have to have more capacity, don't we?

What are judges doing with a second-time burglar when the only bed space in the State juvenile center is filled with a youngster charged with murder? Where are they going to put these kids? That is what they are telling me.

Police officers say: Well, police officers want prevention. Look, I was a prosecutor. I had been a prosecutor for nearly 17 years. Many of my best friends are police officers. You ask them: Don't you wish we could prevent crime?

Oh, yes, they answer, I wish I could prevent crime. I am tired of arresting these kids.

They will always say that. But you ask them about what they know, you ask them how the juvenile justice system is working, and they will tell you it is in a state of collapse. They have told me over and over again: Jeff, these kids are laughing at us. We can't do anything to them, and they know it. We arrest them, and they are released within hours of their arrest. Nothing happens to them, time after time.

This isn't a first-time offense. People act as if you are going to take some youngster——

The PRESIDING OFFICER. All time in support of the amendment has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. SESSIONS. People act as if first-time young offenders are getting sent off for long periods of time. That is not so. It is just not so. Ask people who know about the system.

What we need, though, is for that seriously disturbed youngster who is heading down the wrong road to get to a juvenile court system where the judge can look them in the eye with toughness, concern, and tough love, and be able to discipline them, to set forth a program that fits their needs, whether it is mental health, drug treatment, family counseling, or prison.

We do not have that in America, because we don't have any money spent for that. We need to do it, and this bill will do so.

I thank the chairman for his time.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute.

Mr. LEAHY. Mr. President, I yield back the remainder of my time.

Mr. HATCH. All time is all yielded back?

The PRESIDING OFFICER. All time is yielded back.

Mr. HATCH. Then I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 327. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. COCHRAN) is necessarily absent.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—54

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
Crapo	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Voinovich
Fitzgerald	McCain	Warner

NAYS—44

Akaka	Dodd	Kerrey
Baucus	Dorgan	Kerry
Bayh	Durbin	Kohl
Biden	Edwards	Landrieu
Bingaman	Feingold	Lautenberg
Boxer	Feinstein	Leahy
Breaux	Graham	Levin
Bryan	Harkin	Lieberman
Byrd	Hollings	Lincoln
Cleland	Inouye	Mikulski
Conrad	Johnson	Murray
Daschle	Kennedy	Reed

Reid	Sarbanes	Wellstone
Robb	Schumer	Wyden
Rockefeller	Torricelli	

NOT VOTING—2

Cochran	Moynihan

The motion was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that with respect to the next amendment, the BROWNBACK amendment on code of conduct, no amendments be in order to the amendment for 30 minutes after it begins.

Mr. LEAHY. Reserving the right to object, do I understand, then, the unanimous consent is not to preclude amendments but to preclude amendments for 30 minutes?

Mr. HATCH. As we work out the difficulties. We are trying to have an interim period of time.

Mr. LEAHY. This is consistent with what the distinguished chairman and I discussed.

I have no objection.

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

Mr. DASCHLE. Mr. President, last evening, Senator ROBB, Senator LEAHY, Senator KENNEDY and other Democratic Senators offered two amendments to S. 254 that were developed by a working group within the Democratic Caucus. Those amendments, together with an amendment to be offered by Senator BOXER to extend after-school programs, provide a comprehensive, measured response to youth violence.

Children today face incredible emotional and societal pressures that most people my age never had to worry about. An average of 12 children die each day from gunfire in America. The National School Board Association estimates that 135,000 guns are brought into U.S. schools each day. This reality was painfully reinforced by the terrible, senseless tragedy that occurred in Littleton, Colorado, only a few weeks ago.

The fear of school-related violence can have a profound effect on children's ability to learn. This fear has increased over the last decade. Fear for personal safety causes a significant number of students to stay home from school, or avoid certain areas of their schools. A full 71 percent of children ages 7 to 10 say they worry they will be shot or stabbed while at school.

The root causes of the Columbine High School shooting, and wider threats to our schools and communities, are complex and deep. Finding solutions will require a national commitment that goes far beyond legislative proposals. It will require students, parents, teachers and principals, business leaders, faith-based organizations, youth groups, law enforcement officials and many others working together to reduce the threat of violence.

While government—alone—can't solve the problem of youth violence, government must be part of the solution.

The amendments that make up the Democratic package to S. 254 would help America's communities reduce violence in our schools and communities.

Our caucus is united in our support of these amendments. We are also united in our determination to continue to seek long-term solutions to the problem of youth violence—solutions that will encompass both legislative and non-legislative strategies.

PROVIDING RESOURCES AND SERVICES TO PREVENT YOUTH VIOLENCE

More than 9 out of 10 police chiefs agree with the statement, ''America could sharply reduce crime if government invested more in programs to help children and youth get a good start'' by ''fully funding Head Start for infants and toddlers, preventing child abuse, providing parenting training for high-risk families, improving schools and providing after school programs and mentoring.''

Nine out of 10 police chiefs also agree that ''if America does not pay for greater investments in programs to help children and youth now, we will all pay far more later in crime, welfare, and other costs.''

They know, and we know, that prevention works.

Efforts to prevent delinquency before it starts can make a real difference in keeping children and communities safe. That's not conjecture. It's a fact.

A recent study on the effectiveness of after-school programs looked at 2 housing projects. One of the projects instituted an after-school program, the other did not. In the project with the after-school program, juvenile arrest rates declined 75 percent. In the other project, juvenile arrest rates rose 67 percent.

In housing projects with Boys and Girls Clubs, juvenile arrest rates are 13 percent lower, and drug activity is 22 percent lower, than in projects without clubs.

In Boston and Los Angeles, comprehensive efforts to prevent juvenile crime have significantly reduced the number of murders of young people.

Violence prevention saves lives. And it saves money.

A RAND study found that crime prevention efforts were three times more cost-effective than increased punishment.

A Vanderbilt University study estimates that each high-risk youth prevented from adopting a life of crime could save the country from $1.7 million to $2.3 million.

That is why our leadership amendments sought to balance smart prevention and tough enforcement.

Senator ROBB's amendment would have created a National Center for School Safety and Youth Violence—a national clearinghouse of strategies that work.

A Center could provide expert advice to schools and communities.

It could establish a toll-free number for students to seek help and anonymously report criminal activity and other high-risk behaviors.

It could provide assistance to parents and communities to address emergencies.

The Center could also conduct research on and evaluate effective school safety strategies.

It could serve as a clearinghouse of model programs, and establish a web site on school safety.

It could also work with local communities to strengthen school safety.

It could do all of those things if the Senate had chosen to adopt the amendment.

The Robb amendment also built on the existing Safe Schools/Healthy Students program. This is a program that brings together schools, law enforcement and the mental health community to reduce both juvenile violence and drug and alcohol abuse.

We think this program should be available to 150 additional communities, not just 50. Charges that the Robb amendment would create a whole new bureaucracy and duplicate existing programs are just not true.

Mr. President, I find it ironic that Republicans in the Senate voted against the Robb amendment, yet voted in support of the Gregg amendment, which claims to do many of the things the Robb amendment would do with fewer resources. Making our schools safe should be one of our highest priorities.

Preventing youth violence also requires a special focus on after-school hours.

Many students today spend more of their waking hours alone than they spend in school.

We know that children left home alone are more likely to become involved in risky behaviors.

Most juvenile crime occurs between 3 p.m and 8 p.m.

We also know that children who attend quality after-school programs are less likely to engage in delinquent activity than children who do not. They have better relationships with their peers. They're better adjusted emotionally, get better grades, and they're better behaved in school.

So, our package includes an amendment, to make quality, school-based after-school programs available to more students, in more communities.

Our amendment triples funding authorization for the existing 21st Century Learning Center grant program, from $200 million to $600 million. This proposal is in S. 7, our education agenda bill, and was in the President's budget.

By investing in prevention, we can prevent a lot of good kids from going bad.

But we know there are young people who need tougher measures.

The amendment offered by the Senator from Vermont would have provided those measures as well. It was tough on juvenile crime—especially violent juvenile crime.

It gave the Attorney General greater discretion to prosecute violent offenders as adults in the federal courts, and streamlines the process for doing so—without trampling on the rights of juvenile suspects.

It established a program of flexible, graduated sanctions.

Our amendment also provided grants to States to incarcerate violent and repeat offenders. We need to get violent kids off our streets, and out of our communities.

When police chiefs were asked to rank the long-term effectiveness of a number of possible crime-fighting approaches, they chose ''increasing investments in programs that help children and youth to get a good start'' nearly 4 times as often as ''trying more juveniles as adults.''

Four times more often!

Our law enforcement amendment reflects the police chiefs' judgment. It invests in programs we know work, from ''Say No to Drugs'' community-based centers, to incentive grants for local delinquency prevention programs and drug prevention education programs.

We also proposed to better protect children from drugs by expanding drug treatment opportunities, and increasing penalties for people who sell drugs to children.

In addition, our amendment built on one of the most successful initiatives of the 1994 Crime Act, the COPS program.

We proposed to put 6,000 more police officers in our schools and our communities.

Mr. President, I think we were all disturbed by the bomb scares that were called into schools all across our nation in the wake of the Littleton tragedy. South Dakota has had to deal with 30 bomb scares or threats of violence since that incident.

One of those bomb scares was called into Tri-Valley, a school in a rural community outside Sioux Falls, South Dakota.

Fortunately, Tri-Valley has a police officer, called a ''school resource'' officer. His name is Deputy Preston Evans. His position is funded by a COPS grant. He actually covers two schools.

On the day of the bomb threat, as students were being evacuated from the school, a number of students came up to Deputy Evans and told him they knew who had made the threat. By the end of the day, two students had been arrested.

Those students were able to confide in Deputy Evans because they trusted him. And they were able to trust him because they knew him. They had a relationship with him.

By expanding the COPS program, and giving kids the opportunity to have police as mentors and role models when they are young, we can reduce the chances that they'll need judges and wardens when they're older. That makes sense for our children, for our communities, and for our future.

Mr. President, I never had to worry about assault weapons or pipe bombs when I was in school. No child, and no parent today should have to worry about those things, either.

We simply cannot provide hope for our children if we cannot guarantee their safety in the very institutions where they go to learn the skills they need to succeed in life.

I know that gun control proposals alone will not keep our children safe when they leave our homes in the morning. But we can—and we must—do more to keep dangerous weapons out of the hands of children, and away from our schools.

Our law enforcement amendment banned the possession of assault weapons and high capacity ammunition clips by anyone under the age of 18.

It also increased criminal penalties for those in the deadly black market of selling handguns, assault weapons and high-capacity ammunition clips to juveniles.

Finally, when juveniles commit violent crimes and put the lives of others at risk, our amendment took away their right to possess a gun—ever—regardless of whether they are prosecuted as adults or juveniles.

In all this talk about juvenile crime, it's important for us to remember that the vast majority of our young people are good kids. They work hard in school. They're involved in their communities.

Our goal should be to empower these young people, and their communities, to take action against crime, rather than be victimized by it.

I've seen what can happen when we harness the power of our young people in my own state.

Not long ago, a student in our capitol city, Pierre, took his own life.

Many of his classmates were deeply affected. In addition to mourning, they also resolved to try to prevent other young people from making the same tragic mistake.

High school students Craig Schochenmaier, Nick Johnson, and Blair Krueger have been working to raise money to give away gunlocks imprinted with the number for a suicide prevention hotline to parents who own guns.

Instead of simply becoming numb to violence, Craig and his friends have found a way to fight it, and help others.

I believe there are young people in communities all across our country who feel as Craig, Nick, and Blair do. They want to make their schools and communities safer. They're willing to work to end the violence. Our amendments would have given them, and their communities, the tools and support they needed to do that.

I think we have missed two key opportunities on this bill. The provisions we have proposed and would make a real, positive difference in the lives of the people of this country. They represent the next right step in our ongoing effort to secure the safety of our schools and communities. My colleagues and I may offer some of these as individual amendments before the debate on this bill is over.

I certainly encourage my colleagues, especially on the other side of the aisle but on both sides of the aisle, to reconsider these issues, to reconsider how we address these problems, and to vote in support of these amendments when they are offered again.

I yield the floor.

Mr. HATCH. Mr. President, I would like briefly to respond to the distinguished minority leader's comments. I agree with the Senator from South Dakota that we need long term solutions to the problem of youth violence. S. 254, a comprehensive package designed to combat youth violence through multiple approaches—like prevention and accountability programs—is a long term, but flexible, approach to assist the States in curbing youth violence.

My colleagues across the aisle want more funding dedicated to prevention programs, despite the funding increases approved yesterday in the Hatch-Biden-Sessions amendment. In addition, the Federal government, according to a 1999 GAO study, spends over $4 billion annually on 117 prevention programs. The Robb amendment was wisely tabled, since it added an additional $1 billion to Federal programs that already exist. S. 254 and the pending Republican amendments already address programs to steer youth away from a life of crime. For instance, S. 254 has a unique mentoring program that utilizes college age adults and retired couples that are matched to troubled juveniles and their families. By giving the juveniles proper guidance, communities can prevent youngsters from choosing to commit crime.

Furthermore, although there were some similar provisions between the Leahy substitute amendment and the underlying bill, the devil is always in the details. Upon close inspection, this amendment was not an adequate substitute for the most thoroughly considered juvenile crime legislation in my 23 years in the Senate.

First, the Leahy amendment duplicated programs that are already in S. 254. My bill gives the Attorney General greater discretion to prosecute violent juvenile offenders that commit Federal crimes in adult court, and streamlines the process to do so. S. 254 already has a flexible accountability block grant that provides funding for a system of graduated sanctions to hold violent and repeat offenders responsible for the crimes inflicted on their victims. Since S. 254 provides a comprehensive package to fight juvenile violent crime, the Fraternal Order of Police supports the bill.

Second, the Leahy amendment was not narrowly focussed on the problem we should be debating—juvenile crime. Indeed, of the advertised $3.581 billion over three years price tag, by my count only $1.632 billion, or 45.6 percent, is dedicated to addressing juvenile crime. In the law enforcement category, the imbalance is even more startling. Of the $1.684 billion the amendment claimed to spend on juvenie crime law enforcement, only $150 million, or 8.9 percent, is targeted at reducing juvenile crime.

This $150 million is for juvenile and violent offender incarceration. I certainly agree with Senator LEAHY that we need to provide assistance to States and local governments for secure juvenile detention. But, we need to fully support and encourage a full range of graduated sanctions from the earliest acts of delinquent behavior, to help ensure that early acts of delinquency do not grow into more serious problems. According to the OJJDP, the earliest acts of delinquent behavior start at age seven, and continue to get worse if there is no effective intervention. S. 254, unlike my colleague's amendment, recognizes this, and addresses it.

So what did the Leahy amendment propose spending funds on? In the enforcement area, it reauthorizes Rural Drug Enforcement and Training, grants for state courts and prosecutors, and the Byrne program. Now, all of these are generally worthy programs. Indeed, I have been a vocal critic of recent efforts by the Clinton Administration to cut funding for some of these same programs. And my crime bill, the 21st Century Justice Act (S. 899) is a comprehensive answer to our general crime problem. But the bill we are debating today is a juvenile crime bill, and that should be our focus.

And what of the $200 million the Leahy amendment purports to spend on more police officers in schools? This is, in reality, just a two year reauthorization of the existing COPS program. Some COPS funding can, of course, be used for school security. In fact, I supported the bill by Senator CAMPBELL we enacted last Congress to amend the COPS program to allow its grants to pay for school security officers. But to call this general reauthorization a program dedicated to cops in schools is a bit inaccurate.

What is left of the Leahy amendment then? Prevention. Which, of course, we all agree is important. The Hatch-Biden-Sessions amendment the Senate adopted yesterday increases our bill's commitment to prevention to $547.5 million per year. And, I might add, our prevention is more balanced than that in the Leahy amendment. $850 million of the Leahy amendment's ''juvenile crime prevention'' is focussed exclusively on drug prevention. And $400 million of that funding isn't even dedicated to the juvenile drug program, which I agree is in dire need of attention.

In short, the prior Democratic amendments are no substitute for the effective, comprehensive approach to juvenile crime proposed in the underlying Hatch-Biden-Sessions bill. This bill, and the amendments we will offer, address our juvenile crime problem in four key areas. These include:

(1) prevention and enforcement assistance to state and local government;

(2) parental empowerment and stemming the influence of cultural violence;

(3) getting tough on violent juveniles and enforce existing law; and

(4) safe and secure schools.

So far, the amendments to this serious juvenile crime package have been simple calls for increased spending and rhetorical trinkets. So while I respect the minority leader's views on this issue, I must disagree with his conclusions.

Mr. President, before we begin the Brownback amendment debate, I ask unanimous consent the distinguished Budget Committee chairman be granted 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise to offer my thoughts on the juvenile justice legislation before us here today. I want to commend the majority leader for bringing this important bill to the floor this week.

I think it is time for the Senate to have a full debate about our Nation's juvenile crime policies, and the role the Federal Government should play in addressing youth violence.

The Federal Government should provide greater funding to the States to combat juvenile crime, but without tying the hands of the States and their ability to implement new and innovative approaches to the problem. The bill before us is a step in that direction.

In the wake of the tragedy in Littleton, CO, this will be a particularly timely debate. But I want my colleagues to know that, in the view of this Senator, this is a debate which is long overdue.

As far back as 1995, I held field hearings in my home State of New Mexico to talk to people about their experiences with escalating youth violence.

I brought in judges, law enforcement officers, youth counselors, and prevention experts, as well as victims of juvenile crime, to see what the Federal response to the problem ought to be. I then introduced legislation based on what I heard from the experts in New Mexico.

And I must say to the chairman of the Judiciary Committee, Senator HATCH, and his colleague, Senator SESSIONS, you all must have heard the same things from your experts as we heard in new Mexico. Because many of the same concepts and ideas which I heard during those discussions in New Mexico have found their way into your bill before us today.

Ideas like graduated sanctions, so that kids are punished the first time they commit a bad act, and given more severe punishment for subsequent, more severe offenses.

In New Mexico, I heard countless stories of juveniles who committed 10 or 15 minor crimes before they ever were given even the slightest punishment. It is not wonder that so many kids disrespect our justice system. This bill will encourage States to adopt graduated sanctions policies, and provide resources to do so.

Another theme echoed throughout the field hearings and meetings I held in New Mexico was the need to better address the rights of the victims of juvenile crime.

Often, the victims and their families are forgotten in the juvenile justice system. States frequently require closed court hearings, rarely notify victims when offenders are sentenced or released, and often fail to allow for restitution.

One issue that is critically important to a rural State like New Mexico is the need to address the Federal mandates imposed upon the States as a condition of receiving Federal funds.

I have been working with Congresswoman HEATHER WILSON of New Mexico's First District on this issue since the time when she served as the Secretary of Children, Youth and Families in our State. One problem she always faced was how to deal with the Federal ''sight and sound separation'' mandate, which led to arbitrary, burdensome, and often times ridiculous restrictions placed on my State's use of juvenile facilities.

Let me make it clear to the critics of this bill's handling of the mandates: no one, including this Senator, wants to house juveniles in the same cell as adults or to allow adults the ability to physically or emotionally abuse juveniles held in secure facilities.

All this bill seeks to do is impose some common sense, to allow States the flexibility to use their facilities and staffs in a rational, but responsible way. I think Senators HATCH and SESSIONS have done a good job addressing the problem.

I have before me a list of the 15 Federal and 7 State gun laws already on the books which were violated by those disturbed youths in Colorado. I want my colleagues to know that I think that we should do a better job of enforcing those laws already in place, particularly at the Federal level, before we consider enacting a laundry list of new gun laws. There may be some suggestions offered this week which are reasonable, and which might be acceptable to a majority of Senators. I wait to see what will be offered.

Mr. President, I thank you for recognizing me. Again, I commend the chairman of the Judiciary Committee, Senator HATCH, and the chairman of the Youth Violence Subcommittee, Senator SESSIONS, for their hard work on this bill. I do not agree with every single provision, and I may offer some amendments later in the process, but I think they have done a fine job getting this legislation to the floor. And I look forward to working with them as we continue to shape the bill.

Mr. President, while this bill will be contentious and we will have scores of amendments, it is the right debate at the right time in the right place. I think after we have fully debated this we are going to come up with a bill that will help our sovereign States and the governments within those sovereign States to do a better job with juvenile crime policies. We do not have

a major role, but we have certainly not had a sufficient role. This bill will expand that and modify and make more responsive some of the mandates we have in our laws today with reference to juveniles.

First of all, there is a great discussion taking place about firearms and guns. While I do not address that in my few remarks, in due course we will have a significant debate on this. Clearly, we will all listen attentively and pay attention. We will try to do the very best we can. I will certainly try to do that.

But essentially there is a much bigger issue. The issue is the criminal justice system. In our land we have an adult criminal system. We all hear about that regularly. It is jury trials for serious crimes. It is whether or not to have death penalties. It is do we have enough district attorneys to prosecute. It is what is happening to the families of these adults against whom these crimes have been committed. And it is a myriad of things that apply to adults.

For the most part, the juvenile justice system in America has been almost mysterious, because we have been bent on protecting the young people and protecting their rights and protecting their reputations—and properly so. But I submit much of that apprehension about disclosing what crimes teenagers and juveniles have committed, keeping their records separate such that they can have the equivalent of two or three felonies and nobody ever knows about it when they enter the next phase of life—many of these things were done in a completely different era. Clearly, we have a small portion of America's young people committing crimes. The overwhelming number, as the minority leader said, are diligently doing their jobs, trying to grow up, learning and conducting themselves in a very, very good manner.

There is a growing number of teenagers that has become just as dangerous as adult criminals. They commit the very same crimes from rape to murder to mayhem to burglary to robbery. Drive-by shootings are not just done by adults. Many of them are done by teenagers and young people. The time has come, it seems to me, to give a little more recognition to that and to help our States and their juvenile apparatus for helping them do a better job.

I held hearings in my State the year before last, and I introduced a bill, along with my colleague from the House, Representative HEATHER WILSON. Many of the ideas in it which we got from our educators, from our judges, from our policemen, are in this bill. I compliment those who put it together. It moves in the right direction, without any doubt.

Frankly, there are young people who commit significant crimes over and over who deserve to be treated as adults. We do, to some extent, urge the States to move in that direction—and many are—to treat as adults those young people who commit certain kinds of crimes which are just abhorrent to society.

We are moving in the direction of making sure that the records of severe juvenile criminals are made available so that the courts can be apprised in later years as these juvenile criminals commit other serious crimes. It is not as if the first 5 years of criminality as a youngster do not count. We are moving in that direction, and I think we are moving there correctly.

Likewise, it is obvious that we ought to be doing some things to help in the prevention area. I am very pleased that we are urging our schools that have great physical capacity—their gyms, their recreation centers, their classrooms—to make them available for afterschool, weekend and even summer activities so that our young people have more to do with their enormous amount of spare time, other than to spend, on average, 7 hours—it is not just teenagers, but televisions in our homes are on 7 hours a day, a rather incredible number. Probably with so many of our young people with nothing to do in the afternoons, it would not be a surprise if for a substantial number of those 7 hours, teenagers and our youngsters are watching, with no adults around, whatever they please.

Clearly, this bill is moving in the right direction, with reference to another area which is totally frustrating for fellow New Mexicans and for Americans, and that is victims of juvenile crime. We are now finding how abusive a court system can be to victims if, in fact, the courts do not take the victims into consideration.

I will be offering an amendment with reference to victims which, I believe the Senate will be pleased to hear, will take some things out of the proposed constitutional amendment that was offered with reference to victims and makes it statutory. A few of those ideas were in Dan Coats' proposal. I believe we can put in rights that victims will have under the juvenile codes of our land.

Let me close by suggesting one other thing. Again, if we get away from the shootings and look at the ordinary daily operation of the criminal justice system for young people, we find a problem with reference to what we do with young people who commit small offenses. Do we do nothing? It is pretty obvious that small offenses repeated yield to more serious offenses, and if there is no corrective action, then it will yield to more egregious offenses. Go to one of our facilities in New Mexico and interrogate a 17-year-old boy and ask him why he is there. He will say: I am finally here, but I was arrested 17 times and I was found guilty of 14 crimes, and nothing happened to me. I ended up here.

This bill talks about progressive punishment—little crimes, little punishment; bigger crimes, bigger punishment—but suggests that we will help with funding in the States if they have a system that, indeed, imposes some kind of corrective measure, even for the lesser offenses.

This is not intended to create a situation where we are just being mean to somebody. As a matter of fact, it looks like young people learn when they are corrected, when they are told they cannot do something and when violating the law means they have to suffer in some way, be it mighty small when they are small offenses, or significant as they move up the ladder of criminality in terms of the number of times they violate our laws.

I hope by the time we finish this bill, we will have taken a giant step forward in helping our States which, after all, do most of the law enforcement of this criminal behavior by our young people and most of the offenses that are taking place in our school systems, such as the events that occurred in my neighboring State of Colorado. Most of the authority to do something about that is not in our hands; it is in the hands of our States.

We ought to be helpful to the States in this legislation by not tying their hands but giving them flexibility, and where we really think there ought to be improvements in the system, giving some benefit to a State that changes the system in a positive manner. This bill has that kind of incentive built into it which is the part I put in the bill which I introduced not too long ago, because I thought it was very important to encourage States to make changes.

I thank the Senator for yielding to me, and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 329

(Purpose: Relating to telecast material, video games, Internet content, and music lyrics)

Mr. BROWNBACK. Mr. President, by a previous unanimous consent agreement, I call up amendment No. 329.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. HATCH, Mr. LIEBERMAN, and Mr. ABRAHAM, proposes an amendment numbered 329.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BROWNBACK. Mr President, I call up this amendment on behalf of myself, Senator HATCH and Senator LIEBERMAN. I ask unanimous consent that Senator ABRAHAM be listed as an original cosponsor.

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

Mr. BROWNBACK. Mr. President, this is a discussion we have been having within the country and we now need to have in the Senate. We have four provisions in the amendment. They are, basically, things that we can address in the Senate about the culture of violence that has enveloped the country and has taken us to the point where so many people have so many fears of what has taken place, and we see some of this acted out.

This is not a panacea amendment. It will not solve all our problems, but I think it is a positive step in the right direction. It has bipartisan support, and I am hopeful we can get broad support throughout the Senate so that these amendments will become law. Let me go through each of them.

The amendment will provide, first, a limited antitrust exemption to the entertainment industry enabling the industry to develop and disseminate voluntary guidelines for television programming, movies, video games, Internet content and music.

What we are seeking is an antitrust exemption so that the industry can enter into its own voluntary code of conduct, the likes of which the television industry used to have and then left after there was some feeling that this was potentially an antitrust violation.

We want to give them an antitrust exemption so they can set a code of conduct, a floor below which they will not go in the race to the bottom for ever more violent, ever more explicit, ever more troubling content. We want to provide that for television, movies, video game producers, Internet content, and music.

These voluntary guidelines will be used to alleviate some of the negative impact of violent sexual content and other subjects inappropriate for children that are so pervasive throughout the television shows, movies, video games, Internet content, and music produced today by the industry.

This amendment does not—does not—require the entertainment industry to develop or disseminate such guidelines, nor does it provide the Federal Government with any additional authority to regulate TV programming, movies, video games, Internet content, or music. Members can support this and know what this amendment does not do.

The amendment does enable the entertainment industry to establish voluntary guidelines. I believe this is an appropriate way for us to encourage the industry to reconsider their entertainment products with an eye toward their corporate responsibility.

My amendment would simply make clear that the entertainment industry would not be subject to antitrust scrutiny if its members create such guidelines. This amendment does not infringe upon the first amendment rights of the entertainment industry. It would provide us with the opportunity to give the industry the tools that are necessary to articulate what their standards are and to inform parents what they can expect from the industry.

Why do we need a code of conduct? I think there are several very important reasons why.

First, our popular culture exerts an enormous influence on our young children and on our entire society. What we see, hear, and experience helps shape how we think, how we feel, and how we act. This is particularly true for children. All too often, what kids see in movies or on television, what they hear in music, and what they experience in the games they play actually desensitizes them and debases rather than uplifts.

Given that entertainment companies wield such enormous power in this country, it is only right that parents and consumers should know what their standards are and how they will use their media. This code of conduct will call on entertainment executives to define those standards, what levels they would not sink below, and what ideals they intend to uphold. I think the public has a right to know that as well.

Second, establishing a code of conduct not only informs parents, it helps hold the entertainment industries accountable. Parents will have a written code by which to judge television, movies, music, and games and be empowered to demand that companies live up to their code.

Third, a code of conduct says that entertainment companies do bear some corporate responsibility for the impact of the entertainment that they peddle. For too long, entertainment executives have insisted—in the face of mountains of evidence to the contrary—that the violence and sexual activity they depict had no impact, and that therefore they had no responsibility. A code of conduct recognizes that these companies wield enormous power and must therefore bear a corporate responsibility to the public at large.

There are some who defend the extreme violence and sexual activity in some movies, television shows, or music lyrics by claiming they are merely reflections of the reality of life, that they hold a mirror to society. But it is not a mirror; it is a mirage. The world of television and movies is—thank goodness —far more violent, conflicted and sexually explicit than the life of the average American. There are far more Amish people in the United States than there are serial murderers. There are more pastors than prostitutes. But you would never know that from watching television.

Enabling the entertainment industry to develop and enter into a code of conduct is not a panacea. It will not, by itself, put an end to all objectionable content, but it will be an important first step in encouraging the industry to reconsider the influence—for good or ill—of its products, its internal standards, and its corporate responsibility.

It will provide parents and consumers with information, and enable them to hold entertainment companies responsible for their product, and it will further an important national dialogue about what our duties to our children are and the role we play in determining whether we live in a culture that glorifies death, carnage and violence, or in a civil society.

We also have other provisions that are in this amendment beyond just the code of conduct, the voluntary code of conduct. This amendment would also require the Federal Trade Commission and the Department of Justice to conduct a joint study of the marketing practices of the motion picture industry, recording industry, and video game industry.

The amendment requires the FTC and the DOJ examine the extent to which the entertainment industry targets—targets—the marketing of violent, sexually explicit or other material unsuitable to minors, including whether such content is advertised in media outlets in which minors comprise a substantial percentage of the audience. We want to know, are these entertainment companies actually marketing violence to minors? Are they lacing more violence in their products to get more sales to minors?

The effectiveness of voluntary industry ratings in limiting access of minors to content that is unsuitable is something else that we want studied as well. Further, we want to study the extent to which those who engage in the sale or rental of entertainment products abide by voluntary industry ratings or labeling systems. We want to know whether mechanisms or procedures are necessary to ensure the effective enforcement of voluntary ratings or labeling systems.

We need to know the extent to which the entertainment industry encourages the enforcement of their voluntary ratings and labeling systems. And we need to know whether any of the entertainment industry's marketing practices violate Federal law.

Recently, I held a hearing at which Senator LIEBERMAN and Senator HATCH testified regarding the marketing of violence to our children, and whether violence is used to market products. There is a strong suspicion that, indeed, it occurs.

I would like to draw the attention to the Senate to some of the advertisements of products to children. These are particularly of video games.

This one that I am showing you now is an advertisement in a magazine for a video game rated for teens. This is rated for teenagers. This is the advertisement: ''Deploy. Destroy. Then relax over a cold one.'' It sure is laced with violence and uses violence to market a product to teens.

Here is one, a popular video game, a video game called Carmageddon. I have shown this to the Senate before. Rigormotorist. It is about killing people in a car-driving video game.

There is another video game that we have shown to the Senate before. It is

rated for teens. You can see the symbol there: ''Destroying your enemies is not enough. You must devour their souls.'' Clear use of violence and other imagery with that as well.

There is in the amendment an NIH study. There have been literally hundreds of studies, some would estimate even more, conducted on the impact of television on our attitudes, thoughts, psychological well-being, behavior, development, level of aggression, and predisposition toward violence. The more we study it, the clearer the link we have of the consumption of violent entertainment and increased aggression, fear, anger, emotional difficulties, even predisposition towards violence.

However, there have been very few studies done on the impact of music and video games on young people. We need to know more. The other point of this amendment is to study that connection. By some estimates, the average teen listens to music around 4 hours a day. Between 7th and 12th grades, teens will spend around 10,500 hours listening to music. Listen to that again. Between the 7th and 12th grades, they are going to listen, the average teen, to around 10,000 hours of music. That is more time than they will spend in school.

Similarly, the popularity of video games is rapidly increasing among young people. One study, conducted by Strategy Records Research, found that 64 percent of young people played these games on a regular basis. Clearly, young people spend a huge amount of time focused on these kinds of entertainment.

It stands to reason that music and games have some sort of impact on young people, just as it stands to reason that what we see, hear and experience has some impact on our thoughts and attitudes and, thus, our decisions and our behavior. Determining what this impact is, is clearly in the public interest.

This amendment, sponsored by myself, Senator HATCH, Senator LIEBERMAN, and Senator ABRAHAM, provides for a study to determine that impact. We need to know more, and we need to start now.

The first step towards addressing problems is to accurately define them. And for that, we need all the available information. This amendment is an important start in that direction.

I point out something that I hope is becoming more familiar to Members of the Senate and to the country, the violence that is in some of the music. We talked about video games. We have studied music and television. In music, here is a person who is pretty famous now, Marilyn Manson, with an album ''Anti-Christ Superstar.'' You can look at all the words pointing towards ''Tomorrow's turned up dead.'' ''You can kill yourself now.'' Glorification of suicide and violence.

Here is another record out of it. ''Anti-cop, Anti-fun.'' I am not going to read any of that. Here is another top record from Master P, ''Come and Get Some.'' ''I got friends running out the blanking crack house.''

You can go down through this and see the violent, in many cases, very hateful and misogynistic, some racist terminology. We need to know what is the impact on a young mind that is consuming, in many cases, on the average of 4 hours of this a day. That is the intent of this study to ask that those things be looked at.

We think the evidence is clearly growing. We need to do something about what has happened to our culture. We are asking in this set of amendments, one, for an antitrust exemption for a voluntary code of conduct, for enforcement of industry rating systems, for a study on the marketing of violence to children, and for an NIH study of violent entertainment, particularly video games and music, and its impact on children.

We have had terrible, unthinkable tragedies that have happened to our children in this country. We know there is a link between the violence and the action. Both the American Medical Association and the American Association of Pediatrics have warned against exposing children to violent entertainment.

One 1996 American Medical Association study conducted concluded this: ''The link between media violence and real life violence has been proven by science time and time again.''

Another AMA study concluded that ''exposure to violence in entertainment increases aggressive behavior and contributes to Americans' sense that they live in a mean society.''

Those are pretty clear points of view.

Mr. President, we need to do something. These are modest steps. They will not, in and of themselves, change the society or change the culture, but they are appropriate steps. They can continue our national debate. I think they can help focus us on moving away from this culture of violence, this culture of death, towards more of a culture of peace and a culture of life that clearly we need to provide to our children.

I note that there are a number of people who wish to speak on this amendment. I recognize first the chairman of the committee, who wanted to address this subject, Senator HATCH, and then Senator LIEBERMAN has been on the floor to speak as well. I yield to Senator HATCH on this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that we keep the status quo with regard to no amendments to this amendment until 12:30.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I do not intend to object, but I want to make sure that others are going to be able to address the Senate during this period of time. I know the Senator from Utah, the Senator from Connecticut—I see the Senator from California has some inquiries. I would like to be able to speak as well. I would like to see that we have an opportunity for each of these Members before we get to 12:30. That is my only concern.

Mr. HATCH. I hope everybody can be recognized, but I ask unanimous consent that at 12:30 I be permitted——

Mrs. BOXER. I can't hear the Senator.

Mr. HATCH. I ask unanimous consent to keep the status quo until 12:30 and then at 12:30 I retain the floor.

Mr. KENNEDY. Mr. President, I object to that. We have an agreement now. The Senator is recognized for 30 minutes. Now we are in the position that we can offer second-degree amendments. The Senator is asking that we do not do that for 30 minutes. If you want to get this Senator to agree to it, we are going to have to give other Members the chance to speak on the floor. Otherwise, I am going to object to it. Why don't we just try to work this out with comity?

Mr. HATCH. I would be happy to not speak at this particular time and have somebody from the Democrat side speak.

Mr. KENNEDY. Why doesn't the Senator speak for 10 minutes, and the Senator from Connecticut for 10 minutes, and the remaining 15 minutes to Senator BOXER.

Mrs. BOXER. Ten minutes.

Mr. KENNEDY. Is that agreeable?

Mr. HATCH. We also have to reserve 10 minutes for Senator DEWINE.

Mr. KENNEDY. Between now and 12:30?

Mr. HATCH. We will go beyond 12:30. I think he can come after that.

Mr. KENNEDY. I suggest that the Senator be recognized now for 10 minutes; following that, the Senator from Connecticut, 10 minutes; following that, 15 minutes divided between Senator BOXER and myself; and following that, at 12:30, Senator DEWINE be recognized for 10 minutes; and that there be no intervening motions or actions or amendments.

Mr. HATCH. Or amendments, and that I get the floor as soon as Senator DEWINE has concluded with his speech.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, just with a question to my friend from Utah. It is my understanding that this amendment would be opened up to second-degrees.

Mr. HATCH. We keep the status quo of not opening it to second-degrees.

Mrs. BOXER. At 12:35 the amendment would be opened for second-degrees?

Mr. HATCH. But the floor would be yielded to me.

Mrs. BOXER. So you may well offer a second-degree?

Mr. HATCH. I may well offer a second-degree at that time. We would prefer not to have any amendments to this, but that is what I may very well do.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Parliamentary inquiry: Just so we know, I am to speak for how many minutes?

The PRESIDING OFFICER. The order is as follows: Currently 10 minutes for the chairman, 10 minutes for the Senator from Connecticut.

Mr. HATCH. Fifteen minutes divided equally between the Senator from California and the Senator from Massachusetts?

The PRESIDING OFFICER. Fifteen minutes between the Senators from California and Massachusetts.

Mr. HATCH. And then 10 minutes for——

The PRESIDING OFFICER. And then 10 minutes for the Senator from Ohio.

Mr. HATCH. Then the floor would be yielded back to me?

The PRESIDING OFFICER. That is correct. The Senator from Utah.

Mr. HATCH. Mr. President, I first want to commend Senator BROWNBACK for his initiative to curb the exposure of our youth to violence. I recognize that as early as last year Senator BROWNBACK and I, and I have to add my dear friend from Connecticut, Senator LIEBERMAN, and others, had developed legislation designed to encourage television broadcasters to join forces and develop a code of conduct for responsible programming. That legislation is part of the amendment being offered today, and it addresses the broader concern that our children are exposed to too much violence, too much obscenity, and too much filth—whether through television, in movies, in modern music, or in video games.

Let me say for the record that I hope that as the new V-chip is implemented in televisions, our concern for the pervasive exposure of children to violence on the tube will be alleviated.

Again, I commend my colleague for his leadership in efforts to encourage the broadcast media to exercise responsibility. I commend my colleague from Connecticut as well. They have been two great leaders on these subjects. There are others who deserve credit as well.

Mr. President, I do not take the floor to attack the entertainment industry. It is well known that I work very closely with people in the entertainment industry, trying to make sure that their intellectual property needs are taken care of, and others as well. Indeed, it is just one part of a more complex problem. I do hope we can encourage the industry to work with us to do what is best for our children in America.

As my colleagues know, I have long supported the creative industry, as evidenced by continued efforts to ensure strong intellectual property rights that protect the creative products of these industries.

Why can't this industry, which is a source of so much good in America, do more to discourage the marketing of filth to children? Why shouldn't the industry help fight the marketing of violence to young people?

Study after study indicates that prolonged exposure of children to ultra-violent movies and video games increases the likelihood for aggression and aggressive conduct on their part. As President Clinton noted in his radio address last week, the two juveniles who committed the atrocities in Littleton played the ultra-violent video game Doom—that is this right here—the ultra-violent video game Doom obsessively, over and over and over. In addition, the 14-year-old boy who killed three in the Paducah, KY, school killing in 1997 was also an avid video game player. In fact, the juvenile had never fired a pistol before he accurately shot eight classmates.

Let me give one typical example of how these games are advertised. This chart back here is a page from a video game company's web site. It is promoting a new video game called Turok 2—Seeds of Evil. This ad describes this game as—if you can read those words—''the undeniably, certifiably el numero uno death match Frag fest because we know what you want.''

Now, this last sentence bears repeating: ''Because we know what you want.'' The ad describes ''over 24 devastating weapons'' and exclaims that players may ''unload twin barrels of ricocheting shotgun shells'' and ''blow enemies clean away'' with the scorpion launcher. And worst of all, it urges players to ''send brains flying'' with something the gamemakers call a ''skull drilling cerebral bore.''

How much more graphic can this get? They emphasize how ''real'' the games are, too, with ''real-time flinch generation.'' ''Enemies flinch and spasm differently, depending on which body part you hit.'' Absent here is any realistic depiction of the consequences of real violence. This is just one example of the irresponsibility of these games being marketed and accessible to our kids. It is pathetic when you stop and think about it.

I might add, given there is evidence that extremely violent or otherwise unsuitable material in movies, music, and video games have negative effects on children, many are concerned about how these products are marketed and sold. Do these industries specifically target products to minors that, according to their own guidelines, are unsuitable to minors? I think the American people deserve an answer to that question.

As I testified before the Senate Commerce Committee last week, I was troubled to learn that according to the National Institute on Media and the Family, some manufacturers of video and computer games are marketing ultraviolent video games rated for adults only to children. In 1998, the National Institute on Media and the Family conducted a thorough study of the video and computer game industry. Some of the findings were very disturbing. For example, lurid advertisements for violent video games are aimed directly at children. The advertisement for the video game Destrega states: ''Let the slaughter begin,'' while the advertisement for the video game Carmageddon states: ''As easy as killing babies with axes.'' These and similar advertisements appeared in recent gaming magazines that are targeted to teenagers.

Moreover, an advertisement for Resident Evil 2, a violent video game rated for adults only, was featured in the magazine Sports Illustrated for Kids. Few people would argue that cigarettes, alcohol, or X-rated, or NC–17 rated movies should be advertised in children's magazines. Why should such violent video games—games the industry itself has found unsuitable for children—be advertised and marketed to children? I think we need an answer to that.

Nor is the problem of marketing violence to children limited to video games. In recent years, the lyrics of popular music have grown more violent and depraved. And much of the violence and cruelty in modern music is directed toward women.

Here is one of the recent violent things. This is Eminem, and it is directed, in large measure, toward violence and cruelty toward women.

As Senator BROWNBACK noted on the floor two weeks ago, the group Nine Inch Nails had a commercial success a few years ago with a song celebrating the rape and murder of a woman. This is not an isolated example. Hatred and violence against women in mainstream hip hop and alternative music are widespread and unmistakable. Consider the singer Marilyn Manson, whom MTV named the ''Best New Artist of the Year'' last year. Some of Manson's less vulgar lyrics include: ''Who says date rape isn't kind''; ''let's just kill everyone and let your god sort them out''; and ''the housewife I will beat, the prolife I will kill.'' Other Manson lyrics cannot be repeated here on the Senate floor.

The weekend after the Colorado shootings, a 12-year-old boy whom I know, bought a Marilyn Manson compact disc from a local Washington area record store, even though it was rated for adult content. Ironically, the warning label on the disc was covered by the price tag. Here is the disc, and here is the way the warning label was covered. The tag covered the warning label, clearly making it easier for kids to buy these products. This indicates that these record warnings are not being taken seriously. Consider Eminem, which I mentioned before, the hip hop artist featured frequently on MTV who recently wrote ''Bonnie and Clyde''—a song in which he described his killing his child's mother and dumping her body into the ocean. Many of his songs contain violent, troubling lyrics with the misogynistic message.

Despite historic bipartisan legislation by the State and Federal governments, it is stunning how much modern music glorifies acts of violence, sexual and otherwise, against women.

This music is what many children are listening to. This music is marketed to our youth, and we should not ignore the fact that violent misogynistic music may ultimately affect the behavior and attitudes of many young men toward women.

One might argue that these groups are not embraced by the entertainment industry. How, then, would the industry explain a 1998 Grammy nomination for Nine Inch Nails and a 1999 nomination for Marilyn Manson? It is one thing to say these people can't produce this material; it is another thing for the industry to embrace it.

Many Americans were justifiably outraged when it was discovered that tobacco companies marketed cigarettes to children. I believe we should be equally concerned if we find that violent music and video games are being marketed to children. Limiting access to ultraviolent music and video games to children does not raise the same constitutional concerns that a general prohibition on such material would entail.

For example, while some can reasonably contend that the first amendment protects certain X-rated material, no one can reasonably argue that the Constitution prohibits restricting such material to children.

Now, that is why one provision of this amendment—a provision I developed with Senators LIEBERMAN, HARKIN, and KOHL—directs the FTC and the Department of Justice to examine the extent to which the motion pictures, recording, and video game industries market violent, sexually explicit, or other harmful and unsuitable material to minors—including whether such content is advertised or promoted in media outlets in which minors comprise a substantial percentage of the audience.

The report will also examine the extent to which retailers, and in the case of motion pictures, theater owners, have policies to restrict the sale, rental, or admission of such unsuitable material to minors—and whether the industry requires, monitors, or encourages the enforcement of their respective voluntary rating systems by retail merchants or theater owners.

Mr. President, I do want to note that over the years each of these industries has taken some positive steps in developing voluntary labeling systems that provide notice to parents about unsuitable content of certain products.

But as I have said before, it is important to see if such standards are enforced at the retail stage, and also see if, despite their standards, the industry targets unsuitable materials to minors.

I also want to take a few moments to discuss another provision of this amendment that provides a limited antitrust exemption to the industry in order to empower them to develop effective enforcement procedures for their voluntary guidelines. This provision is different from the provision developed by Senator BROWNBACK, which relates to the development of a code of conduct.

For years, I and others in Congress have searched for solutions for limiting the negative impact exposure to violent or sexually explicit content—whether in motion pictures, television, songs, or video games—has on our children. This provision of the amendment is designed to achieve this objective by empowering the respective industries to develop and enforce responsible guidelines without the fear of liability under our antitrust laws. It will allow manufacturers and producers to agree among themselves to refuse to sell their products to retail outlets who do not follow the industry's standards and guidelines—if the industry chooses to do that.

Mr. President, as chairman of the Judiciary Committee, I am mindful of the first amendment concerns that could be raised by attempts on the part of the Federal Government to broadly regulate content, on the Internet or over the other media. But I do believe that we must do what we can do to promote responsibility on the part of the film industry, the recording industry and the entertainment software industry in meeting the needs of children. This amendment does that.

Over the years each of these industries has taken positive steps in developing voluntary rating systems that either provide notice to parents about unsuitable content of certain products, or attempt to restrict the sale of unsuitable products to adults or mature audiences. Unfortunately, it appears that adequate and effective enforcement of these guidelines at the retail level is lacking. For instance, there is little enforcement effort that ensures children under the age of 17 are in fact prohibited from viewing NC–17 rated movies—or that children are not allowed to purchase music or video games which are purportedly intended for sale to adults. The inquiry by the FTC and DOJ directed by this amendment will further be helpful in this regard.

I believe that the enforcement of the voluntary standards is necessary to make the system work. Proper enforcement will protect the integrity of the overall self-regulatory system. If the industry chooses to exercise responsibility and refuse to sell its product to a retailer who does not follow the industry code of conduct, it should be able to do so—without the fear of antitrust laws.

Here is how this provision of the amendment works: to the extent that the antitrust laws might preclude the motion pictures, recording or video game industries from developing guidelines and procedures for their respective industries to limit the sale of unsuitable material to children, this amendment fixes that. It provides industry with limited fixes that. It provides industry with limited exemption from the antitrust laws in order to give them the freedom to develop and enforce voluntary enforcement mechanisms without the fear of antitrust liability or government regulation.

But with this amendment I hope to encourage industry to limit the sale to minors of material, whether it is music, movies, or video games, which the industry itself deems unsuitable for children.

Again, it is important to underscore that this provision does not tell industry to do or not to do anything. It simply gives them the power to join forces in order to develop enforcement mechanisms without the risk of liability under the antitrust laws.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support the amendment. I am privileged to be a cosponsor of the amendment with the Senator from Kansas, Mr. BROWNBACK, and with the Senator from Utah, Chairman HATCH.

This amendment incorporates several proposals which many of us have been working on together across party lines in this Chamber to try to tone down one of the influences that we are convinced is contributing to the outbreak and crisis of youth violence in our country.

Two other colleagues whom I have been privileged to work with are Senator MCCAIN of Arizona and Senator KOHL of Wisconsin. At this time I ask unanimous consent that Senators MCCAIN and KOHL be added as original cosponsors of this amendment.

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

Mr. LIEBERMAN. Mr. President, in the wake of the tragic shooting in Littleton, we as a nation, as individuals, are focusing in on an unsettling fact: No matter how good times are economically in America, something seems to have gone wrong in our country, something that is whetting the taste for blood and death in our children, turning too many of them into killers in our schools, in the suburbs, on the urban street corners, and in the homes of every kind of community throughout our country.

As I have listened to this discussion at home in Connecticut, and as I have listened to it here on the floor of the Senate, in the committees and caucus rooms of this Capitol, I think what is important is that we are all recognizing and accepting that this is an extremely complicated problem without a single cause, fueled by an amorphous mix of factors.

A child is not, if I may say, a natural born killer. A child, unfortunately, is affected by a variety of circumstances that make him into a killer, from the disengagement of parents, from the makeup of the child himself, to the disconnection and alienation that many children feel from their families, their peers, their communities, to the weakening of our moral and community safety nets. This is a mix that has been

made more deadly in our time by the easy access many children have to guns.

Most of what we know for sure, as we consider the complexity of the problem, is, unfortunately, in the statistics, there is a Littleton every day. An average of 13 children die from gunshot wounds every 24 hours in America—some self-inflicted and more from murder.

The fact is that no civilized country in the world comes close to matching this level of homicide and suicide, let alone the massacres we have seen committed in public places. The more we look at this problem, the more we understand—many of us—that the environment in which we are raising our children, with all of the death and destruction and dismemberment and degradation that we expose them to in the entertainment media, with the wealth of perverse messages we send them romanticizing and in many ways sanitizing violence—all of that has an effect. All of that draws a connection between the culture and the killing, between the viciousness pouring out of our children and piling up throughout our society.

I know there are skeptics and naysayers who, despite the reams of evidence and scientific and anecdotal information gleaned from Littleton, Jonesboro, Paducah, and elsewhere—despite all that our intuition tells us about the omnipresence of electronic media and the pull on our society, despite all of this—cling to the notion that the culture of violence is harmless, that the relentless assault of virtual murder and mayhem on our children is having no effect, and that it can't be true. There has always been violence in our country, these skeptics rationalize. There has always been violence in the culture. So the answers must lie elsewhere.

But the answer lies within each of us, and within each of the groups and industries we are referring to here. The truth is, we have always had alienated, disaffected, and in some cases mentally troubled children. We have always had the cruel taunting of adolescents, the cliques in schools, and in many parts of the country we have also always had guns within easy reach of children. And yet, never before in the history of our country have we seen this level of violence among our children. Something entirely different, chillingly different, is happening, and we have to find out what it is and do something about it.

We could spend weeks discussing this question. In fact, in another amendment several of us will be proposing a year-long commission to look at the problems underneath the problems.

Clearly, some of it has to do with the fact that many of the traditional transmitters of values we have long relied on to shape the moral sense of our children—family, community, faith, and school—have been weakened in recent years, and more and more what is filling that value vacuum is the enormously alluring and powerful, influential entertainment media which too often has become a standard shredder instead of a standard setter.

So how do we in this society that so values freedom of expression urge and push the entertainment industry to self-control, to self-regulate, to acknowledge not that they are causing this problem but that they are contributing to a crisis that is killing too many of our children?

It is not easy. I think in this amendment we have found a way to begin to do it with an industry code of conduct exempting those in the entertainment industry from the fear of antitrust prosecutions so that they can work together to develop a code of conduct which will protect them from what some of them claim to be: With the currently existing competitive pressure downward, if the other company produces an ultra-violent movie and makes money, we have got to do it.

Of course, nobody has to do anything. Lines should be drawn about what people won't do to make an extra dollar or two or an extra 10 million dollars or two.

This amendment enables the companies to get together to do just that, and also to enforce the rating system that they themselves put on. We don't want to be censors. Let the industries themselves rate their products, as they do now. But then let them agree not to market products that they have rated as inappropriate, as harmful to children. Let them agree that when they rate a movie as unsuitable for kids under 17, there ought to be some responsibility in the theater owner not to let children under 17 into that movie, just the way there was responsibility on the owner of a bar not to serve liquor to a minor.

Mr. President, last week I submitted evidence to the Commerce Committee, which I think is strongly suggestive of the fact that two major entertainment industries—the movies and the video games—are rating products as bad for our children and then, as my colleagues have shown here on the floor, directly marketing those products to our children, contributing to the culture of violence that is embracing, surrounding, suffocating, and too often motivating our kids.

This amendment rightfully calls on the Justice Department and the Federal Trade Commission to conduct an investigation of the marketing practices of the video game, music, and motion picture industries to determine if they engage in deceptive marketing practices by targeting minors for the acquisition of material they themselves have deemed unsuitable for such minors.

I am afraid to say that Joe Camel has not gone away. He seems too often to have gone into the entertainment business.

Consider the anecdotal evidence from the movie industry, which indicates that violent films rated for adults only are being marketed to children. Over the last few years we have seen the rise of a new class of teen-targeted films—referred to by some as ''teensploitation'' movies—which has engaged producers and directors in a conspicuous contest to see who can be more violent, more sexually provocative, and generally more perverse to attract youth audiences. A perfect example of this trend is ''Very Bad Things,'' a supposed comedy about a bachelor party gone wrong, which finds fun in the dismembering of a stripper and the successive mutilation of the partygoers.

The latest entry is ''Idle Hands,'' which was released just last week. It is promoted as ''sick and twisted laugh riot,'' and it's not hard to see where this description comes from—according to reviews, the film features a severed hand that fondles a girl before strangling her, a knitting needle that is driven through a policeman's ear, and a decapitation by circular saw blade, all apparently played for laughs.

What these movies have in common, beyond their violent and offensive content, is that they are rated ''R,'' meaning that they are not meant for children under 17. Yet according to several recent news media reports, most producers and studio executives assume that underage kids can and will get in. ''Well, let's hope so,'' says Roger Kumble, the director of ''Cruel Intentions,'' the teen remake of ''Dangerous Liaisons'' which is by all accounts far more salacious than the original. This sentiment was affirmed by Don Mancini, the writer of all four R-rated ''Child's Play'' horror films, who acknowledged that young teens were the target for his most recent release, ''Bride of Chucky,'' and other similarly bloody slasher films. ''They have grown up watching these movies on home video,'' he said. ''Now that there are new ones coming out, these kids are tantalized.''

To apparently help lure in young audiences, these teensploitation movies are heavily advertised on MTV and network series that teens watch regularly, such as ''Dawson's Creek'' and ''Buffy the Vampire Slayer,'' and are stocked with actors from these teen-favored TV shows. This pattern succeeded with the teen slasher movies ''Scream'' and ''I Know What You Did Last Summer,'' and it continues with the current ''Cruel Intentions''—the director said casting Sarah Michelle Gellar of Buffy fame was like ''dangling the carrot'' in front of young teens. This dangling is apparently working—according to a recent Gallup poll, half of American teens say they have seen an ''R''-rated movie in the last month, including 42 percent of those aged 13–15.

The video and PC and arcade gamemakers are less candid about targeting their marketing to teens than the moviemakers, but the evidence is there just the same. Action figures based on bloodthirsty characters from ''Resident Evil 2,'' ''Duke Nukem,'' and

''Mortal Kombat''—three heavily-violent titles that are rated ''M'' for 17-and-up—are being sold at Toys-R-Us and similar toy stores. Those same toy stores, which cater largely to children, typically carry those games and many of ''M''-rated titles filled with guns and gore.

Equally disturbing is the advertising that publishers place in the various glossy game-player magazines. These magazines are widely read by young gamers, and they are filled with perverse and antisocial messages. Here are just a few: ''Carmageddon'' boasts it is ''as easy as killing babies with axes''; ''Point Blanks'' claims it is ''more fun than shooting your neighbor's cat''; ''Die by the Sword'' instructs, ''Escape. Dismember. Massacre.''; and ''Cardinal Syn'' features a severed, bloodied head on top of a spear, with the tag line, ''Happiness is a Warm Cranium.'' A good indication these messages are reaching their target audience came from a survey done by the national Institute on Media and the Family last winter, which found that while only five percent of parents were familiar with the game ''Duke Nukem,'' 80 percent of junior high students knew of it.

Taken together, the evidence here is enough to demonstrate that there is a troubling trend in the entertainment industry, one that it needs to stop now. The marketing of these ever-more vicious and violent products is making a mockery of the various rating systems, telling parents that these products are inappropriate for children but we're going to sell them anyway, and reminding us of similar behavior by the tobacco industry. More than that, it is unethical and unacceptable, and should stop now.

We presented this evidence at a hearing before the Commerce Committee earlier this month, and the response from Hollywood was a deafening silence. There was no acknowledgment that this is going on, or even that it presents a problem. Their unwillingness to discuss this problem leaves us no chance to act. That is why Senator HATCH and I, along with Senator BROWNBACK, are calling for an investigation into the marketing practices of the movie, music and video game industries, to determine to what extent they are targeting ultraviolent, adult-rated products to children.

Finally, in this amendment we call for an NIH study on violent entertainment. NIH is directed to conduct a study of the effect of violence in video games and music, building on the studies that have been done which conclusively show that violence in movies and television affects the behavior of children and makes them more violent.

This study would be a companion piece to the directive the President issued on Monday at the summit. He called on the Surgeon General to do a broad-based study of the causes of youth violence in our country, including the effect the entertainment industry is having on the violent behavior of our children.

This amendment is one of several that will be introduced today. None of them individually will solve this problem. This is all a matter which in some ways is the history of human civilization and the extent to which we can improve the prospect that we will express our better natures and not our worst natures. As humans, we are far from perfect. Parents try to raise children and develop their better nature. Too often today those parents feel as if they are in fundamental and in some ways critical competition with the entertainment industry to raise their kids.

All we are doing in these amendments and these statements is to appeal to the entertainment industry to exercise some responsibility: Help America raise our children so that society will be safer than I fear it is as a result of the violent material included in too many entertainment products.

I hope—and I say this with some confidence based on the bipartisan reach of the cosponsors of this amendment—Senators BROWNBACK, HATCH, MCCAIN, KOHL, and myself at least—that this amendment will be passed across party lines with an overwhelming majority of colleagues of the Senate voting in favor of it.

I yield the floor.

Mrs. BOXER. Mr. President, I have 7½ minutes and Senator KENNEDY has 7½ minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Mr. President, I appreciate the hard work the Senator from Kansas, the Senator from Connecticut, and the Senator from Utah have put into their amendment. I have no problem with looking at all the different causes of violence among our youth. As a matter of fact, it is very much called for.

I also believe that anyone in our society who says, I have nothing to do with this, is simply not taking responsibility for something very pervasive in our society. That goes for every one of us, in our private lives as moms, dads, grandmas, and grandpas, in our public lives as Members of the Senate.

There is one thing missing from this well-worded amendment. I know the Senator from Kansas is checking on some matters for Members who may have some concerns. What is missing from here as we look at the marketing practices of the entertainment industry—which, as I say, I don't have an objection to looking at that—I don't see anything in here at all that deals with the marketing practices of another industry, a huge industry in our country, and that is the gun industry.

Why do I bring that up? We all say that angry kids and guns don't mix. We know we want to keep guns away from children. So it seems to me, as we see more and more kids with weapons, we ought to look at the marketing practices of the gun manufacturers if we are to be fair in this amendment. We should look at everybody if we are truly being fair.

Why do I think this is important? Let me give my friend a couple of examples so I am not just being theoretical. I say to my friend from Kansas, the author of the amendment before the Senate, this is taken off the amendment. This is a picture directly from the Internet in the Beretta catalog. They call it their Youth Collection. We can see the bold colors in the gun. What they say in advertising—and I think this is very important—from their Youth Collection:

> An exciting, bold designer look that is sure to make you stand out in a crowd.

I don't know about my friend from Kansas, but I don't know what they mean, ''stand out in a crowd.'' If mom or dad takes them hunting, you ''stand out in a crowd'' with your mom and dad? You already ''stand out in a crowd'' with them.

This is from a gun magazine called Guns and Ammo: A young man who looks like he is about 13. It is titled ''Start 'Em Young.'' ''There is no time like the present.'' This young man is not holding a long gun; he is holding a handgun—which we believe is a make-believe gun—holding a handgun in one hand and a bottle of Pepsi in the other hand.

If we are going to look at marketing practices, we ought to look at them across the board.

Here is another advertisement that will take your breath away. A little boy, who like my grandson's age, about 3½, is being used in a catalog advertising Browning guns. This child looks like he is about 3½ years old.

In the NRA Youth Magazine, it says, ''News for Young Shooters.'' It doesn't say young hunters. ''New youth guns for '97.''

This is an advertisement in the NRA magazine. This is a handgun. The advertisement says, ''The right way to get started in handgunning.'' This is in a youth magazine.

The law says you can't buy a handgun from a dealer unless you are 21; at a gun show you can purchase at 18.

This is the Youth Magazine, I say to my friend from Kansas, Youth Magazine—below 18—and they advertise a handgun.

I could show more examples of marketing practices that look to a lot of Members as if they are going after very, very young people.

I understand the rules around here and I have great respect for my friend from Utah. He will second-degree the Senator's amendment with an amendment of his own, and I don't know exactly what it will contain. I hope it will be to expand this to gun manufacturers, expand our study. If it is, I would be delighted.

I ask my friend from Kansas if he would accept this amendment, which simply adds a new title, takes the same study and includes a study of marketing practices of the firearms industry toward young people, so that we have a well-balanced amendment before the Senate that deals both with

what the entertainment industry is doing and what the gun manufacturers are doing. I ask my friend from Kansas if he is willing to accept this amendment that simply takes the same study and allows it to be made of the marketing practices of the firearms industry toward juveniles.

Mr. BROWNBACK. Mr. President, if I could respond to my colleague, I appreciate her bringing this up. It would have been nice, maybe, to have caught it at a little earlier time.

The amendment itself is directed at a particular facet. I think we are going to have a number of different amendments that are going to affect the gun industry.

We do not have an amendment here on marketing for the knife industry either. There are other places, I suppose, we could look at marketing issues as well, and perhaps should.

This is particularly directed at a certain sector. I hope my colleague will bring this up at another time with another amendment. I am afraid I could not accept it at this point in time because I have too many cosponsors on this amendment and I would have to go around to those cosponsors and ask them.

I think the Senator brings up a good point. I think this is a fair item to look at. It has been studied. There have been several studies, I am informed, on this very point she is raising. It might be good to look at some of those. The things we are trying to study here have not been studied before. That is why we particularly look at that set of points, because we have not. It is tied into a particular industry area.

Mrs. BOXER. If I may reclaim my time, because I have limited time, the reason I wanted to find out if my friend would accept it—obviously, he is not going to do it. I am happy to look at how many kids a year die because of knives, but I can tell you now, 4,600 kids a year die of gunshots. It is the leading cause of death among children in my State. It is the second leading cause of death among youngsters nationwide. If you want to look at knives, I am happy to look at knives. You show the numbers. They do not come close. Guns are the No. 1 cause of death in California among kids; No. 2 nationwide. It has overtaken car deaths in my State, and it is about to overtake car deaths nationwide.

All I am saying to my friend is this. I appreciate the hard work he has put in on his amendment, but I hope he will consider accepting this amendment. I think it is fair. We are looking at causes of violence, dealing with marketing practices in the entertainment industry. We ought to expand it to include this.

I have the numbers: 137 children died of knives in 1996 compared to 4,600 who died of gunshots. If you want to examine the knifing deaths, I am happy to do that, but the magnitude of the problem is not the same. We have the equivalent of one Columbine High School incident every day. I know the Senator from Massachusetts——

Mr. KENNEDY. I yield my time to the Senator.

Mrs. BOXER. If my friend wants to continue the colloquy, I am happy to yield him 2 minutes. Then I can discuss this back and forth with him.

Mr. BROWNBACK. I would note, I think we should look at these prior studies that have been done on this particular issue. I think it would be wise as well to look at those. I appreciate my colleague raising this. We have a series of amendments that are bipartisan. We have a series of cosponsors on this amendment. It is an area on which we have held a number of hearings. That is what we seek to have addressed here.

If she seeks to add it into another, or bring it up as a separate amendment, I think that would be a good thing to do. I am certainly not opposed. But on this, at this point in time, we have a number of cosponsors. I think we are up to eight cosponsors, bipartisan, on this. I would need to go to all of them and ask all of them to add this particular amendment. It is out of the flow of what we are trying to do with this amendment. We have announced this. I have been working with a number of people on a bipartisan basis. I think we need to stay with that at this time.

Mrs. BOXER. I thank my friend. I have to say to him, why is it out of the flow of this amendment? I am just taking back my time at this point. I yielded my friend time. He made a statement that my amendment is out of the flow.

I thought we were looking at reducing juvenile crime and juvenile death. I thought we were looking at reducing the culture of violence. All I am saying to my friend is, you are going after one industry here. Fine. They better stand up and be counted on this. But when it comes to the gun industry, you cited studies. What other studies?

As a matter of fact, if you want to look at the way Congress has treated the gun industry, that is the only industry in the whole country that I know of which is not even regulated by any Federal law, in terms of the Consumer Product Safety Commission, which they are specifically exempted from. I have to say I am disappointed because, in the spirit of bipartisanship, we should make every industry stand up and be counted when it comes to our children.

Every day in America there is another Columbine. Every day, 13 children are gunned down. They die. Yes, we need to look at the violent culture, as my friend from Utah has pointed out, and my friend from Kansas. Yes, we need to look at why that culture seems to impact our kids more.

I was struck by a comment of Senator LEVIN from Michigan, who pointed out that in the town directly across from Detroit, in Canada, where they get the same videos, the same movies, the same music, there were hardly any gun deaths. He has those exact numbers, something like 300 compared to 19.

So there are a lot of factors that we have to deal with, including family lives of our children. Do they have enough to do after school?

It is about prevention. Senator KENNEDY has been eloquent on the point. Senator LEAHY has been eloquent on the point, saying: Yes, we want to do even more on prevention. But when we are down to studying an industry, how do you say, I really can't study at this point the marketing practices of the firearm industry? To me, it is amazing that they would advertise a handgun in the NRA youth bulletin when laws in our country today say you have to be 21 to buy a handgun from a dealer, and, at a gun show, 18. But nowhere does it say in our law you can buy a handgun under 18. Yet, in the youth magazine, what does it say? ''The right way to get started handgunning.'' Here is this young man, 13 years old, posing with a handgun replica. ''Start 'em young. There's no time like the present.''

Here is the Beretta, painted in bright colors to attract children, in their youth collection of which they say, ''an exciting bold designer look that is sure to make you stand out in a crowd.'' You know, I think that ought to be investigated. What do they mean? I would love to know what they mean by that: ''An exciting bold designer look that is sure to make you stand out in a crowd.'' Those two shooters at Columbine wanted to stand out in a crowd.

So I think if we are going to look at an industry and say we will only look at one and turn our back on the firearms industry and their marketing practice, that is wrong. I am disappointed that my friend from Kansas will not accept this amendment. He has eight cosponsors. I am sure a lot of them would support this amendment.

It is my intention to offer this at another time, because I do not feel we should study one industry and bring all our efforts down on one industry while turning our back on another industry which looks to me as if it is going after our kids—really young. A picture of a 3½-year-old child in one of these advertisements—maybe he is 2½, maybe he is 4.

Let me express my deep disappointment we cannot do this by unanimous consent, and express my desire to offer this amendment, which is basically the same as the one before us, with the FTC looking at the advertising practices of the gun industry.

I think not to take this amendment, I say to my friends on the other side of the aisle, is a sad day. It is a sad day because it looks to me as if you want to blame everything on one industry and turn your back on another one that is going after our children.

It is not balanced; it is not fair. I hope to offer this amendment, and I hope to get support for it at a later time.

Mr. President, I yield back my time to Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I commend the Senator from California. I believe most of our time has been used. I will address the Senate on the matters which I had intended to address later in the afternoon. I see my friend and colleague from Ohio on the floor, so I will seek recognition later.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent to add the Senator from Ohio, Mr. DEWINE, as an original cosponsor of this amendment.

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

The Senator from Ohio is recognized for 10 minutes.

Mr. DEWINE. Mr. President, I rise this afternoon in strong support of the amendment offered by the Senator from Kansas, Mr. BROWNBACK, and the chairman of the Judiciary Committee, Senator HATCH. I want to discuss one of the provisions of this amendment. This provision is similar to legislation Senator BROWNBACK and I introduced in the last Congress, and that bill was S. 539, the Television Improvement Act. We introduced that bill in the last Congress, along with the Senator from Connecticut, Mr. LIEBERMAN, and my friend and ranking member of the Antitrust Subcommittee, Senator KOHL.

This amendment will create an exemption from antitrust liability to allow the entertainment industry to develop and agree upon voluntary guidelines designed to alleviate the negative impact of numerous forms of entertainment—broadcast programming, movies, music lyrics, video games, and Internet content.

In other words, this amendment will remove a legal obstacle that arguably could prevent decisionmakers in the entertainment industry from getting together to make responsible decisions about the products they produce. Specifically, this amendment will allow them to agree voluntarily to limit the amount of violence, sexual content, criminal behavior, and profanity that exists in their various mediums. It will also, equally important, give them an opportunity, if they chose to take it, to promote and provide entertainment that is educational, informational, or otherwise beneficial to children. In other words, it will allow them to come together to agree to limit the bad things, but it will also allow them to come together to try to improve the quality of product they are putting out and specifically when they are dealing with products for children.

I emphasize that the purpose of this amendment is to allow the entertainment industry to voluntarily come together to address the American people's growing concern about the negative influence of television, movies, and other forms of entertainment on our children. Rather than mandate Government restrictions on programming content, this amendment is designed to give industry leaders the opportunity to improve on their own the quality of television programs, music, movies, videos, and Internet content.

In the past, the television industry has had such a code of conduct. In fact, for most of its history, the television industry utilized the code in order to help it make programming decisions. But in recent years, many of the entertainment industry have expressed concern that such a code might expose them to legal liability and they, therefore, have abandoned it.

As chairman of the Antitrust Subcommittee, I studied this matter in the last Congress, and I came to the conclusion that a code of conduct would be appropriate and legal under current antitrust laws. However, just to be sure and to remove any doubt, I am supporting this amendment exemption.

This amendment exemption will remove any lingering doubts those in the industry might have. Quite candidly, quite bluntly, this will say to the entertainment industry: You have no excuse—no excuse—not to come together and try to improve programming for children. You have no excuse not to come together and try to limit the bad things that are on, to limit the things that the American people find so objectionable.

Acting on this legislation gives the Senate the opportunity to urge entertainment providers to work together and to cooperate to ensure our children's best interests are, in fact, protected.

This amendment encourages voluntary, responsible behavior. It will not give any Government agency or entity any new authority to regulate or control the content of television programs or the content of movies, music, video games, or the Internet. It merely gives those in the entertainment industry the freedom to regulate themselves and to do the right thing.

I recognize that entertainment, like almost everything else in our economy, is driven by competitive pressures. Often in the heat of competition, those in the industry may believe they are offering a product that is of lower quality than they might like, but they may feel they have to do that. This amendment offers a way out of the situation.

The amendment basically calls for a cease-fire among cable stations and the networks, the movie studios, the record companies, the video game industry, and the web sites. This is a cease-fire so they can try to work out an industry-by-industry response to the legitimate demands of millions of American parents for more family-oriented entertainment.

When I look at this amendment, I look at it as I think many parents do. I am worried about what is happening in this country. There was a time, not too many years ago, when parents did not have to worry about what was on television during the so-called family hour. That is not true anymore. There really is not a family hour anymore. We have all seen the steady decline in the quality of television over the last few years.

In addition, we all know music lyrics have become more graphic and more violent and, in recent years, video games and the Internet are providing more violent and sexually explicit material than we ever imagined possible.

It is beyond dispute that these television shows, movies, records, and video games are having an effect. For a young person, for a teenager, popular music is really the sound track of their lives. Movies and television provide a lot of the context for their relationships. Video games and the Internet provide a great deal of their entertainment.

As these movies become more violent, more sexually explicit, as these songs show more and more disrespect for life and for the rights of others, some of our children are starting to believe this behavior is acceptable and normal. Some are starting to believe this make-believe world of music and movies is the real world with sometimes very tragic consequences.

I understand it is not the role or the responsibility of the entertainment industry to raise our kids or to protect them from the violence of the real world. That is our job as parents and as citizens. It is time that the entertainment industry did its fair share. That is what this amendment is calling for.

I hope the entertainment industry takes the opportunity that is offered by this amendment and makes a commitment to provide the kind of entertainment of which we can all be proud.

Mr. President, I thank the Senator from Kansas for offering this very important and, I think, timely amendment. I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I ask unanimous consent that we lay the pending amendment aside so that the distinguished Senator from California may be able to call up a separate amendment, which we will accept.

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

AMENDMENT NO. 330

Mrs. BOXER. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. KENNEDY, Mr. DURBIN and Mr. LAUTENBERG proposes an amendment numbered 330.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end, add the following:

SEC. . STUDY OF MARKETING PRACTICES OF THE FIREARMS INDUSTRY.

(a) IN GENERAL.—

The Federal Trade Commission and the Attorney General shall jointly conduct a study of the marketing practices of the firearms industry; with respect to children.

(b) ISSUES EXAMINED.—In conducting the study under subsection (a), the Commission and the Attorney General shall examine the extent to which the firearms industry advertises and promotes its products to juveniles, including in media outlets in which minors comprise a substantial percentage of the audience.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Commission and the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

Mrs. BOXER. Mr. President, I thank my friend from Utah and my friend from Kansas for indicating they will accept this amendment. All we do here is we extend this study to the firearms industry as it relates to their marketing practices aimed at children. I am very pleased that, after we had a chance to discuss this, they have agreed to accept it. I think it makes what we are doing here stronger and fairer, by looking at all the aspects of this problem.

I thank my friend for indicating he will accept this amendment.

Mr. HATCH. Mr. President, we are prepared to accept the amendment.

Mr. BROWNBACK. If I could just comment, I have had no objection to this all along. We had a specific set area we wanted to talk about and to address and to have a discussion on. I have not had an objection to doing this. But we have had a focus and set of hearings on the things we talked about, and it has been well developed, and it had eight cosponsors to it. I just did not want to do that without having a chance for other people to look at it and have their point of view. I have no objection to this.

Mrs. BOXER. Again, I thank my friend.

I ask unanimous consent that Senators KENNEDY and DURBIN be added as cosponsors to this amendment.

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

Mrs. BOXER. I look forward to working with my colleagues to reduce gun violence. I also ask unanimous consent that Senator LAUTENBERG be added as a cosponsor as well.

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

Mrs. BOXER. I thank my friends and yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 330.

Without objection, the amendment is agreed to.

The amendment (No. 330) was agreed to.

Mr. HATCH. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, what is the status of the time agreement?

The PRESIDING OFFICER. We have no time agreement.

Mr. SESSIONS. Mr. President, I would like to speak briefly in favor of the Brownback-Hatch amendment.

I believe it is a good, realistic first step, because what it deals with is a voluntary step that would allow us to conduct a search and allow voluntary actions by the movie and entertainment industry to confront a problem many of us believe is affecting the culture of violence in America.

All of us know that it is not a bomb or a knife that has the intent to kill. The intent to kill comes from the person who wields that weapon. There must be ''malicious intent'' under the law to constitute a criminal act.

We believe, and I think most Members of this body believe, that something is awry, that somehow, some way we are allowing a plethora, a host, a bombardment of unhealthy messages to reach our children and that some of them are seriously affected thereby.

I, for one, think that the reason we have had more than one of these mass shootings at schools is because a very, very small number of young people in America have found themselves able to immerse into a nihilistic, depressive, death-oriented, violent-oriented lifestyle. It surrounds them. If they are in an automobile, there is violent, depressive music on the radio. If they go to the movies, there are violent movies they can watch. They not only can see them in the theater, but they can rent the movies and play them time and time again, as some of these young people apparently have. These very dangerous movies are filled with anger and violence.

There are such things more and more happening on television today. And a young person can get on the Internet and play very intense life-and-death games in which youths are out to kill before they are killed. It is an intense experience for many young people.

There are chat rooms on the Internet. You can get on the Internet and find somebody who can feed your negative thoughts, who believes that Adolf Hitler is worthy of respect. You can find somebody on the Internet who would agree with that and affirm this unhealthy view of life.

I think we are seeing that kind of thing, and maybe that is a factor in what is happening in America.

I would say there is no better champion than Senator BROWNBACK, and I am so proud of the Senator from Kansas for raising this issue so articulately and so persuasively. I think this is just the beginning. I think we are called upon as leaders in the American Government to think seriously about what we are doing and how it affects our culture.

One of the great Greek philosophers—Plato, I believe—said, ''The purpose of education is to make people good.''

We think the purpose of education is to transmit technical knowledge and job skills, and that no teacher should even be empowered to suggest what is good and what is bad, to choose light rather than darkness, to choose life rather than death. Are we not capable of affirming those basic principles in our public life in America? I think we can.

I think this is a bizarre and abnormal theory we have developed about the proper role of government with regard to matters of arousing religion and faith in this country. The Constitution deals only briefly with the right to express religious opinions. For example, I would like to make this point. It is the only reference in our Constitution about religion. The First Amendment says Congress ''shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof.''

People say, what about this ''wall of separation'' between church and state? Thomas Jefferson wrote a letter in which he made reference to a ''wall of separation'' between church and state. This was later. Those who ratified the Constitution never ratified that. We don't even know what he meant by that, it was a private letter, not a formal opinion. That is not part of the Constitution. It has never been approved by the American people, adopted by we, the people of the United States of America, when they ratified the Constitution or voted on in Philadelphia by the people who were there. What they voted on was that Congress, the United States Congress, ''shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof.''

The President, sitting in the Chair—I happen to have done that a number of times in just over 2 years in this body. When you look out across the wall, you see in words 6 inches high, or higher, right up there over the door of this august room, it says ''in God We Trust.''

If you go in the anteroom over here, in the President's Room, there is a figure holding a Bible in her arm. It is painted on the ceiling. How long it has been on there I don't know, but for many, many years. There is another one with a cross. There are four words on the four corners of the wall. I think one of them is ''philosophy.'' One of them is ''government.'' And one of them is ''religion.'' We made reference in our founding documents to divine providence, to our creator.

So I believe we have established an extraordinarily bizarre understanding in recent years of what the meaning and the proper understanding of the

separation between church and state is. I believe that this Congress was prohibited by the American people and the Founding Fathers from establishing an official religion. I do not believe there is anything that any scholar can say that the Constitution is prohibiting acknowledgment of a higher being. In fact, we have done that throughout the history of this country.

My personal view is that this legalistic approach has intimidated teachers and made them less willing to provide moral guidance and affirmation of religious impulses of their students. They feel that it is somehow illegal for them even to do so.

I do not believe that is true. I think threats of lawsuits have intimidated natural free speech. The Constitution says Congress shall not prohibit the free expression of religion.

I think we ought to have a more natural approach. I think any teacher, or any government official, ought to be sensitive not to use any position of authority they may have to impose their own personal theology or philosophy or political views on people who are in a captive audience. That is normal, natural decency. Where I grew up, I was taught to respect people's religion. If they disagreed with me, that was their prerogative. In this country, you are allowed to have and adhere to deep religious beliefs. If a religious faith called on students to pause at a certain time during the day to have a prayer and it is part of their doctrine and they believe deeply in this, why would we not allow that to happen? I was taught you tried to accommodate people's religious beliefs—not to get into debate and argument with them—because we respected people who had something more important than who made the highest test score.

Griffin Bell, former Federal judge, and former Attorney General of the United States for President Carter once made a speech. It was suggested he might be critical of President Reagan—he was appointing judges and he said President Reagan had a litmus test for judges. Judge Bell was asked what he thought about this litmus test. He shocked the State bar association meeting members by walking to the microphone and saying, ''I don't know, maybe we ought to have a litmus test—nobody ought to be on the Federal bench who doesn't believe in a prayer at a football game.''

I wonder about that. Why do we think you can't even have a voluntary moment so those people who choose to do so might bow for one moment at the football game to affirm that there is something more important in life than who is the biggest, strongest and who has the most points? How does this undermine our freedom as Americans? If you don't want to bow your head, you don't have to; if you think it is superstitious—free country. If you respect other people's religion and if this is important to them, you will benignly allow them to carry on with their beliefs.

I think we have gone way too far. I think it has affected the ability of the American leadership to assert certain cultural beliefs and values, and if we don't do that, we are suggesting directly and indirectly to our children that there are no permanent values, there are no values worth dying for.

One reporter, referring to a prominent American, said there is not one single belief he would adhere to if he thinks it is against his political interest to do so. I hope we haven't reached that point. I hope there are still things that people are willing to stand for, pay a price for—yes, die for.

That ought to be transmitted to our children. There are a multitude of ways that can be done. Even our televisions, our newspapers, and our radios affirmed those basic values consistently in the 1950s, for example. It was affirmed at our schools. It was affirmed in our families. It was affirmed in our churches.

Now we have begun to lose our moral compass. How we deal with it, I don't know. The Senator from Kansas, Senator BROWNBACK, has said he doesn't really know the answers but he is raising those questions. He is calling on us as a nation to analyze what is happening, to recognize that a culture that affirms life, a culture that affirms light, is better than a culture that affirms death and darkness. Honesty is better than dishonesty; kindness is better than meanness. There is right and there is wrong. We ought to adhere to the right even when, in the short-term, it is not helpful to us. Somehow we have to deal with this.

These amendments are a step. We believe it is constitutional, appropriate, and fair.

We believe we should analyze in one little area what is happening, to create some studies about the market, a National Institutes of Health study of violent entertainment and the impacts it may have.

Just this week I happened to be passing a television set tuned to the Maury Povich show. A mother was expressing her concern about her daughter who was off stage. And they would flip back and forth. The mother said she is doing a lot of dangerous things, even saying she killed somebody. The daughter, off stage, hearing this was still smiling. The daughter even acknowledged throwing her own school principal on the floor.

That is so bizarre. Some say television won't affect anybody. Well, maybe it won't one time. But what happens when you see this every afternoon after school? When certain children who are unhealthy receive these messages, can it distort their view of life? Make them less positive, more negative? Less peaceful, more violent? Less committed to honoring rules and civility and decency and order? I suspect that it does and can and it is not going away.

We have a great economy; things are doing well. We are benefiting from some of the greatest technological achievements in the history of the world. I hope they will continue. It is making life better for us. However, if we have a danger, it will be that we as a nation will lose our way, lose our direction, lose our discipline, our commitment to order and peacefulness and cooperation. If we lose that, then improvements in technology that made our life so much better may not be able to carry us much further.

When talking about how much money we spend on education, what good does it do to have a $500 textbook if the child won't read that book and he has no motivation, no commitment to improve himself or herself or the parents are not supportive? You have a state of the art classroom with the finest technology and students are not interested. You talk to teachers and they will say a lot of children in their classrooms are just not interested, they have no thought for what they are going to make of their lives in the future.

I don't know all of the answers. I know this juvenile violence bill does not answer all of them. I know this: In America today, if we have criminal activity by young people, this society has to take that seriously. Even Doctor Laura tells us that. Everybody knows that. A football coach knew that. If you are in the Army and you get out of step, they get you back in line. There is punishment; there are expectations of people that we insist on. That is how you have good Army units, good football teams, good classrooms, and good nations.

I am concerned with those issues. I think they are fundamental. I feel a burden to think more about it, to pray more about it, and try to be able to contribute effectively to it.

We do need to make sure we are doing fundamental things well. One of them is to have a court system that works well. When a young child is arrested for a serious crime, he should be confronted by a judge and a probation officer and something should be done that is appropriate to that crime. You do not love children and you do not care for them if you blindly allow them to get away with serious wrongdoing. We are failing them when we do that. It is the concept of tough love. If you love children, you cannot have them break into a house and steal something and be caught and allow nothing to happen to them. That is happening in America today. You talk to your police officers, they are having to make these arrests. They tell me: JEFF, these kids are laughing at us. We can't do anything to them and they know it.

Victims often are not even allowed to go into the juvenile centers and know what is going on. Their records are not maintained. Judges have no alternatives for punishment or mental health treatment or counseling or drug testing and drug treatment.

We want to improve this system to focus on those young people who are going astray, to intervene in their lives and, hopefully, create a better America. It is just a small step. But we have an absolute obligation to make sure the moneys we expend are spent wisely and that they affirm the needs of our civilization; that is, the need for order, abiding by the law, peacefulness, and not violence.

Mr. President, I thank Senator HATCH and Senator BROWNBACK for their support of this amendment. It is a good step in the right direction. We are going to have to do more of that as the years go by.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague for his excellent remarks. He has been a major player in this matter from the beginning. I really appreciate what he has been doing.

I appreciate the cooperation we have had from colleagues on both sides of the aisle because this is an important bill. This is going to make a difference as to whether we have, time after time, incidents such as we had in Littleton, CO, or whether we are going to do something about it. This bill will do an awful lot about it, although nothing is going to stop people who have an emotional disturbance from perhaps doing things we cannot contemplate.

Mr. President, I ask unanimous consent with respect to the Brownback amendment on culture that the amendment be laid aside and no amendments to the amendment be in order prior to the vote on or in relation to the amendment.

I further ask consent that Senator LAUTENBERG be recognized in order to offer an amendment regarding gun shows under the same terms as outlined above, and the amendment be laid aside, and Senator CRAIG then be recognized to offer an amendment regarding gun shows, and there be 90 minutes equally divided for debate on both amendments, under the same terms as outlined above.

Finally, I ask unanimous consent that following the debates the amendments be laid aside, with votes occurring beginning at 4 p.m., in the order offered, with 5 minutes prior to each vote for explanation.

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

Ms. MIKULSKI. Mr. President, I ask I be allowed to speak for 5 minutes on the pending bill.

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

Ms. MIKULSKI. Mr. President, I know we have been discussing the juvenile justice bill now for several days. I would like to compliment the leadership on both sides of the aisle for trying to move this bill. But this is not about a bill. It is not about an amendment. It is not about money. It is about America's children and how are we going to get behind our children so they are safer in their schools and safer on their streets.

There are two aspects of this bill where I have had a longstanding passion. Number one is making sure we have the support services in our schools to back up our teachers and help our children. And number two is after school so we can provide meaningful, structured activities for kids so they will not only have a place to go but a place to benefit from both learning and character building.

This is why in this legislation I support the Democratic initiative to put more mental health counselors into the schools and also to put school social workers and school nurses into the schools. Our teachers are very busy. I hope we pass the 100,000 new teachers initiative, so we have smaller class sizes so our teachers can give more attention to our children. But, while our teachers are in the classroom, there are other support services that help those children while they are in school.

I want to see more school nurses in our schools to help our kids. Mr. President, a school nurse often provides the early detection and warning for other problems the children have. They know whether our children need eyeglasses or a hearing aid. Sometimes a child who doesn't have needed eyeglasses is a child headed for trouble out of frustration. It is often the school nurse who begins identifying the early warning signals of emotional problems. Or if a child is under treatment, it is that school nurse who is supervising that the child is taking his or her medication and staying on the medication. This is what helps our kids.

Let me talk about the school social worker. This is not about Freud, this is not about Jung, this is not about in-depth counseling. This is making sure we know where these children are in terms of some aspects of the problems they are having. If a child is referred to a school social worker, that means the child is teeter-tottering and could go one way or the other. Often a child comes to school troubled because of problems at home. It could be a mother who has a substance abuse problem. It could be a father who is without a job. A school social worker first and foremost listens to the child and helps the family. Often it is the school social worker who takes the child in a teeter-totter situation and makes sure they do not go off on the wrong track. It is the school social worker that can get them back on the right track.

These are the kinds of things we want to have in our juvenile justice bill. Yes, we need more security. But I tell you, while we are looking for more cops in the schools, let's also get more counselors into the schools to be able to help our kids and our teachers.

Our children are lonely. Our children are very lonely. Listen to them. They often turn to each other and, as we saw in some communities, they turn on each other. We have to reach out to our children so they have a significant adult they can relate to in their lives. Hopefully, it is their parents. That puts you on first base. Hopefully, they can relate to a good teacher. That can put you on second base. But often what puts you on the third base and brings you home is structured, afterschool activities. Our most famous general, Colin Powell, is devoted to these afterschool activities. It is the single most important prevention program for children. Afterschool can help kids avoid trouble. Or help them to move on, exercising the great talents they have. I visited the afterschool programs in my community. I even had townhall meetings with children in these communities. It was fantastic.

You say: What do you like about the afterschool program?

They say: At 3 o'clock we leave school and we walk in here and we are greeted with a snack and we are greeted with a smile. Often it could be a police officer in a PAL Program, a Police Athletic League, or it could be part of the Boys and Girls program. Then they learn. Often they do their homework. They even have computer classes.

They are learning. They have activities. Then they move to sports or other programs. For the kids who go into sports, it is not only about playing basketball, it is about learning sportsmanship. This is about character building, confidence building, and so on. We can do no more important things than getting behind our teachers, supporting our families, and having these services.

I hope we do not think our children should be taught in a prison-like atmosphere. We need to make sure they are safe. Let's have enough teachers, enough counselors, and enough support so the schools are not only safe, but our children's learning is sound.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to offer an amendment that will close the gun show loophole which allows criminals, mentally deranged, and children easy access to firearms.

First, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator has the right to offer an amendment at this time, which will be set aside, and then the Craig amendment will be offered and laid aside. There then will be 90 minutes for debate on both amendments.

Mr. LAUTENBERG. I assume, Mr. President, that is equally divided.

The PRESIDING OFFICER. Equally divided.

AMENDMENT NO. 331

(Purpose: To regulate the sale of firearms at gun shows)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. SCHUMER, Mrs.

BOXER, Mr. KOHL, and Mrs. FEINSTEIN, proposes an amendment numbered 331.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is to be recognized to offer his amendment.

Mr. CRAIG. Mr. President, it is my understanding that the Lautenberg amendment that was just offered will be laid aside or should I ask that it be laid aside?

The PRESIDING OFFICER. Yes, that is the order.

Mr. LAUTENBERG. Mr. President, without objecting, this is simply to send up the amendment.

The PRESIDING OFFICER. To send it up to be read.

Mr. LAUTENBERG. I have no objection.

The PRESIDING OFFICER. It will be laid aside, and the Senators will have 90 minutes for debate.

AMENDMENT NO. 332

(Purpose: To amend chapter 44 of title 18, United States Code, to preserve privacy and property rights, prohibit the collection of fees, and the retention of information in connection with background checks of law abiding citizens acquiring firearms)

Mr. CRAIG. Mr. President, I ask that the Lautenberg amendment be laid aside, and I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 332.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CRAIG. Mr. President, I have now offered a gun show amendment that I believe is an important counter to the one just offered by Senator LAUTENBERG. I yield the floor to Senator LAUTENBERG for the presentation of his amendment.

The PRESIDING OFFICER (Mr. GREGG). The Senator from New Jersey.

AMENDMENT NO. 331

Mr. LAUTENBERG. Mr. President, I thank the Senator from Idaho, and I look forward to the discussion that will ensue, because we are going to decide, with serious debate, whether or not we are going to close this gun show loophole which, as demonstrated in this chart, shatters the image of the Brady bill that has been responsible for obstructing gun purchases 250,000 times in the years it has been in business.

Some of my colleagues are well aware of criminals who have used gun shows to purchase guns to kill, maim and destroy the lives of others.

I am going to talk about specific examples. Most of my colleagues also know that there are thousands of gun shows across the country each year. Last year, over 4,400 gun shows were advertised in the Gun Show Calendar, a trade publication.

Ordinarily, these shows are held in public arenas, civic centers, et cetera. The gun seller rents a table—it could be a card table or any kind of a table—from a gun show promoter to display material for a fee ranging from $5 to $50. The number of tables at shows vary from as few as 50 to as many as 2,000.

Fortunately, most of the people who participate in gun shows are law-abiding citizens. Many families look forward to a Saturday or a Sunday spent at a gun show. But these families are not aware that they may be in the presence of dangerous criminals who use gun shows as cash-and-carry convenience stores.

I mentioned before there are many criminals who use gun shows as a place to shore up their weaponry to commit mayhem. In 1993, Gian Ferri, a mentally disturbed man with a grudge against lawyers, used a TEC–DC9 to kill eight people and wound six others in a San Francisco law office. He walked in there and started shooting. He bought the gun at a gun show.

In 1987, Robert Mire escaped from a Florida prison and got his weapons at a gun show to launch a lengthy robbery spree. Mire then took his own life when confronted by law enforcement at a Tampa gun show in 1991.

Perhaps the most notorious criminals associated with gun shows are Timothy McVeigh and Terry Nichols. They used gun shows to raise money for the Oklahoma City bombing episode that took place in 1995.

In fact, a recent study by the Department of the Treasury and the Department of Justice reveals that thousands of firearms from gun shows wind up in the hands of criminals. This may be just the tip of the iceberg. Because many vendors are not required to keep records of their sales, there is no way to precisely know how many firearms from gun shows wind up in the hands of criminals or the mentally unstable and children.

The threat that gun shows pose for our children became clear with the terrible tragedy in Littleton, CO. Although all of the facts are not in yet, it appears that a female associate of the killers, Eric Harris and Dylan Klebold, purchased some of the guns that were used in the attack at a gun show. Regrettably, it has become clear to our youth that gun shows provide easy access to weapons.

How did we get to this point? The problem is a loophole in Federal gun laws. The Brady law requires that federally licensed gun dealers complete a background check and keep certain records when they sell a firearm, whether at a gun store or at a gun show. But many individuals can sell firearms without a license, and they are not required to conduct a background check.

Since between 25 and 50 percent of the gun sellers at gun shows are not licensed, tens of thousands of firearms are sold at these events with no background checks or recordkeeping. You can just walk into a gun show, put down your cash, and walk away with a shotgun, a semiautomatic handgun, or any other deadly weapon you can get your hands on. Of course, you can also sell a deadly weapon. If you have stolen a gun or are involved in a gun trafficking scheme, gun shows provide an easy opportunity to distribute firearms.

While the gun show loophole helps criminals further their deadly schemes, it also places federally licensed firearms dealers—people who bought a license through the Federal Government and have been checked out—at a competitive disadvantage when it comes to the gun shows, because these guys can just sell it from their table, they can sell it from the back of their car, and they can sell as many as they want. They do not care who they sell it to, and they do not even have to ask the person's first name. Just give me the cash. I don't know if they use credit cards. Give me the cash and here are the guns you want.

When federally licensed firearms dealers participate in a gun show, they have to comply with a background check and recordkeeping requirements of the Brady law. It is so simple but so appropriate.

But an unlicensed seller at the next table can make unlimited sales to any person who comes up with the cash without any requirements.

The ease of these sales drains significant business from the law-abiding gun store owners and other licensees and penalizes them for following the law. So there are a good many reasons to close the gun show loophole, and there is no excuse not to. We have to act, and act now, to help make our communities safer.

The amendment I am proposing would take several simple steps to prevent illegal activity at gun shows. First, I point out that this amendment is very clearly designed for gun shows, the places where these unlicensed dealers sell to anybody they want. Gun shows are defined as an event where two or more people are selling 50 or more firearms. So this amendment does not cover someone who is selling their favorite gun to a friend or a club member or a neighbor.

The key provision would require that all gun sales go through a federally licensed firearms dealer. So if the person who is unlicensed wants to sell a gun to somebody over here, he then has to include a federally licensed firearms dealer in the process. The federally licensed firearms dealer then would be responsible for conducting a Brady check on the purchaser. This ensures that the prohibited purchasers—criminals, the insane, and children—cannot buy guns. This will not burden the vast majority of collectors or hunters or sportsmen who want to buy firearms.

Of course, a gun sale may take a few more minutes, but why not? This minor inconvenience is a small cost to pay. And if you do not believe that, ask the 61 percent of the American people who think that the accessibility of firearms had a large measure of responsibility in the killings that took place at Columbine High School. This minor inconvenience is a small cost to pay when weighed against the need to keep guns out of the wrong hands.

My amendment would also take other steps to help the Bureau of Alcohol, Tobacco and Firearms investigate gun crimes and to help law enforcement prosecute criminals.

Taken together, these provisions will prevent criminals from abusing gun shows to buy deadly weapons. For many Americans, as we note, these commonsense steps seem so obvious. They are probably wondering why we have not addressed this problem sooner. Frankly, I do, too. Well, I don't wonder, because there is an influence around here and around the House of Representatives that always intervenes when we try to get commonsense legislation in place.

We are not taking away guns from people who have a legitimate right to buy them. But we are saying that gun violence is an unacceptable condition in our country.

In the last 20 years, over 70,000 children have lost their lives—70,000 families stricken with grief—because of the availability of a gun, obviously, we think, in the hands of the wrong person.

I do not want to point any fingers or try to assess blame, but this is not the time for partisan politics. This is not the time for organizations, such as the NRA, that stand in the way of any sensible, commonsense legislation every time we bring it up—87 percent of the people in a poll just conducted said they want the gun show loophole closed. Why do we have to fight to make it happen?

Everybody—every one in this Chamber—ought to stand up and salute it and say, yes, we want to save the lives of our kids who are going to school. Do they have the right to bear arms? That is a question, but we know people have a right to bear children. And we think they have a right to see these children live safely and that when they go to school, they do not have to worry as much about whether they are going to be injured or perhaps even killed than whether they do their homework.

Our country has seen too much violence. Every year in this country over 4,000 children lose their lives to guns. Every day, 13 kids, on average, are gunned down by a gun, either in their own hand or someone else's. Too many parents have seen their children injured or killed. Too many families have been torn apart by grief and anguish as a result of the absence in their lives of a child they brought to this world.

So, please, let us work together to pass this measure. I plead with my colleagues: Step up to the plate and be people of honor, people of concern. Let's try to prevent future tragedies. Let's make it harder for young people and criminals to gain access to guns.

I think we are reaching a consensus on this issue. We are going to find out in a few minutes. There is a broad range of bipartisan support for closing the gun show loophole. Also, there is a broad spectrum of organizations that support this amendment.

They know that it is going to help fight crime. Law enforcement officials support it. In addition to the Federal agencies that enforce gun laws, the Police Executive Research Forum, the Police Foundation, the Hispanic American Police Command Officers Association, and the National Organization of Black Law Enforcement Executives have written letters of support. I ask unanimous consent that copies of those letters be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

POLICE EXECUTIVE RESEARCH FORUM,
Washington, DC, May 11, 1999.

Senate Majority Leader TRENT LOTT,
The Capitol, Washington, DC.

DEAR SENATOR LOTT: The Police Executive Research Forum (PERF)—a national organization of police professionals who are dedicated to improving policing practices through research, debate and leadership—believes that reasonable measures need to be taken to protect our citizens and our children from gun violence. We are currently studying the President's proposed gun legislation and other pending firearms proposals that affect public safety. While we cannot give our position on every amendment that is expected to be offered on the Senate floor this week, PERF has taken a position on a number of the provisions, and supports the goals of the remaining measures.

It is estimated that there are 2,000 to 5,000 gun shows annually across the nation that are not subject to federal gun laws. Sales from ''private collections'' can be made at these shows without a waiting period or background check on the purchaser, unless the seller is a licensed Federal Firearm Dealer. To close the loopholes that are exploited by sellers who operate full-fledged businesses, but are not FFLs, we believe the proposed legislation is needed and long overdue. PERF has supported gun show legislation to this effect in the past and will continue to work towards ensuring reasonable measures that will help keep guns out of the hands of criminals.

PERF has also been a long-standing proponent of a waiting period that would give local police the opportunity to screen handgun purchasers using local records. PERF members believe that there is also value in a ''cooling-off'' period between the purchase and receipt of a firearm, particularly when there are exceptions for exigent circumstances.

We have witnessed again the carnage that results when children have access to firearms. PERF has supported child access prevention bills in the past because we see the horror that can occur when angry and disturbed kids have guns. PERF has supported measures that impose new safety standards on the manufacture and importation of handguns requiring a child resistant trigger standard; a child resistant safety lock; a magazine disconnect safety for pistols; a manual safety; and practice of a drop test. PERF has supported proposals to prohibit the sale of an assault weapon to anyone under age 18 and to increase the criminal penalties for selling a gun to a juvenile.

We must do more to keep America's children safe—not just because of recent events—but because of the shootings, accidents and suicide attempts we see with frightening regularity. These proposals are steps in the right direction. We applaud your efforts to help police make our communities safer places to live.

Sincerely,

EDWARD A. FLYNN,
PERF's Legislative Committee Chair,
Arlington (VA) Police Department.

POLICE FOUNDATION,
Washington, DC, May 11, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR LOTT: The Police Foundation is a private, independent, nonpartisan, and nonprofit organization dedicated to supporting innovation and improvement in policing. Established in 1970, the foundation has conducted seminal research in police behavior, policy, and procedure, and works to transfer to local agencies the best new information about practices for dealing effectively with a wide range of important police operational and administrative concerns. Motivating all of the foundation's efforts is the goal of efficient, humane policing that operates within the framework of democratic principles and the highest ideals of the nation.

As a founding member of the Law Enforcement Steering Committee, an unprecedented coalition of the nation's foremost law enforcement organizations, the foundation worked tirelessly for six years for passage of The Brady Law to require a waiting period and a background check prior to the purchase of a handgun. The foundation has also supported efforts and legislation to regulate the sale of armor-piercing ammunition, and the importation, manufacture, and sale of assault weapons, the high-capacity magazines.

The reality of policing in America includes dealing with citizens who possess firearms. About 200 million guns are in private hands. So huge is the domestic arsenal that American police must be aware that a firearm may be at hand in any situation they encounter. Tragically, in thousands of situations each year, the potential for injury or death by firearms is realized.

In 1994, almost 40,000 Americans died from gunshot wounds. By the year 2003, according to the Centers for Disease Control, the leading cause of death by injury in the United States will be from gunshots. Yet we regulate guns less than we do other consumer products such as automobiles.

The legacy of disability and death that guns, especially handguns, have wrought on American society is of concern to law enforcement personnel, health officials, educators, policy makers, families and communities across America. Today, in the wake of yet another tragic episode of gun violence by high school students, it is incumbent that these same forces join together to formulate rational national policies to address gun violence and children. Every day in America, 13 young people aged 19 and under are killed in gun homicides, suicides, and unintentional shootings, a toll equal to the tragedy in Littleton, Colorado.

The Police Foundation, therefore, supports the following amendments to S. 254:

(1) An amendment to ban juvenile possession of assault weapons;

(2) An amendment that bans juvenile possession of high-capacity ammunition clips;

(3) A ban on the importation of high-capacity ammunition clips;

(4) An amendment that requires that no guns are sold at gun shows without a background check, a waiting period, and appropriate documentation;

(5) An amendment requiring anyone offering guns for sale over the Internet to possess a federal firearms license and to oversee all resulting firearms transactions;

(6) An amendment that will provide: enhanced tools for the prosecution of firearms laws, including substantially increasing the scope of the Bureau of Alcohol, Tobacco, and Firearms' youth gun tracing program; additional resources to investigate and prosecute violations of Federal firearms laws; and resources for increased federal and state coordination of gun prosecutions.

(7) An amendment raising the minimum age to 21 for possession of handguns, semi-automatic assault weapons, and large-capacity ammunition feeding devices.

(8) An amendment that requires the sale of child safety locks with every handgun sold;

(9) An amendment to reinstate a permanent, mandatory national waiting period prior to the purchase of a handgun.

(10) An amendment to limit handgun purchases to one per month.

The Police Foundation is committed to working with you and your colleagues in the Congress in supporting and enacting sensible gun control measures that protect all Americans and most especially our children.

Sincerely yours,

HUBERT WILLIAMS.

HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION,
Washington, DC, May 10, 1999.

Senate Majority Leader TRENT LOTT,
The Capitol, Washington, DC.

DEAR MAJORITY LEADER LOTT: I am writing on behalf of the Hispanic American Police Command Officers Association, HAPCOA to express our general support for the eight gun control amendments that are expected to be offered on the Senate floor this week. HAPCOA also supports President Clinton's legislation. The 1999 Gun Enforcement and Accountability Act. Both of these measures are designed to reduce child criminal access to firearms.

HAPCOA represents of 1,500 command law enforcement officers and affiliates from municipal police departments, county sheriffs, and state agencies, to the DEA, U.S. Marshals Service, FBI, U.S. Secret Service, U.S. Park Police and other federal agencies and organizations.

As a law enforcement association, we know only too well the impact gun violence has on Communities. As with all law enforcement officers, we too live in the communities. We have witnessed first hand what happens when children and criminals have too easy access to guns. Today, in every city in our country, there are children in schools and homes with hand guns. Children who are expressed to Violence on a daily basis, children who feel they need protection—more than they need an education. Children who should be enjoying life—rather than taking a life.

We place profound responsibilities on our nation's police officers asking them to combat Crimes, uphold the law, and defend the lives of others while continually risking their own. We trust the police to keep our homes, schools and neighborhoods safe from crime. Police officers cannot achieve these and other goals without legislation that supports their work.

These eight proposed amendments would do that—help law enforcement officials in their efforts to reduce gun related crimes. It is time to break the cycle of gun violence in America.

Sincerely,

JESS QUINTERO,
National Executive Director.

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES,
Arlington, VA, May 11, 1999.

Hon. ROD R. BLAGOJEVICH,
House of Representatives, Hart Senate Office Building, Washington, DC.

DEAR REPRESENTATIVE BLAGOJEVICH: This is to advise you that National Organization of Black Law Enforcement Executives (NOBLE) representing over 3000 black law enforcement managers, executives, and practitioners strongly supports your effort to provide a permanent legislative mandate (S. 443) to promote the fair, safe, and reasonable regulation of gun shows.

As the threat of violence against the police and citizens alike has escalated, so has NOBLE'S commitment to the passage of effective gun control legislation. The potential threat posed to our members and to law enforcement personnel nationwide by the unregulated selling of firearms demands that S. 443 be enacted. Your efforts to bring fairness and accountability to gun shows by holding all participants to the same standards is commended and supported by NOBLE.

If our organization can be of further assistance on this matter, please call me.

Sincerely

ROBERT L. STEWART,
Executive Director.

Mr. LAUTENBERG. I have also received support, surprisingly—and I say, hooray—from some in the gun industry. The American Shooting Sports Council, which represents the interests of gun manufacturers, and the National Shooting Sports Foundation have both endorsed my legislation. They say, ''Support the amendment that is proposed closing the gun show loophole.''

The National Alliance of Stocking Gun Dealers, the trade association for gun dealers, has endorsed this legislation. I would like to read part of their letter:

> While it is uncommon for our organization to endorse legislation that would place any new regulations upon the sale of guns, we view the case of gun shows as an exception.
>
> As your legislation creates no new requirements or regulations that don't already exist for law-abiding gun owners, we find it a reasonable and necessary change to existing laws and fully endorse the gun shows accountability act.

It is a letter that they sent to me.

There are prominent Republican politicians—this isn't exclusively a Democratic matter—who support closing the gun show loophole, for instance, Texas Governor George W. Bush, a prominent name in national politics, as well as the Governor of one of the largest States in this country. Congressman HENRY HYDE, a distinguished, respectable Congressman—he has always been a supporter of gun ownership—supports eliminating the gun show loophole.

The amendment is also supported by Jim and Sarah Brady's Handgun Control, Incorporated, and the Coalition to Stop Gun Violence, which represents a number of health, religious and civil rights organizations.

When Sarah Brady, George W. Bush, HENRY HYDE, gun manufacturers and gun dealers get behind closing a loophole, I think everybody here ought to listen, and we ought to close it. We ought to close that loophole, because what happens in that loophole is children fall through it, and lives, way too early, are permanently maimed as a result.

All you have to do is remember a picture of the boy jumping out of the window at Columbine High and see what has happened to him. He is damaged, severely damaged. It looks as if those damages are going to last all of his life, impairing his speech, his ability to walk, and so forth.

Americans are tired of it. They are tired of losing those lives to gun violence. Again, I do not understand why the opposition is trying to say, no, let's leave the loophole there. Let's make sure that we don't inhibit those purchases of guns by anybody who just wants to buy them.

I do not understand it. I am sure the American people, whether they are here or watching television and seeing what is going on, don't want to have that loophole continue to exist.

Every year we lose 34,000 Americans to gunfire. It is the number of deaths that we would expect to see in a war. In Vietnam, a terrible, terrible period in American history, we lost 58,000 people in the 11 years of that war. Here we see more than half of that number lost every year. When will the public's rage finally reach into this place and say we have had enough? Instead, there is a war going on in our communities. We have to stop this senseless slaughter.

Every day, 13 young lives end prematurely. The hopes and the dreams of 13 children, their families, their friends are destroyed.

I urge my colleagues to take this step with all of us holding together in the battle against gun violence. Let those who want to oppose this legislation think about what they would say to a neighbor or a friend or someone in their community who lost a child: Well, he had the right to bear arms, or guns don't kill, people kill.

They always blame it on the criminal. But for a lot of people, the first time they commit a crime is when they pull the trigger on that weapon.

I hope we are going to pass this amendment, make it harder for criminals and children to get guns. We might not stop all the shootings, but we may stop some. I hope that the American people will notice everybody who votes for and against this amendment or what they try to do to water it down, to leave a glaring loophole sitting there.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 26 minutes 33 seconds.

Mr. LAUTENBERG. I yield the Senator from New York 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank the Senator from New Jersey

very much. I also thank my friend, the Senator from Idaho, for his graciousness in letting me take the floor right now.

Let me say, as somebody who has been involved in this issue for a long time, today is a very crucial day in our fight to bring rationality to the laws that relate to guns in America. It is the first time we have had a real opportunity to make progress since the Brady law was passed.

All we are trying to do here is make sure that Brady continues to work. The bottom line is a simple one; that is, as Brady has begun to work, the vast majority of Americans, gun owners and nongun owners, have abided by this law. Almost everybody believes it has worked, but those who wish to avoid the law have found loopholes—the Internet, which we will be dealing with later, an amendment I will propose, and most notably, gun shows, which the Senator from New Jersey has highlighted. I am proud to be his lead cosponsor of that legislation we have worked on.

The problem we face in the law when we try to make laws on gun controls is we are always ruled by the least common denominator. If 99 percent of the people obey the law, but 1 percent finds a loophole, then all the criminal element and everybody who wants to give guns to children, to criminals, to the mentally incompetent will use that loophole. So all the rest of the laws do no good.

They say there are 40,000 laws on the books about gun control. But as long as you have a weak link in the chain, it is exploited, and we suffer. In my city, 95 percent of the guns that are used in crimes come from out of State, many of them from gun shows. Gun shows have proliferated as the loophole has become more obvious and more known to people.

I plead with my colleagues—it is so important for us to continue the work of Brady. We are not seeking to go further in the area of gun control. We are simply trying to keep the status quo by plugging the loopholes that have allowed people to get around the Brady law which most people regard as very, very successful.

I know that my friend, the Senator from Idaho, has an amendment to make it voluntary. The problem with that is very simple, in my judgment. Again, it would not work because it is the least common denominator. If you go to a gun show and nine of the sellers of guns are using the instant check system and one isn't, anyone who evades the law will go to that one. All the other nine law-abiding people will both lose business and not be able to stop it. So making these laws voluntary, you may as well not make them at all, because those who wish to avoid the law will go to the one person who doesn't participate in the system and send a cascade of guns forward.

I am proud of this debate, Mr. President. First, I am proud that its tone is one of constructiveness in the light of Littleton, CO. Each of us is groping to see what can be done. We have differences of opinion, but there is respect in the debate.

I thank the Senator from Idaho. When he added his amendment, he did not come up with an amendment that was a subterfuge. He did not come up with an amendment that simply diverted the issue, as we have seen time and time again. He came up with an amendment that would allow us to debate this issue foursquare.

It is very simple. If you believe in closing the gun show loophole, you have to vote yes on the amendment of the Senator from New Jersey. If you vote no on that, the loophole will continue, because no matter how many people voluntarily comply at gun shows, those who wish to violate the law or turn the other way, as the law is violated, will continue to do so.

This is an important crossroads in our debate. Just as in warfare there is defensive and offensive warfare and some move forward and then new mechanisms are found to get around those who move forward, we are at that point right now. If we allow people who wish to get around the Brady law and sell guns to criminals and sell guns to children and sell guns to the mentally incompetent, to use gun shows or use the Internet or any other way to get around it, we will have taken a dramatic step backwards. I believe the Brady law has in good part contributed to the decline in gun violence throughout America. Has it made it certain; has it made it so that there is no gun violence? Of course not. But why is it that gun violence has plummeted even more than other crimes since the Brady law has been passed?

The best explanation is that, yes, it works. The best explanation is that despite the doom and gloom, when we debated Brady, from the opponents, it has not interfered with the rights of the legitimate gun owner. I ask my colleagues, if you believe in keeping Brady sound—

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SCHUMER. If I might ask for an additional 30 seconds.

Mr. LAUTENBERG. I yield 30 seconds.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. I thank the Senator, and I thank the Chair.

If you believe in keeping Brady sound, if you believe that we can save lives without impinging on the rights of legitimate gun owners, then the only vote you can cast is yes on the Lautenberg amendment. Any other vote will not do the job.

This is a modest but important first step that will continue to reduce the number of deaths caused by firearms without impinging on the rights of those who believe they need them. I thank the Senator, and I thank the Senator from Idaho, again, for his graciousness.

Mr. LAUTENBERG. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 332

Mr. CRAIG. Mr. President, I hope that those of our colleagues who are not on the floor this afternoon will take time to watch this debate and listen on television, because today we have very clear comparatives of something that works, that lessens the impact of Government, lessens the creation of a bureaucracy, and something that doesn't work which creates a very large bureaucracy against a substantial American pastime and an American business activity in this country. We are talking about gun shows. Some 5,000 gun shows across America are attended today by between 4.5 million and 5 million people annually. They are not in some back room or in some dark alley creating the environment for clandestine meetings between criminals. They are at fairgrounds, large convention centers and hotel lobbies. They are something that many Americans attend today because most Americans who attend gun shows are legitimate law-abiding citizens who have disposable income and wish to collect firearms as something they do in their pastime. Those are the true dynamics of a gun show.

Let me read to you what the President of the United States —and I am afraid what my colleagues have tried to generate this afternoon is that it may be some evil activity. This is a radio message from the President of the United States, November 7, 1998, speaking of gun shows.

> . . . illegal arms, bazaars for criminals, and gun traffickers looking to buy and sell guns on a cash-and-carry/no-questions-asked basis, entirely without background checks.

That is the rhetoric that has imbued this issue and came up with this neat little quick phrase called a ''loophole.'' That is the basis from which we come this afternoon to this debate. Five million people are clandestine criminals going to gun bazaars across this Nation? Five million? I doubt that very much.

In fact, the National Institute of Justice, which is an arm of the Justice Department of this administration, said this about gun shows:

> Less than 2 percent of the guns used by criminals may have come from gun shows.

Less than 2 percent. So those are the dynamics and the realities of this debate. I don't know how you paint it any other way, except by using bright red and black paint, because other than that, you have to deal with the truth and the facts at hand.

What is this great loophole that my colleagues are talking about at this time? The loophole, they would have you believe, happens to be the Federal law. That law is a very straightforward

law. That law of several years ago defines what a gun dealer is and what a gun dealer isn't. It is the Gun Control Act of 1968 and the Firearm Owners Act of 1986. In there it is clearly defined what a gun dealer is and what a gun dealer isn't and, most importantly, what a private citizen is allowed to engage in in an occasional sale or exchange or purchase of a firearm for the enhancement of a personal collection, or for a hobby and/or to sell all or part of a personal collection of firearms within their State of residence without obtaining a dealer's license.

What the Senator from New Jersey has not talked about are the laws that govern gun shows. Mr. President, 98 percent of those who are there are dealers licensed under Federal law who must keep records and have those records inspected by the Bureau of Alcohol, Tobacco and Firearms. That wasn't mentioned. Maybe it was simply forgotten. But there is no question, the Senator from New Jersey is right; there are private citizens who come to gun shows and engage in discussions with other private citizens and decide to buy or sell their gun or guns. Is that a loophole? No. It is provided for in the 1986 law. It is something this Congress has already decided is right and proper to do as a private citizen—to engage in the sale of his or her private property. And we have been very clear in tightening it up so they could not get beyond the law. But we have also talked about legitimate collectors, and they are very definable within the law.

But what is important is that we make sure can clarify even the 2 percent. My amendment works to do that. There are people who collect guns, and now and then want to sell more than just one or two of their guns. Guess where they would go. They would probably go to a gun show where there are a lot of people who are interested in guns. And we would say in my amendment that we would allow them a special license category, that they could become a licensed gun dealer for a short period of time for either the sale of their guns, or for gunsmithing, or for a firearm repair business. This would be a new category of license in the Federal law.

This term of ''engage in business'' would not necessarily fit because they were not businesspeople. They didn't make their living from the sale of firearms or firearm equipment or gun cleaning equipment or loading equipment or all of those kinds of things that are the hobbies of millions of Americans. But we recognize that we ought to give them a category, and in that category, in selling their guns, they would be required to keep records. They would be required to keep records, and they could keep them at their homes. Those records must be available for inspection by the ATF because they don't have a business.

Remember, those in business keep copious Federal records, and the Bureau of Alcohol, Tobacco and Firearms can inspect them at any time. People who are involved in the sale of guns, and certainly in the importation of guns, all of those kinds of things today, under the 1968 and 1986 laws, are clearly well defined and controlled. But we are saying in these special instances we want to make sure these people do it right.

Now, this is more than just to protect the person who purchases; we want to protect the person who sells, because if that gun were to end up being used by a criminal in a criminal act, and an independent person sold it, they could be liable under local law, under State law, under Federal law. Remember, there are 40,000 gun laws in America today—city, State, county and Federal laws—40,000 gun laws. I would like to adjust it a little, and the Senator from New Jersey wants to add one more so that we would have 40,001.

We also do something else. We spent a lot of time with Brady, and out of Brady we came up with the national instant check system. We created a large computerized system by which when a gun dealer sells a gun, he can check the background of an individual to see whether he or she is a convicted felon, or if they have some adjudication against their personality that would cause them not to be able to own a gun. We will create a special class of register to be at a gun show so that people engaged in the legal, private sale of guns under Federal law can go to that person and say: I have this individual who wants to buy one of my guns. Here is his or her Social Security number. Run it through your system.

Now, what does it do if you comply with these two areas? It creates a safe haven against liability because you have been within the law. But what the Senator from New Jersey didn't say is that if you sell to minors at a gun show, you are breaking the law. If your sale at a gun show went to a felon and it is proven, you are breaking the law. I am talking about private citizens. It is as if he suggested that gun shows are big black holes that criminals congregate in because they can traffic in illegal gun sales. That is false, Mr. President. I don't know of any other way to say it more clearly and abruptly in order to catch the ear of my colleagues. It is not true, and there is no loophole, unless the Senator from New Jersey wants to say that the laws he voted for are loopholes.

I doubt that he would want to do that, because I think at least he was here for the passage of one of those laws. I can't honestly tell you whether he voted for or against it. But it did restrict the rights and activities of individuals as they relate to guns. My guess is that he did. But I will let him speak to that issue.

What we are talking about here is continuing to shape and refine the gun laws—all 40,000 of them.

If my amendment passes, and we create a special new license for a temporary person, or if we create a registrant for gun shows so that private sales can have a background check, under either of the new license or the special registrant, which would be optional—I don't argue that because I don't want to infringe on the right of private citizens under the 1986 law; congress has already spoken to that—it would provide a very clear incentive to individuals to participate as I have suggested.

Why? Because, as I have mentioned, if the firearm was later used illegally and caused harm, they would be immune from the civil liabilities of that action, except for a lawsuit based on negligent entrustment, or the negligence per se. That you will never get away from, nor should you.

So I think therein lies the difference.

Let me talk to one other thing about my colleague's amendment that concerns me a great deal.

On page 4 of his amendment he tries to define what a gun show is. I must tell you, very frankly, it demonstrates to me that he doesn't understand collectors, and hundreds of thousands, if not millions, of Americans who own well more than 50 guns, from antique, Civil War weapons to World War II and World War I weapons, Revolutionary War weapons, are collectors. It doesn't define any of them; it just says 50 firearms or more.

What it says to me is that he has suggested by his law that he is going to move from about 35,000 gun shows a year to hundreds of thousands of gun shows.

What do I mean by that?

If two collectors happen to get together and they happen to own more than 50 guns, and they decide to trade a gun or sell a gun between themselves, they are in violation of the Lautenberg amendment.

I think we have to be careful of that, because it says, ''at which two or more persons are offering or exhibiting one or more firearms for sale, transfer, or exchange.'' I know the law, or at least I know this language. I know that when ATF gets through interpreting it, it won't be any narrower than this; it will be considerably broader.

What about a gun show promoter?

Is that Marriott Corporation, which happens to be housing the gun show for participants next to the convention center, which has a sign up: Gun show participants, come stay at the Marriott, promoting the gun show? I think they would be, by definition of the Lautenberg law.

In other words, what I am asking my colleagues today to do is to read the fine print—which is really not so fine at all—for the term ''gun show vendor.''

What I am suggesting is, we don't change the law, that we strengthen the law at hand, that we give some options to the private individual, who still should have the right as a private citizen to sell his or her guns to other private citizens if those actions do not fall within Federal law where they are

businesspeople making a profit and are not therefore licensed dealers under the law.

It was interesting when the Senator from New Jersey quoted Handgun Control. They got involved in this issue, and they cranked up Americans, talking about this issue some time ago. They talked about ''unlicensed dealers.'' But, all of a sudden, they found out they couldn't use that term, because all of the dealers are licensed by definition of the Federal law. They had to back off.

In other words, they were more interested in the political impact than the legality and the correctness of their debate, and how tragic that is. So they backed away from that. But they kept the term ''loophole,'' because somehow it conjures up this idea of this dark escape hatch through which criminals pass. That is not the case. It is not the case in 5,000 legitimate, publicly promoted gun shows which nearly 5 million Americans attend annually in city parks, in legitimate hotels, in State convention centers, and in State fairgrounds around this country.

My amendment and the amendment of the Senator from New Jersey are distinctly different. We honor the right of the private citizen. But we give that private citizen options to protect themselves and to access the information system that the taxpayers of this country have spent millions and millions of dollars building so we could have an instant background check to make sure guns didn't get into the hands of convicted felons or other citizens who have adjudicated problems.

I have supported that and have strongly fought for it, even though this administration was dragged, kicking and screaming, into the 21st century of computer background checks because they wanted the right of control.

Therein lies the ultimate difference between these two pieces of legislation.

I hope in the course of the debate we can hear a much clearer definition of what a gun show is, because now I have a lot of friends. If I walk into their home and they discuss the idea of trading a gun or selling a gun to me, I might be in a gun show, and that citizen and I would be engaged in an illegal act. Yet, up until now, that would have been a legal act, because of the right of the private nondealer citizen to engage in those kinds of activities.

There is no loophole. It is only in the minds of those who see guns to be the evil instead of the problems that citizens have either abiding by the law or dealing with their own frustrations.

We have offered a clear alternative, and I think an appropriate alternative, to deal with the question of the 2 percent of sales at gun shows that may on some occasions find themselves in the hands of criminals where that gun was used in illegal activity. Therein lies the difference.

I hope it is clear to my colleagues, the importance of sustaining the gun laws we have and guaranteeing that private citizens have the right to engage in gun sales from their private collections and their private ownership, on a limited basis, clearly described by the law, without having to become a federally-licensed firearms dealer, as many would care not to be.

I retain the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from New Jersey.

I want to tell those following this debate that you are never going to have a clearer choice than between the Lautenberg amendment and the Craig amendment. The Lautenberg amendment closes down the loophole that allows people to sell lethal weapons at a gun show—what they call ''private sales''— without a background check. The Craig alternative makes it permissible.

What does that mean? It means if you want to get involved in a background check for sale at a gun show, you may. You may. How many laws do we write across America where you say ''you may'' observe the speed limit, ''you may'' observe the law when it comes to the sale of drugs, ''you may'' observe the law when it comes to treason against the United States? No. If a law is going to work, a law has to be sensible and enforceable.

The Craig amendment is neither. It is neither sensible nor enforceable, because not only does it ignore the reality of the horror that is coming out of schools in America but it ignores the reality that at gun shows across America people are buying weapons without a background check and using them in the commission of crime.

This is not my observation, it is the observation of the Department of Treasury, the Department of Justice, and ATF, and other researchers who reviewed 314 recent investigations involving gun shows across America. Their findings are chilling. Felons, although prohibited under the Brady law from buying firearms, have been able to purchase guns at gun shows. In fact, felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows.

There are plenty of gun shows in my home State of Illinois. Most of the people who attend are law abiding. Most of them follow the law and are glad to do it. Clearly, the criminal element is using this gun show as a way to launder weapons and purchase them when they can't buy them from a licensed dealer.

Mr. CRAIG would suggest the people attending gun shows are much like those who come around to buy and sell baseball cards. There is a big difference. Of course, what you are buying and selling at a gun show is a lethal weapon.

Senator LAUTENBERG is trying to close down a loophole which is a loophole for criminals. Why the National Rifle Association—which continues to say it is just defending the rights of hunters and sportsmen across America who want to use guns safely and legally—would come in with the Craig amendment in an attempt to undermine Senator LAUTENBERG's amendment is beyond me.

That is not all that is in the Craig amendment. Read on, my friends, because he proceeds in this amendment to provide immunity from civil liability for those who would ask for a special license at a gun show. There are only two groups in America who can't be sued now—diplomats and some health insurance companies—and we are debating that particular element. And now the Senator from Idaho says we should also include in the group of Americans who cannot be held accountable in court those who want to sell guns at a gun show.

The last point I want to make is this: As they poured through the records to try to figure out how these two children in Littleton, CO, came up with two sawed-off shotguns and other weapons, they were stymied because there were no records; they couldn't trace them. They were trying to figure out where they came from. Senator CRAIG's amendment would mandate that we destroy records about the sale of firearms, records that law enforcement needs to try to figure out when guns are stolen and used in the course of crime.

I can't believe any gun owner, who as I do opposes the gun crimes across America, is going to stand up and defend what Mr. CRAIG is arguing for. Senator LAUTENBERG's amendment is clear and concise and hits the points in this loophole that many criminals are using to come into possession of guns which they are using to menace Americans and American families.

Mr. LAUTENBERG. I yield 3 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from New Jersey for his continued leadership on sensible gun laws. That is what we are talking about here: closing a loophole that is leading to trouble, that is leading to death. We have a chance to close the loophole. That is all the Lautenberg amendment does.

Good people go to gun shows but not all gun shows are good. Let me read from an associated press article:

> Undercover state [this is California] agents found illegal weapons so plentiful at a Los Angeles County gun show that they ran out of money after shopping at a handful of booths.
>
> The weapons included rocket launchers and flame throwers, Attorney General Bill Lockyer said. . . .
>
> They were readily available, all sorts of illegal weapons.

He goes on to say:

> I don't know what hunter needs a flame thrower.

I have to say to my friend from Idaho, if we followed his leadership—

and the Senator from Illinois has pointed out the flaws in his amendment—we would be saying something we don't say to any other industry.

Let me explain what I mean. We have standards for cars. They have to have brakes, they have to have wipers, they have to have seatbelts. But guess what. If you sell them at a ''car show,'' as opposed to a ''car dealership,'' they don't need to meet any of the standards and you can sell a car to someone who hasn't got a license because none of the laws would apply.

You could do that with pharmaceuticals. The FDA approves a pharmaceutical and says it has to contain certain elements, that is what they approve, but if you sell it at a ''pharmaceutical show'' you don't have to have any of those elements.

We could do the same thing for industry after industry.

There are more standards for toy guns in this country than there are for real guns, but even toy guns have to meet certain standards if they are sold at a toy show—the same laws apply.

To make the law voluntary, as my friend from Idaho does, makes no sense at all. It exacerbates a problem that is already a serious problem.

The Senator from New Jersey is saying people are dying unnecessarily from gun violence. There are people getting guns, getting their hands on guns at gun shows who couldn't do it if they went to a licensed dealer. Why on Earth would anyone in this Senate want to condone that—no background checks at a gun show, nothing?

All the Senator from Idaho is saying is make it voluntary. That is not going to fly. The bad people who want to get away with it aren't going to say: Do a background check on me; you might find out I'm a felon. They will say: No, I don't want to comply.

I thank my friend, the Senator from New Jersey, for this intelligent amendment.

I point out to my colleagues who may be following this debate, and I know we vote our conscience here, 87 percent of the American people support a background check on a gun buyer at a gun show—87 percent of the people; 83 percent support requiring background checks on gun show buyers, including dealers.

The bottom line is people want us to take action. The people don't like the fact that thousands of people a year die from gunshot wounds. We can stop it.

This is a good amendment. I hope we will support it and defeat the Craig amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield myself such time as I may consume.

Mr. President, while the Senator from California is on the floor, I think it is important we understand the facts about which she talks. She is referencing a recent gun show in California where State justice department agents were involved. What she did not say is that every private sale in California, by State law, must be run through the department of justice background check. In other words, the very thing that she wants is now available in California but doesn't work.

What is wrong? Why didn't it work? I guess she will have to answer that question. I am not sure. She is saying she wants what the Senator from New Jersey is offering, but they have it in California as State law and it doesn't work.

Mrs. BOXER. Will the Senator yield?

Mr. CRAIG. I will allow the Senator to debate this on her own time.

It is important we keep the record very clear. She said there are no background checks at gun shows. Only 98 percent of the transactions are background checked. She cannot come to the floor and make a broad statement that says there are no background checks. That is within itself a clearly false statement.

In the State of California, the very gun show where there were found to be some violations of State law—and probably Federal law—somehow the State of California can't control it, either. Or should they? Therein lies the question.

In the case of my legislation, private transactions would be given the opportunity of sanctuary, and it would be a tremendous incentive. I think what we need to do here is create incentives. In the State of California there are no incentives; there are mandatory laws, and apparently those laws were broken, at least in some instances.

It is important the record show that it was instances of probably less than 2 percent. It is important the record show that well over 98 percent of sales at gun shows—not by ATF but by the Justice Department's own figures—are background checked. Those are the facts. They shouldn't be just intentionally generated for this debate. They come from the Justice Department itself.

I retain the remainder of my time.

Mr. LAUTENBERG. Mr. President, it is my understanding that time not in a quorum call is divided equally. If we want to stand here silently so that their rebuttal time is reserved for the Senator from Idaho, we are not going to do that; we will wile it away.

Mr. CRAIG. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Idaho yield himself time?

Mr. CRAIG. I yield myself time. I want to make a correction to one of the statements I made just a minute ago. Because I insist others use right figures, I must use the same rules. I said 98 percent. I am wrong. It is about a 60–40 percent relationship at gun shows; about 60 percent are sold by licensed firearm dealers that require background checks. By the estimation of ATF and the Justice Department, there appears to be about 40 percent of sales that are private by definition of the law. That is a much more accurate statement than the one I just made. But it is clear the State of California does have a law that requires all private sales, all transactions, to be subject to background check.

I retain the remainder of my time and yield the floor.

Mr. LAUTENBERG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 10 minutes and 39 seconds. The Senator from Idaho has 23 minutes and 9 seconds. If neither side yields time, time will be charged equally.

Mr. HATCH. Will the Senator from Idaho yield some time?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield the chairman of the Judiciary Committee such time as he requires.

Mr. HATCH. Mr. President, the proposal, the Democratic proposal to heavily regulate firearms at gun shows, while well intentioned, is an example of regulatory overkill.

First, the proposal would require a law-abiding gun show organizer to notify Federal and State law enforcement prior to holding a gun show, and require substantial recordkeeping and reporting before and after the show. But gun shows are not conducted in a secret black market. They are publicly advertised for weeks in advance in order to generate public participation.

Second, the proposal would require individuals to sell through a licensed dealer in order to obtain the background check and other information. While obtaining a background check is a laudable goal, requiring an individual to pay a dealer for the service could be cost prohibitive to a lawful business transaction. So that is a matter of great concern.

The Republican proposal provides for a ''special registrant'' at a gun show that any nonlicensed seller can use to conduct a background check on the instant check system. This cost-effective mechanism will prevent any unlawful sales without unduly burdening a lawful transaction with regulatory costs. Thus, I must oppose the amendment to heavily regulate gun shows because it is overly burdensome on law-abiding sellers.

I strongly support the amendment filed by my colleague, Senator CRAIG, which will provide for increased safety and licensing of firearm sales at gun shows. This amendment contains several provisions that will make it more difficult for criminals to purchase firearms at gun shows, but this amendment allows law-abiding citizens to continue to buy and sell legal products.

First, the Craig amendment will provide for ''special registrants,'' who may conduct background checks for individual sellers at a gun show using the instant check system. These checks will prevent criminals from purchasing a firearm from another individual, an unlicensed seller at a gun show. It will also provide an inexpensive and efficient means to facilitate the lawful

sale of a firearm by one individual to another.

Second, this amendment will provide for special licenses for persons who want to buy and sell guns primarily or solely at gun shows. This will allow occasional sellers, such as gunsmiths, to avoid the expense and regulation of becoming full-fledged Federal firearms licensees.

Third, the Craig amendment will prohibit Federal and State law enforcement officials from charging a fee to conduct a background check on the instant check system. This would reduce the cost of criminal background checks to individuals.

Fourth, the Craig amendment would encourage the use of the instant check system by granting civil liability protection to those who use it at gun shows. Given the litigation climate we are currently experiencing, this will be a strong incentive to use the ''special registrant'' provision of this amendment.

In short, this amendment will promote background checks on sales by nonlicensed individuals at gun shows without an undue financial burden. It will prevent crime without punishing law-abiding citizens. So, accordingly, I do believe this amendment deserves support.

I respect the distinguished Senator from Idaho. In fact, I respect both Senators on the Democrat side and the Senator from Idaho for trying to resolve these difficult problems. But I do believe that the amendment of the Senator from Idaho resolves this problem in a more fair and reasonable manner while accomplishing just as much as the distinguished Senator from New Jersey is trying to do with his amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If nobody yields time, time will be charged equally by the Chair.

Several Senators addressed the Chair.

Mr. LAUTENBERG. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, since we have had the measure on the juvenile crime bill before us, this is really the first opportunity we have had to deal with one of the compelling aspects of reducing violence, not only in our schools but in our communities. We are talking about youth violence. We have had debate and discussion on how we can help schools, how we can help parents, and how we can help teachers. We have also considered, under the Leahy proposal, a series of different strategies to effectively use law enforcement to reduce violence.

Now, we really begin the debate about the proliferation and availability of guns in our society. There are many who choose not to talk about this particular issue, but, hopefully, we will have an opportunity to debate and have votes. We will find out who in this body is serious about trying to reduce the availability and accessibility of guns whose only purpose is not for hunting, but for killing and maiming individuals.

It is particularly important that we have this discussion about children. Every single day, 13 children die because of the use of guns—almost the equivalent of Littleton, every single day. We know that when we reduce the availability and accessibility of guns, it extends children's lives and the lives of others.

I have just a few moments now. I will, later in the course of the debate, clearly demonstrate, how the United States compares to other countries in terms of the incidence of violence and the incidence of violence and the utilization of guns.

One of the most extraordinary examples we have seen in recent times is what has happened in my own city of Boston. But before discussing Boston's success, I think it is important to understand the weakness of the Craig proposal. This proposal fails to meet the minimum standards of doing anything about guns because, as has been pointed out, this is a completely voluntary program. Those who are not interested in participating, will not participate in the program. It fails to meet the minimum standard of responsibility in dealing with the loophole which the Senator from New Jersey, Senator LAUTENBERG, has identified.

If we are going to do something about gun shows, the Lautenberg amendment is the way to do it. I think any fair reading or listening to the debate will reveal that the Craig amendment fails, and fails abysmally, in reducing the availability and accessibility of guns.

Mr. President, how much time remains?

The PRESIDING OFFICER. There are 7 minutes and 16 seconds remaining.

Mr. KENNEDY. On the time I was yielded?

The PRESIDING OFFICER. There are 2 minutes remaining on the Senator's time.

Mr. KENNEDY. Mr. President, in my 2 remaining minutes, I want to mention what has happened with the use of firearms in homicides for those 16 and under in Boston, MA. In 1990, we had 10; in 1995, we only had 2. In 1998, we had 4. In 1999, for youth homicides in Boston, MA, in 128 schools, zero so far. Zero so far. Something is working. Something is working.

What is working is tough gun laws—and I will have a chance to go into greater detail on that later in the debate—tough law enforcement, effective programs in the schools, and working with children and parents to respond to some of the underlying causes, and the needs of children. It is that combination, but it is also effective because we have tough gun laws.

The Lautenberg amendment is a downpayment on the things that are important in reducing violence. Many say here: This is a complex issue, and therefore we can't really solve the problem. What the Lautenberg amendment and other amendments say is, we can reduce the incidence of violence in our society and we will miss that opportunity if we fail to adopt them.

This is about saving children's lives. That is what this proposal is about, and a number of other proposals. We should be willing to accept this in an overwhelmingly positive way. The Lautenberg amendment does something; the Craig amendment fails the minimum standard.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. LAUTENBERG. How much time remains?

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes 13 seconds remaining. The Senator from Idaho has 18 minutes 29 seconds.

Mr. LAUTENBERG. Mr. President, I understand it is possible to extend the time some because the vote, I am told, is going to be delayed from 4 to 4:30. I ask the Senator from Idaho if he is interested in taking some more time for our discussion here. I do not want the time to go by without use.

Mr. HATCH. I prefer to get these two amendments over with so we can move on to the next amendment. We do have one or two others that are going to come up today. I think we have covered it pretty well on both sides.

Mr. LAUTENBERG. I thank my friend from Utah.

Mr. President, I yield myself such time as I have. I understand there is a 2½-minute presentation before each of the votes; is that true?

The PRESIDING OFFICER. Five minutes equally divided; that is correct. The Senator now has 3 minutes 49 seconds.

Mr. LAUTENBERG. Mr. President, I listened with interest and felt like the famous philosopher from New Jersey, Yogi Berra, who said, ''This is deja vu all over again,'' because the Senator from Idaho and I have sharply disagreed on what constitutes freedom.

I think there is a freedom that overrides all the others—the freedom to live, the freedom to send your children to school and not worry about whether or not they are going to get shot and permanently injured or worse yet, killed.

The Senator from Idaho points out the fact that there is only a small percentage—he corrected that; he is an honest man. He corrected the percentage he ascribed to gun show purchases away from licensed dealers. A small percentage he said. What are we talking about? What percentage did it take to kill 13 kids in Littleton, CO? It could have been done with 1 percent or less. Four weapons, all of which had a history of gun show traveling.

Four weapons killed those children. Ask those families whether they want tighter control or whether they are

worried about the menace that the Senator from Idaho presented. The menace, he says, is a bigger bureaucracy. How about the menace of losing your child? Where does that stand in the list of things? No, it is important that the Federal Government doesn't intervene; we ought to get rid of the Federal Government. Maybe we do not need any laws.

He said only a small percentage are violators. Yes, we have in our country over 100 million cars on the road, but we have laws against drunk driving; we have laws against reckless driving; we have laws against speeding. Why? Because even though a car is a nice convenience, it can be a lethal weapon if it is mishandled.

What is wrong with saying we ought to take some time, we ought to make records? I do not understand this sham attempt to obscure reality.

He said we don't want to interfere; we will let private citizens—let a private citizen go to an FBI file and say: Listen, I want to look up this guy, and tell me what you will.

A private citizen going to the FBI to find out what kind of history this person has, whether they have mental disease or mental illness or whether or not they have ever been in jail, in private records? But, no, we can't trivialize the gun show business. We are not trivializing it. We say if you want to buy a gun at a gun show, then let a licensed Federal dealer offer a check.

The Senator from Idaho and I had a disagreement a few years ago about whether or not spousal abusers ought to be deprived of their right to own a gun. Beat up your wife as many times as you want, but you still should have your gun. We won that one. It took a heck of a fight to win it, and they are still trying to upset it, but the court upheld our right to say no to a spousal abuser, you don't have a right to own a gun if you are going to abuse your family. Mr. President, 150,000 times a year a woman has a gun put to her head with the threat: I am going to kill you. And the children are watching. What kind of trauma is that?

Mr. CRAIG. Will the Senator from New Jersey yield?

Mr. LAUTENBERG. I will yield for a question on your time.

Mr. CRAIG. Did I support you in the spousal abuse amendment? Did I support you and vote for it?

Mr. LAUTENBERG. The vote was for it.

Mr. CRAIG. Thank you.

Mr. LAUTENBERG. But the amendment died in committee. The amendment died because the NRA wanted to kill that amendment.

Mr. CRAIG. But the Senator from New Jersey said I did not support it. He is wrong. I voted for it, and I supported him.

Mr. LAUTENBERG. We negotiated very hard as they tried to strip it bare but finally resolved it because it was too embarrassing in the public to vote against it, to say to the public: No; you still deserve a gun even though you beat the heck out of your wife.

What are we talking about here?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUTENBERG. This is theater; this isn't government.

How much time do I have?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. I guess I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, it is important that facts be facts. The Senator from New Jersey and I did negotiate on the spousal abuse issue because there were some differences. When those differences were worked out, we agreed. So it is not correct to characterize on the floor that I opposed him. He and I agreed, we shook hands, and we voted for it. And I do not run from that vote at all. So let's set that one aside.

Let's talk about the National Shooting Sports Foundation, which the Senator said some minutes ago had endorsed his legislation. We called the National Sports Shooting Foundation today, and they said they do not endorse the Lautenberg legislation.

Just last Monday, the president of NSSF said the industry supports backgrounds checks at gun shows provided the FBI does not maintain the names in violation of the law and the White House agrees to a more aggressive prosecution of felons turned up by the background checks. That is what they said. They did not, by my checking today, support the Lautenberg amendment.

I am also told by Governor Bush's office here in Washington that his office has now called the Lautenberg office to say they do not support, nor have they endorsed, the Lautenberg amendment. That is possibly why that placard a few moments ago that said George W. Bush supported the legislation has been taken down. I do not know that to be a fact. I have not talked with Governor Bush, but it is my understanding at this moment that that is the case from the Governor's office here in Washington. I will set that one aside.

Let's talk about the facts. The facts are that there are 40,000 gun laws in America. Twenty of those were violated at Columbine High School in that tragic event which all of us mourn. We are here today in a juvenile justice bill trying to create a much stronger environment in which to deal with juveniles who act in violent and illegal ways. That is what we are trying to do. That is what the chairman of the Judiciary Committee has worked for over 2 years to do. We are going to be treating violent juveniles more like adults—a significant change in our society and in our culture. And we should. We must.

Well, then, why are gun shows a part of it? Because every time some people get an opportunity to talk about opposing guns, they take that opportunity. I do not deny them that right, but what is important is that we deal with the character of the law in the right and appropriate way.

Private citizens are allowed to sell guns in private transactions—at gun shows, in the middle of the street, or in the privacy of their home. That is what the law says. There are liabilities to that. If you sell to a minor, that is against the law. If you sell in an interstate transaction, that is against the law. If you sell to a felon, you better be careful; you will be liable. Those are the laws that exist today.

If you are a licensed dealer of guns, making your living from guns, then the laws are manyfold and you walk a very tight rope. You keep records, as you should, and you do background checks to deny felons access to guns or those who have an adjudicated problem that would make them unstable in the ownership of guns.

Those are the laws today with which we deal. There are some 5,000-plus gun shows annually that nearly 5 million people attend across America, where 60 percent of the gun transactions are done within the context of federally licensed firearms dealers, and 40 percent are not. We are saying something distinctively different than the Senator from New Jersey, who says: Federally controlled, federally defined, in a bureaucracy of recordkeeping that puts the private citizen at a tremendous liability, even though they are law abiding and do all the right things. We are saying we ought to allow background checks to private citizens if they are involved in those transactions. Our amendment would do that, would create a special registry to access, for that citizen, the NICS, instant background check system of the FBI.

That is right, and it is proper, and it will go a long ways toward dealing with illegal activity—some exist; I cannot deny that. But clearly even the Justice Department says that of the guns that are sold at gun shows, less than 2 percent are found to be in illegal activities. That is this Justice Department. That is Bill Clinton's Justice Department. Yet, Bill Clinton, our President, who tried to characterize gun shows as being a bazaar for criminal activity, is wrong, and he knows it. But when he can play politics with this issue, he runs to do so, even though his own Justice Department would argue that the statistics are substantially different.

We also provide for a unique status of licensure. But what we do most importantly is we do not increase the liability or the recordkeeping responsibility of the private citizen. No tripwires here, no failure to dot the ''i'' or cross the ''t'' of a Federal process for which the ATF can come into your home and find you liable. That is not the way it should be. Private citizens have rights in this country, and they even have rights to own guns within the law and under the Constitution. That is what

we guarantee here with clearer definition and clearer process.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CRAPO). The Senator has 11 minutes 45 seconds.

Mr. CRAIG. Mr. President, one other area that concerns me a great deal is the definition by the Senator from New Jersey of ''gun show.'' I have spoken to that to some extent. But I am tremendously fearful that law-abiding citizens, who are legitimate collectors of guns, all of a sudden will find themselves, where more than one should meet, automatically by definition of the Federal law a gun show.

That is wrong. It should not be that way. But certainly if it becomes that way, their liability to even talk about guns and trade guns or exchange guns amongst their friends who are collectors is dramatically curtailed.

Also, I do not think the Senator from New Jersey has done an effective job of refuting what ''gun show promoter'' means. Because he says that the term ''gun show promoter'' means any person or organization that plans or promotes and operates a gun show. These are the people who find themselves not only liable but having to get Federal licensure to do so. Does that include the Marriott Hotel next to the Convention Center with a sign out front: All gun show exhibitors stay here. We promote gun show X in city Y or Z? It could. Because we all know that what we mean here as legislative intent oftentimes becomes vastly different once interpreted by the Federal bureaucracy.

Those are my concerns as they relate to these issues. I hope my colleagues will clearly understand those before they take the opportunity to vote this afternoon.

I retain the remainder of my time and relinquish the floor.

Mr. ROTH. Mr. President, I would like to express my views with respect to the issue of background checks at gun shows in relation to the amendments we have today before the Senate.

I am a strong supporter of the second amendment; however, I also believe we must maintain procedures to ensure that guns do not find their way to the wrong hands. This is why I have supported the instant check system which is currently in place.

I have reviewed the amendment offered by Senator LAUTENBERG and the amendment offered by Senator CRAIG. I have concerns with both. In my view the amendment offered by Senator LAUTENBERG goes much further than simply requiring a background check for purchases at gun shows. It would put in place new and burdensome record requirements for gun show operators and vendors and provide the Secretary of the Treasury with unlimited authority to issue additional regulations.

On the other hand, the amendment offered by Senator CRAIG, in my view, does not go far enough. Senator CRAIG's amendment merely outlines a voluntary or optional background check process.

Mr. President, consistent with my view and past support of the Brady bill, I would support a straightforward background check system for gun show sales, but that is not the choice we have before us today.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 5½ minutes remaining.

Mr. CRAIG. I yield to the chairman.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. With the permission of Senator CRAIG, I ask unanimous consent that the distinguished Senator from Arizona be given 7 minutes to offer his amendment, speak to it, and, as I understand, he is going to withdraw the amendment at the end.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. Mr. President, not objecting but clarifying, if I may, do I retain my time or is that simply used up in this——

The PRESIDING OFFICER. The Senator from Idaho retains his 5 minutes, and the Senator from Arizona would have 7 minutes intervening. Is that the intent of the Senator from Utah?

Mr. HATCH. The Senator's time would not come out of the time of the Senator from Idaho.

Mr. LAUTENBERG. May I ask a question, please? How is the time derived? Is the time now under the control of the Senator from Idaho?

The PRESIDING OFFICER. At this time, the Senator from Idaho has 5 minutes 2 seconds remaining. The unanimous consent request is that the Senator from Arizona have 7 additional minutes for his own purposes.

Mr. LAUTENBERG. No objection.

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

AMENDMENT NO. 333

(Purpose: To prohibit the receipt, transfer, transportation, or possession of a firearm or ammunition by certain violent juvenile offenders, and for other purposes)

Mr. MCCAIN. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN) proposes an amendment numbered 333.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. FIREARMS PENALTIES.

(a) STRAW PURCHASE PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Notwithstanding paragraph (2), whoever knowingly violates section 922(a)(6) for the purpose of selling, delivering, or otherwise transferring a firearm, knowing or having reasonable cause to know that another person will carry or otherwise possess or discharge or otherwise use the firearm in the commission of a violent felony, shall be—

''(i) fined under this title, imprisoned not more than 15 years, or both; or

''(ii) imprisoned not less than 10 and not more than 20 years and fined under this title, if the procurement is for a juvenile.

''(B) In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' means conduct described in subsection (e)(2)(B).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

(b) JUVENILE WEAPONS PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18 United States Code, is amended—

(A) in paragraph (4), by striking ''Whoever'' and inserting ''Except as provided in paragraph (6), whoever''; and

(B) in paragraph (6), by striking subparagraph (B) and inserting the following:

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; or

''(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile, knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a violent felony, shall be imprisoned not less than 10 and not more than 20 years and fined under this title.

''(C) In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' means conduct described in subsection (e)(2)(B).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

Mr. MCCAIN. Mr. President, I thank the Senator from Utah and also the Senator from Idaho for allowing me this time. I don't think I will use as much as 7 minutes. At that time, I will withdraw my amendment upon the completion of my statement.

This amendment is designed to prevent juveniles from illegally accessing weapons and to punish those who would assist them in doing so.

This amendment provides that whoever illegally purchases a weapon for another individual, knowing that the recipient intends to use the weapon to commit a violent crime, may be imprisoned for up to 15 years. Further, the amendment mandates that whoever illegally purchases a weapon for a juvenile, knowing that the juvenile intends to commit a violent felony with the weapon, will receive a mandatory minimum sentence of 10 years and may be imprisoned for up to 20 years. Current law provides a maximum prison term of 10 years, regardless of the age of the shooter.

Additionally, if a person transfers a handgun or ammunition to a juvenile knowing that the juvenile intends to

commit a violent felony, that individual will receive a minimum 10-year sentence and may be imprisoned up to 20 years.

Mr. President, as I just outlined, this amendment is very simple. The amendment targets the nexus of the youth gun violence issue. Despite the arguments of those who are pushing for more restrictive guns ownership laws, the fact is that the overwhelming majority of kids who are committing these violent acts are getting guns illegally. It is ludicrous to argue that gang members are going to gun shows or to Walmart to buy their weapons. For the most part, they are obtaining them illegally.

Recent events have shaken the collective conscience of this nation. The murders at Columbine High School in Colorado have again brought home to every American the degree to which we are failing our children.

The most basic and profound responsibility that our culture—any culture—has is raising its children. We are failing in that responsibility, and the extent of our failure is being measured in the deaths and injuries of kids in schoolyards and on neighborhood streets. Over the past 2 years, we have been jolted time and again with the horrifying news and images of school shootings. Every day, in towns and cities across this country, kids are killing kids, and kids are killing adults in a spiraling pattern of youth violence driven by the drug trade, gang activity, and other factors.

Our children are killing each other, and they are killing themselves. We must act to change this.

Primary responsibility lies with families. As a country, we are not parenting our children. We are not adequately involving ourselves in our children's lives, the friends they hang out with, what they do with their time, and the problems they are struggling with. This is our job, our paramount responsibility, and we are failing. We must get our priorities straight, and that means putting our kids first.

However, parents need help. They need help because our homes, our families, and our children's minds are being flooded by a tide of violence. This dehumanizing violence pervades our society. Movies depict graphic violence, and children are taught to kill and maim by interactive video games. The Internet, which holds such tremendous potential, is used by some to communicate unimaginable hatred, images and descriptions of violence, and ''how-to'' manuals on everything from bomb construction to drugs. Our culture is dominated by media, and our children, more so than any other generation, are vulnerable to the images of violence and hate that are, sadly, the dominant themes in so much of what they see and hear.

I recently joined with some of my colleagues to call upon the President to convene an emergency summit of the leaders of the entertainment and interactive media industry to develop an action plan for controlling children's access to media violence. I am pleased that the President heeded this call. However, I am very disappointed that the President's summit proved to be heavy on symbolism and light on substance. We can do more.

I have also joined others to introduce legislation calling upon the Surgeon General to conduct a comprehensive study of media violence in all its forms, and to issue a report on its effects together with recommendations on how we can turn around the tragic tide of youth violence.

Further, yesterday, I, along with Senator LIEBERMAN and others, announced legislation that would establish a National Youth Violence Commission, consisting of religious leaders and experts in education, family psychology, law enforcement, and parenting, to produce a comprehensive study of the forces that are conspiring to turn our children into killers.

Combined, these measures—along with this legislation—are important steps targeting various aspects of the complex problem of youth violence. However, if we are to turn this tide, we must press the fight on every front.

One reality of the horrific schoolyard shootings, and the criminal gun violence that is so prevalent among our youth, is the illegal use of guns. The amendment I have offered is specifically targeted at the illegal means by which kids are acquiring guns. The extent of this problem is made acutely apparent by the events that unfolded in Littleton. From what we are told, 18 different gun laws were violated, including illegal straw purchases and transfers.

This amendment states simply that, if you know a kid is going to commit a violent felony, and you give him or her the gun to commit that crime, you are going to go to jail for a long time.

Mr. President, this amendment is not a panacea. As I have stated, the malady of youth violence that is eating at the soul of this Nation is a complex disease. It will require a multi-faceted cure. I believe we must push for a comprehensive approach. What we must have is the unqualified commitment of all Americans to raise our children, to put them first.

This amendment is one step—one necessary step that will help us deal with the problem of kids killing kids. I hope the Senate will adopt this amendment.

Mr. President, my understanding is that the distinguished manager of the bill has included this amendment in the package. I thank him for doing that. Therefore, it would be deemed unnecessary that this amendment be considered separately at this time. I thank the distinguished chairman of the Judiciary Committee for including this amendment in the package.

Mr. President, I ask unanimous consent to withdraw the amendment at this time.

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

The amendment (No. 333) was withdrawn.

Mr. MCCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I compliment the distinguished Senator from Arizona for his leadership on this issue and for the work that he has done to help pass this bill.

Mr. President, I ask unanimous consent that the previously stacked votes be delayed to begin at 4:30 this afternoon. We have three so far lined up. And further, following the debate outlined in the previous consent, Senator THOMPSON be recognized for up to 20 minutes for general debate on the bill, and then Senator KENNEDY for 10 minutes and then Senator LEAHY for 5 minutes.

I further ask that following the votes, Senator HOLLINGS be recognized to offer an amendment regarding TV violence limited to 3 hours equally divided prior to a motion to table, with no amendments in order prior to that vote.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I want to make sure I understand this. We are starting basically now, Senator THOMPSON will be recognized.

Mr. HATCH. Right.

Mr. LEAHY. And then my 5 minutes is in there prior to the vote.

Mr. HATCH. Following Senator KENNEDY.

Now, also if we have enough time left over after Senator LEAHY speaks, I ask unanimous consent that we can work on a Republican amendment before the votes, too, so we can at least have one more. We will try to work that out between the two managers on the floor. We will begin with Senator THOMPSON for 20 minutes, KENNEDY for 10, and LEAHY for 5, and then we will see where we can go.

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

The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair. I thank the Senator from Utah and I congratulate him for his long work in this area. While I cannot support this legislation, it is certainly better than much I have seen in this area. I know he and Senators SESSIONS, BIDEN, and others, have spent a lot of time on this. I congratulate them for it.

Mr. President, I rise not to debate any particular amendment. There has been a lot of good discussion as to the grants, the programs, and as to the various amendments and details of what we should do and how much money we should spend on various programs.

I rise not to address that because I have a significant problem with the entire concept. I believe that our approach with regard to youth violence

here is misguided. First, I will address basically what this bill does. Among other things, it makes it easier to prosecute juveniles in Federal criminal court. We have from 100 to 200 prosecutions a year of juveniles in Federal court. It is a minuscule part of our criminal justice system.

In 1998, there were 58,000 Federal criminal cases filed involving 79,000 defendants. As I say, there were only 100 or 200 juvenile Federal crime cases among that group. This bill would make it easier to bring what has traditionally been a State matter into the Federal system. It makes it easier to try a juvenile as an adult. It would allow juveniles as young as 14 years of age to be tried as an adult for violent crimes and drug offenses—drug offenses, again, that are of the street crime category, where we have laws on the books in every State of the Union. It makes more local street crime Federal offenses—recruiting gang members and things of that nature. It allows the Attorney General to send in a Federal task force if she deems it necessary.

Then there is an array of programs and grants that this bill sets forth: Educational programs, educational grants for dropout prevention, school violence, restitution, child abuse, probation enhancement, mentoring programs, drug abuse, gang prevention, gun prevention, job training, after-school activities, family strengthening, evaluation programs. Then this bill requires in a few instances, and in a few instances encourages, States to do certain other things if they want to participate and get this grant money and program money. It encourages boot camps, sentencing of juveniles who are as young as 10 years old as adults, encourages graduated sanctions, and encourages States to set up various kinds of programs for victims of juvenile crime. That is required if the States want this money. It requires communities to establish coalitions to replicate other communities. In other words, it requires coalitions of groups of law enforcement officers to get together and do some of the things that have been done in other communities where they apparently have had good results.

Then we have seen research amendments with regard to crime in schools, establishing of hotlines, and increasing the penalties for various things. We have extended, by amendment, the 1994 crime bill that will spend about $31 billion over the next 5 years. This bill does all of these things.

Mr. President, it is a tremendous conglomeration of grants and programs and mandates, whereby we spend additional billions of dollars on matters that are being, or should be, covered by State and local laws, or that should be handled by local governments—such things that would be anticrime measures, tough on crime measures; or we are dealing with areas in which we really don't know what we are doing, with all due respect, as a Federal Government. With that, I am referring to basically prevention programs.

Basically, what we try to do is either get tough on crime programs, increasing penalties, and federalizing additional offenses, on the one hand, or coming in with prevention programs designed to reach young people before they get in trouble. Both are laudable goals. But not too long ago, I chaired the Youth Violence Juvenile Justice Subcommittee of the Judiciary Committee. We had extensive hearings. It is a subject that we are all concerned about. We are looking for solutions. I came away with the distinct feeling and impression that we need to concentrate more on research and evaluation of the underlying problems of juvenile violence. There is no question but that these are deep-rooted, social, complex problems about which we know very little.

I believe there is one thing the Federal Government does probably better than anybody else, and that is research and evaluation. We have the resources and we can get the capability and we can make the long-term commitment if we desire to come up with evaluation programs over a period of time to really determine what kind of programs work. We spend all of this money, we put forth all of these programs, and we really have no idea what is working.

We have 132 Federal criminal juvenile justice programs on the books today. I daresay we have very little idea what is really working and what is not working. We have another tragedy, so we double the money with regard, in many instances, to the same programs we have already.

Professor Alfred Blumstein was a witness before our committee. He is a professor at Carnegie-Mellon University. He talked about the research and evaluation that was needed. You could not listen to him without coming away with a certain feeling of humility about how little we know regarding this matter. He said:

> The last 25 years has seen a considerable accumulation of research findings and insights that were not available earlier. Those research findings, however, reflect only a tiny portion of what we need to know to make effective policy and operational decisions in each of the many areas relating to juvenile violence.

He said:

> There have been some evaluations of various kinds of rehabilitation programs, and these are encouraging, but we have very little in the way of evaluation of prevention programs. This is partly because so little has been done, but also because it is very difficult to measure the effects of programs whose effects may not be observed for a decade or more.

In other words, what he is saying is, in order to have an evaluation of a research program worth its salt, we need to set it up for a decade or more.

He goes on to say:

> . . . Thus, while it is clear that much important research has been conducted over the past decade, it is also clear that we are still at an extremely primitive stage of knowledge regarding violence, especially for directing focused action, and that much more still needs to be done.

He says:

> . . . we need much more and better information on the development and the nature of criminal careers . . .

He goes on and on and says:

> . . . The major growth in juvenile violence is not only of concern itself, but it is symptomatic of many key aspects of juvenile development that need major attention. The knowledge base to address these issues is remarkably thin in terms of knowing how best to intervene in these developmental processes.

So, Mr. President, instead of passing additional laws, additional get-tough-on-crime measures, instead of establishing a Federal entity that is sufficiently funded where there is a commitment over many, many years, instead of focusing on research and evaluation before we go about implementing these policies, we are now coming up with the same old responses that we have had in the past.

In this bill, there is some research and evaluation provisions that I think are very good; in fact, some of the things we worked on in times past when I was on the Judiciary Committee. But it is minuscule in comparison to what we need. Research and evaluation programs are scattered out among the States, a little bit here and there. We need a long-term Federal commitment in the one area where the Federal Government does it best—for research and evaluation of programs. We can see what works—which of these 132 Federal programs are working—and then be a clearinghouse for State and local governments so they can get the benefit of that knowledge, and they can go back and implement their own programs, instead of us instituting all of these grants and all of these programs directing States to do some things, and encouraging States to do other things, thinking that we have answers that we do not have. We are getting the cart before the horse because of the tragic circumstances we are faced with.

We know now that some of these programs are very questionable in terms of results.

The DARE program, the GREAT program, some of the mentoring programs—we simply know that in some cases there is absolutely no objective data that indicates they are doing any good, and in some cases there is expert testimony that in fact they are doing some bad things.

We cannot sit up here and have things occur to us that sound good to us and assume they are going to work out in real life. That is how we got the airbags that killed children. That is how we got the program of asbestos removal that we now know was the wrong way to go about that problem. We need to have a little humility as we approach this problem.

We encourage things. There are some amendments, such as counseling programs for juvenile violence in schools,

and so forth. I understand they have a gymnasium full of counselors out there in Colorado now that people are not using. We encourage boot camps for juveniles as adults when we know now that in some cases juveniles treated as juveniles will get more than they do being treated as adults.

We want to pass additional gun laws. Every State in the Union has laws against children taking guns to school. We came in and overlaid that with Federal law that made it a Federal offense for kids to take guns to school. Now we have State laws and a Federal law.

Now we have had a tragedy. And goodness knows what the next batch of laws will be that portend to address this.

When I see statements made that by this bill we are giving our children back their childhood, or we are empowering parents to be decent parents, it concerns me that we may really believe that, because we do not have that ability, we do not have that power, we do not have that knowledge, or know-how.

What is the underlying philosophy for Federal involvement in this area, or Federal control in some cases? Is it expertise? Do we have more expertise on the Senate floor than out among the State and local people who deal with this problem every day?

I doubt it, because we keep coming up with the same old programs and adding one every once in a while. We have the waterfront covered as far as programs are concerned. I can't think of a program that has not been covered or funded in some way.

Is it because we have the money? Well, yes. We do have the money, because more and more we are depriving States and local governments of their sources of revenue, bringing it to Washington, then doling it back to them and telling them how to spend it, as if we knew.

In this bill we have $450 million for juvenile accountability block grants, $75 million for juvenile criminal history upgrades, $200 million for challenge grants, $200 million for JJDPA prevention grants, $40 million for the National Institute for Juvenile Crime Control and Prevention, of which $20 million would go to evaluation research, $20 million for gang programs, $20 million for the demonstration programs, $15 million for mentoring programs.

I defy anyone to point out to me which one of these programs is working or not working of the ones that we already have on the books that basically track these same kinds of efforts.

Is the federalization of this matter because the problem is bigger and, therefore, we have to address it? I don't think that is the case. We continue to federalize matters that are so insignificant that we don't even prosecute them once they get on the books.

We now have Federal laws with regard to animal enterprise terrorism, theft of livestock, and odometer tampering. There has been a total of four prosecutions nationwide for all three of those acts.

Now we have a horrendous incident out in Colorado, which disturbs all of us. But the fact of the matter is that less than 1 percent of youth homicides occur in schools.

Deaths by homicide is the second leading cause of deaths among children, second to accidents. And much of that has to do with driving while intoxicated and things of that nature.

Mr. President, the 10th amendment was put in the Constitution for a reason. The Federal Government ought to do the things the Federal Government is good at and leave the States alone to do the things the Constitution gives them under the Constitution. There is no plenary Federal law enforcement power under the Constitution.

We think we have a good result up here with a program in Boston, or wherever, so that we want to authorize the Attorney General to go in and put that program in other places. If it were a good program, logic would extend it to every place in the country, which means a Federal police power. And we do not want that.

We held federalism hearings the other day. We had a consensus from Democrats and Republicans, liberals and conservatives, law enforcement officers and defense lawyers. And they are all concerned about the trend toward federalizing what essentially have been State and local matters for more than 200 years.

There were 1,000 bills introduced in the 105th Congress. A lot of them had to do with juvenile crimes. No one knows actually how many Federal crimes are on the books now; the statutes are so complicated. Some people say 3,000. But with the administrative regulations, and so forth, there are thousands and thousands of statutes and regulations that have criminal consequences. That is the wrong direction.

The Federal Government should cover things in the Federal criminal law that have to do with Federal people or property, and interstate transactions that are truly interstate. Local corruption conflicts, litigation of civil rights, and things of that nature; that is, the law enforcement side of the equation, that is the equation that the State and local governments have the responsibility for. If we take that away from them, either in one fell swoop or gradually, they will do a worse job of it in the future instead of a better job.

On the prevention side, especially with regard to juveniles, let us have a little modesty and acknowledge that we do not know the answers to these problems. Some of them we will never know. They are complex. They are inherent societal problems that we did not get into overnight; we will not get out of them overnight.

But I would suggest again that instead of spending these billions of dollars—literally billions of dollars on top of billions of dollars—on programs about which we have no idea of their efficacy, what is working and what is not working, let's scale that way back and put some money up here for some long-term research and evaluation for over a decade or so, so we can really tell what works. Let us be a clearinghouse and an example then for the States. We don't have to dole out the money to them or suggest that they do this program or that program when we don't know what we are doing. They can see what works and what doesn't work.

On the grounds of the Federal Government properly doing what it should be doing, letting the States do their traditional job under the Constitution, and, second, on the grounds of a little bit of modesty in terms of crime prevention—and that is where it is as far as these juveniles are concerned, on the prevention side—we have to get to these kids earlier. But the fact of the matter is, we are scattered to the four winds, throwing billions of dollars at a problem without knowing what the solution is.

There is only one way that I see we can go, and that is more research for Federal evaluation and research, and in the meantime let's hold our horses and not respond to the headlines—the most difficult thing in the world to do. But by getting out front and pretending we can do things we can't do, we are setting the cause back; we are not advancing it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, thank you very much.

I was listening to my good friend from Tennessee talking about what we need to do, that we need to give more time for research and evaluation of where we are in terms of violence among young people in this country.

Quite frankly, I would invite our colleagues and Members of Congress—Members of the Senate in this instance—to look at what has happened up in my own home city of Boston, MA, in recent years.

In Boston, Mr. President, we have had a dramatic strengthening of various gun laws in recent years, stricter enforcement of existing laws, and the implementation of very important programs in terms of help and assistance for the students, the teachers, and the parents, and the schools. We have had the community police men and women working in the schools, working with the superintendents, working with the parents, working with the children.

There has been the development of support groups for the children. There has been the development of violence prevention and mediation programs; an important 2 to 6 program; an after-school program which is so important

in terms of helping and assisting children in the afternoon with their various academic endeavors so when the children do go home in the late afternoon and see their parents—in most situations both of whom have been working hard—they will have quality time with them.

It is an effective approach. We are not here to suggest this will be the only approach. I am not here to suggest that there shouldn't be additional reviews or studies. But as we look at the various challenges we are facing today, we shouldn't just throw up our hands and say because there are so many things to do, we can't do anything at all. There are important things that we can do.

The Senate has made some judgments on some of those recommendations—those which have been offered by Senator ROBB, Senator LEAHY, and others during the course of the last day or so. Now we are beginning a debate on another, I think, extremely important provision. That is the accessibility and the availability of these weapons, particularly to children, in our society.

It is uncontrovertible that various societies that deny easy access and easy availability of these weapons do not have the kind of homicide records we have seen in the United States. Industrial nations that have strict restrictions on the access and availability of weapons see a fraction of the number of homicides that we have seen. There is a direct correlation. We have seen that ourselves over the years.

We have had leadership from our colleagues, including Senator FEINSTEIN, Senator LAUTENBERG, and others here on the development and the support of the Brady bill. We have made important progress. In my own State of Massachusetts, we have made significant progress in a variety of ways regarding gun laws.

This chart describes firearm homicides by all ages in recent years in Boston. We see the dramatic reduction: 1993, 65; 1994, 62; 1995, 64; 1999, 4. It seems to me it would be worthwhile to look and listen to those who are out there in the streets, in the schools, in law enforcement, who have witnessed this kind of result. We hear a great deal of postulating and theorizing about what may be done or what should be done, but we have a very practical example in this chart of what has been done and what is being done. So far in this particular year, with 128 schools, we have not had a single homicide in Boston, MA.

The school lots of the city of Boston were fire zones, not too many years ago, but we have made important progress. One of the most important reasons is the gun laws that have been passed.

The age for juvenile possession of handguns in Massachusetts is 21—it is 18 nationwide—but it is 21 in my State of Massachusetts. We enacted the cap law, a law that says we are going to hold individuals who have weapons in their homes responsible, so that there will be a separation of the gun from the ammunition. We hear a great deal of talk about the second amendment, about responsible Americans. We say that is fine; we will hold you responsible. You are going to store your gun separate from your ammunition. If you don't and there is a crime, we are holding you responsible.

That has had an important impact. There have been 16 States that have adopted similar laws, and we are beginning to see important progress made.

In Massachusetts, we have a waiting period for handgun purchases. We have a State ban on all assault weapons, and we have yet to hear from any hunters that they need to have assault weapons to go out in the woods and hunt deer. We have effectively halted all assault weapons, and that has been an important addition.

We have barred private sales of guns between individuals avoiding, circumventing the background checks.

We have insisted we will have safety locks on the guns that are sold in Massachusetts. We have the technology for a gun safety lock to prevent children up to maybe 4 years of age from pulling the trigger of a handgun. Why aren't we putting those requirements into the legislation?

We have important, strict, provisions in terms of reporting stolen weapons.

Those are the kinds of measures we have passed in Massachusetts. I don't see how anyone can make the case that they provide much hindrance to individuals who want to exercise their right to go out and hunt. I don't see how those measures inhibit that opportunity.

We are seeing, not only in the city of Boston, similar results in other cities around our Commonwealth. Something is working; something is happening. We are saying, let us try to find what is working, what is happening, what is tried and tested. We are not going to solve all of the problems, but we are going to reduce the number of youth homicides. We can see very clearly from this chart we are talking about 15, 20, 30, 40, 50, 60 children who are alive today that would not be alive, I daresay, unless those steps had been taken. These are positive bottom-line results.

We are going to see various amendments offered by Members on this side of the aisle—whether it is the Lautenberg amendment on the gun shows; whether it is the Durbin amendment; or whether it will be Senator BOXER and Senator FEINSTEIN offering amendments that have been along the lines of what has been proven and tested here. And I doubt very much we will have much success.

The American people ought to pay close attention to this debate. We will have votes this afternoon. And hopefully, we will have the important votes on these issues tomorrow. We need to listen to the American people on these issues. We are talking not just about a policy on education. We are not talking about a health policy. We are not talking about an environmental policy. We are not talking about a defense policy. We are talking about whether there are steps that can be taken, by this body, that will make a difference in terms of the lives of children in our society.

We can do it. We demonstrated it. We should do it. And we ought to be able to accept it here in the Senate during the course of this debate.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont, Mr. LEAHY, is to be recognized for 35 minutes.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I know we are going to have a series of votes in a short while. I would like to speak about one of them, amendment No. 332, introduced by the distinguished Senator from Idaho, Mr. CRAIG. I have heard of the emperor not having clothes, but this amendment has no clothes.

This is an amendment that speaks about controlling gun sales at guns shows, auctions or out of the back of your truck or whatever, and we are going to put some controls on it. We are going to put some controls on for background checks, but only if the person who opens the back of his trunk to sell these guns "desires to have access to the national instant check system." Of course, if he doesn't want to, he can keep right on selling the guns, no checks, nothing. I am not that great at driving a truck, but I could drive an 18-wheeler through that hole.

Then it has a whole lot of civil liabilities in here for certain future Federal firearm violations. But then there is probably the best sweetheart deal I have ever seen. It dismisses pending actions from any Federal or State court for gun dealers. It gives blanket immunity. This amendment might cover a State or a city, Attorney General or anybody else who sued a gun dealer and dismiss the case. Not even a TV judge could throw it out that easy, but this amendment could. It is not clear from its drafting who is covered by this immunity section of the amendment.

I do not know why we do not amend it. I am sure there are some around here, because of their ties with the tobacco industry, who would like to do that for the tobacco industry. Can you imagine if anybody brought up a piece of legislation that said we will, by this amendment, remove all liability on tobacco suits? They would be laughed out of here. It would be a front-page story in the paper. Suppose somebody came in and said, I want to throw a little amendment in here to do away with suits against toxic waste sites. People would be calling up, saying, what, did you get a PAC contribution from Polluters, Incorporated?

I have seen some remarkable amendments. I commend the distinguished

Senator. He has very strong feelings about guns and he has concerns about any limitations on them. But this is remarkable.

I keep a file of extraordinary things I have seen during my 25 years here. This will go in the file. To put in an amendment, not even debate this line, but to say, anybody who has a suit against a gun dealer or perhaps a gun manufacturer, it might be thrown out. No hearings. No debate. Nothing. But the Senate has thrown it out. In fact, this section is just titled ''Immunity.'' That is pretty amazing. It says:

A qualified civil liability action pending under the date of enactment of this subsection shall be dismissed immediately by the court.

Man, every defendant is going to be rushing into court if we pass this, saying, I am home free. I get out of jail. I do not have to pass ''go.'' I do get to collect the $200.

Mr. President, every Senator who votes for this is voting to override the courts of their State. They are voting to override the municipalities of their State. They are voting to override the legislature of their State. They are voting to override the Attorney General of their State. They are voting on suits they have not even seen, to just throw them out of court. I have been here long enough to know special interest legislation makes it to the floor of the Senate, but this may be the all-time king.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we now have 25 minutes left. There are a few people who would still like to speak, especially the distinguished Senator from Alabama, in response to Senator KENNEDY and his conclusions. I ask unanimous consent to yield 3 minutes to the distinguished Senator from Alabama, and then immediately thereafter call up the Hatch-Leahy Internet screening amendment.

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

Mr. SESSIONS. Mr. President, I thank the Senator for his leadership on this. I say to the Senator from Massachusetts, the Boston project has been a very successful project and contrary to his understanding of our legislation, it does model itself after the key successes of the Boston project. I have had members of my staff visit Boston. The number of murders and decline in crime have been remarkable. It is driven, if you talk to the people there, by a coordinated effort by the entire community, really led by the judiciary, the courts, the police and the probation officers.

When judges give a young person probation in Boston, if he is a member of a gang and he is supposed to be in at 7 o'clock at night, a probation officer, along with a uniformed policeman, will go out at night, knock on the door and make sure he or she is home. This is not being done anyplace else in America.

They are taking these young people seriously. They are following up. Judges and parole officers in Boston have the capacity to discipline them through detention facilities and other forms of discipline if they violate their probation, which most juvenile judges do not.

The whole purpose, what we are doing here, is to try to empower other court systems in America to do the same type of innovative research. In fact, our bill, on page 230, requires this coordinated local effort, which was the key to Boston and several other cities which are making progress in juvenile crime.

This requires, prior to receiving a grant under this section, that

. . . a unit of local government shall certify that it has or will establish a coordinated enforcement plan—

That is what they have in Boston.

for reducing juvenile crime within the jurisdiction of the unit of local government developed by a juvenile crime enforcement coalition, such coalition consisting of individuals within the jurisdiction representing police, sheriff, the prosecutor, State or local probation services, juvenile court, schools, business, and religious affiliated, fraternal, nonprofit and social service organizations involved in crime prevention.

So I say to the Senator from Massachusetts, this is what we are doing here. The key to the success of the Boston project, in my opinion, is a coordinated effort among Federal, State and local agencies under the jurisdiction of the court and probation officer, who actually monitors young people who started to be involved in violations of the law, with an intense interest, an intense interest borne out of love and concern, to insist that they stop their bad activities and, in fact, return to the rule of law.

If we do that effectively, I do believe we have the capacity to reduce crime in America.

I yield the remainder of my time to Chairman HATCH.

The PRESIDING OFFICER. The Senator from Utah is recognized.

AMENDMENT NO. 335

(Purpose: Relating to the availability of Internet filtering and screening software)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. LEAHY, proposes an amendment numbered 335.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 265, below line 20, add the following:

SEC. 402. PROVISION OF INTERNET FILTERING OR SCREENING SOFTWARE BY CERTAIN INTERNET SERVICE PROVIDERS.

(a) REQUIREMENT TO PROVIDE.—Each Internet service provider shall at the time of entering an agreement with a residential customer for the provision of Internet access services, provide to such customer, either at no fee or at a fee not in excess of the amount specified in subsection (c), computer software or other filtering or blocking system that allows the customer to prevent the access of minors to material on the Internet.

(b) SURVEYS OF PROVISION OF SOFTWARE OR SYSTEMS.—

(1) SURVEYS.—The Office of Juvenile Justice and Delinquency Prevention of the Department of Justice and the Federal Trade Commission shall jointly conduct surveys of the extent to which Internet service providers are providing computer software or systems described in subsection (a) to their subscribers.

(2) FREQUENCY.—The surveys required by paragraph (1) shall be completed as follows:

(A) One shall be completed not later than one year after the date of the enactment of this Act.

(B) One shall be completed not later than two years after that date.

(C) One shall be completed not later than three years after that date.

(c) FEES.—The fee, if any, charged and collected by an Internet service provider for providing computer software or a system described in subsection (a) to a residential customer shall not exceed the amount equal to the cost of the provider in providing the software or system to the subscriber, including the cost of the software or system and of any license required with respect to the software or system.

(d) APPLICABILITY.—The requirement described in subsection (a) shall become effective only if—

(1) 1 year after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(A) that less than 75 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided computer software or systems described in subsection (a) by such providers;

(2) 2 years after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(B) that less than 85 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers; or

(3) 3 years after the date of the enactment of this Act, if the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(C) that less than 100 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers.

(e) INTERNET SERVICE PROVIDER DEFINED.—In this section, the term ''Internet service provider'' means a ''service provider'' as defined in section 512(k)(1)(A) of title 17, United States Code, which has more than 50,000 subscribers.

Mr. HATCH. Mr. President, I am pleased to offer this next amendment along with Senator LEAHY, my friend and colleague, which I have developed with the distinguished ranking member of the Judiciary Committee, Senator LEAHY. This amendment is largely aimed at limiting the negative impact to children from violence and indecent material on the Internet.

At the outset, let me note this amendment does not regulate content. Instead, it encourages the larger Internet service providers to provide, either

for free or at a fee not exceeding the cost to the ISP, the Internet service provider, filtering technologies that would empower parents to limit or block access of minors to unsuitable material on the Internet.

We cannot place all the blame for today's culture of violence on the Internet. But we also cannot ignore the fact that this powerful new medium has the ability to expose children to violent, sexually explicit, and other inappropriate materials with no limits, not even the time-of-broadcast limits that are currently imposed on television broadcasters. Indeed, a recent Time/CNN poll found that 75 percent of teens aged 13 to 17 believed the Internet is partly responsible for crimes like the Columbine High School shootings.

This amendment respects the first amendment of the Constitution by not regulating content, but ensures that parents will have the adequate technological tools to control the access of their children to unsuitable material on the Internet.

Let me say that many Internet subscribers already have such tools provided to them free of charge. For example, the largest Internet service provider currently provides its 17 million subscribers with such filtering technology as part of their standard service.

I honestly believe that other ISPs, or Internet service providers, who do not already provide filtering software to their subscribers will do so voluntarily. They will know it is in their best interests and that the market will demand it. That is why this amendment will not go into effect if, within 3 years, the service providers end up offering such technologies voluntarily.

This is what we would like to do. We think it is a fair amendment. We think it is something that should be done, and we think responsible Internet service providers should be willing to do this, and I am very, very pleased to offer this with my esteemed colleague who has worked very, very hard on all software Internet issues.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I appreciate the generous comments of the Senator from Utah. This can be propounded later on, but we will be voting on this one tomorrow. I ask unanimous consent it be in order to ask for the yeas and nays on this amendment, the Lautenberg, the Craig, and the Brownback amendments at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I move to table the Lautenberg amendment.

Mr. LEAHY. Mr. President, first, on the Hatch-Leahy Internet amendment, let me just say I have worked on a number of these issues with the distinguished Senator from Utah. I think this is one that should get very broad support in this body.

I have talked for years about how we should allow the users of the Internet to control limited access to objectionable material that can be found on line. Anybody with any kind of ability at all can find objectionable material on line. It fits the standard of objectionable by any of us in this body. Some of it is disgusting and obscene and nothing I would want even my adult children to see.

But there is also a lot of amazing and wonderful material in this relatively new communication medium when you can go on the Internet and see people exploring in Antarctica or on Mount Everest, or see surgery being performed experimentally, or talk with astronauts on our space shuttle. These are the wonderful things on line and should be encouraged.

What worries me is when Congress tries to regulate content on the Internet. I have opposed that. For example, I was against the Communications Decency Act, eventually found unconstitutional by the Supreme Court. The law was passed with the best of intentions. It was done to protect children from indecent on-line materials, something all of us as parents want to do. It did it by empowering the Government and was, thus, unconstitutional.

What we should do is empower individual users and parents to decide what material is objectionable. This belongs to parents and users. Also, it brings parents and their children closer together if they actually work together and look at what is on the Internet.

The amendment Senator HATCH and I have offered will require large on-line service providers to offer subscribers filtering software systems that will stop material parents find objectionable from reaching their computer screen.

I am supportive of voluntary industry efforts to provide Internet users with one-click-away resources on how to protect their children as they go on line. Senator CAMPBELL, the distinguished Senator from Colorado, and I joined the Vice President at the White House just last week to hear about this One Click Away Program. Vice President GORE, Senator BEN NIGHTHORSE CAMPBELL, I, and others across the political spectrum joined together to say this is something parents want, need, and can use.

Our amendment promotes the use of filtering technologies by Internet users. It is a far better, more constitutional alternative to Government censorship. I commend the distinguished Senator from Utah. I appreciate working with him on this. While I realize we will not vote on this one until tomorrow morning, I look forward to joining the distinguished Senator from Utah and encourage all Senators of both parties to vote for it.

Mr. President, I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am honored to have my colleague work with me on this. It always makes me feel good when we work together on these matters. This is an important issue, and since one ISP, or Internet service provider, already provides these services as a matter of course, it seems to us it is not asking too much for others to do so. If they do not want to do it without cost, then they should not charge more than what the actual costs are, which is what this amendment does.

Do we have the yeas and nays on this amendment, Mr. President?

The PRESIDING OFFICER. We do.

Mr. HATCH. I ask unanimous consent that this amendment be put over and set aside until tomorrow morning, to be voted on at 9:40 in the morning with at least 6 minutes divided equally between the Senator from Vermont and the Senator from Utah for final debate.

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

Mr. HATCH. As I understand it, we are coming in at 9:30 a.m., so we have allowed for the prayer and 6 minutes for the distinguished Senator from Vermont and the Senator from Utah. Of course, if the majority leader wants to change the times—I understand the 9:30 time is all right with the majority leader, but if he wants to change it, we will be glad to do that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I see the distinguished Senator from Kansas is here. I understand he is prepared to go forward. There is 5 minutes to be equally divided between him and whoever decides to speak on the minority side. I suggest we go ahead and be prepared to vote.

The PRESIDING OFFICER. Does the Senator have a unanimous consent request?

Mr. HATCH. I ask unanimous consent that we proceed at this time on the three amendments and the three votes, with the 5 minutes equally divided for each one.

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

The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you very much.

AMENDMENT NO. 329

Mr. BROWNBACK. Mr. President, as the vote nears on the amendment that I have proposed, along with the chairman and Senator LIEBERMAN and a

number of others—and I will be asking for a recorded vote—I thank them for their work on this issue. The chairman has done tireless work in trying to do things to clean up the culture, and also in this juvenile justice bill to address issues here which I think are critically important. Senator MCCAIN, with his leadership on the Commerce Committee, has elevated the issues, as well as Senator LIEBERMAN in his work, and Senator SESSIONS as well.

I also note the addition of Senator KENT CONRAD as an original cosponsor of this amendment, and I appreciate all of his support.

There has been much discussion today about the causes and cures of youth violence. As I have noted before, I do not believe my amendment—this amendment—is a panacea for all that ails us, but it is a modest and necessary first step towards encouraging a sense of corporate responsibility among some of the most powerful corporations in the world—corporations with incredible access to the minds of young people—and towards gaining a better understanding of the impact of cultural influences on youth violence.

I firmly believe that youth violence is not merely, or even primarily, a public policy problem; it is a cultural and a moral problem.

We live in a society, unfortunately, that glorifies violence. Popular culture is awash in violence. It is glorified in gangsta rap songs, glamorized in movies with vigilante heroes, and simulated in numerous video games. Violence, carnage, destruction and death is presented not as a horror but as entertainment for our young people—young people whose minds, hearts, moral sense, manners, behavior, convictions, and conscience are still being developed.

Recently, the Pope denounced what he called a ''culture of death,'' a culture that rewards the producers of violent entertainment with lucrative contracts and critical acclaim, celebrates the casual cruelty and consequence-free violence depicted in movies and music, that markets the simulation of mass murder in games that were sold to children. His remarks should give us much to think about. This is not something we can fix with legislation, but it should be raised and discussed and seriously considered, not only on the floor of the Senate, but in homes, studios, and corporate boardrooms across America.

Nothing in this amendment curtails freedom of expression in any way. It does not restrict the entertainment industry in any way. Rather, it gives entertainment companies more freedom, enabling—not requiring but enabling—them to enter into a voluntary code of conduct. Such a code would spell out what the company standards are, what products they would be putting forward, and would set a line that the industry would say below this we will not go, and say that to the public.

This amendment also provides for further studies on the impact and marketing of violent entertainment. We need to know more, and we need to start now. The first step towards addressing problems is to accurately define them.

Mr. President, I say, in conclusion on this amendment, we are here today saying that it is time to address this. It is time for us to step forward and be serious about it. It is time for us to renew the culture in America. This amendment is a first step.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROWNBACK. I will ask for the yeas and nays at the appropriate time on this amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mrs. FEINSTEIN. Mr. President, for 7 years now as a member of the Senate Judiciary committee I have watched the situation in this nation going from bad to worse to terrible with respect to violence and its glorification in the media.

I am voting for this amendment because I believe it gives the various industries what they need to be able to establish voluntary guidelines through a voluntary ''code of conduct'' to limit the depictions of violence in music, films, video games or television.

This amendment provides the entertainment industry with an exemption from antitrust laws in order to develop and disseminate voluntary codes of conduct with respect to violence, similar to the National Association of Broadcasters television code prior to 1983, when a court helt the code violated antitrust laws.

Additionally, the Justice Department and the Federal Trade Commission will be directed to conduct a joint investigation of the marketing practices used by the makers of video games, music and motion pictures to determine whether they engage in deceptive marketing practices, including directly targeting material to minors, which is unsuitable for minors.

Furthermore, the National Institutes of Health will be directed to conduct a study of the effects of violent video games and music on child development and youth violence, examining whether and to what extent such violence affects the emotional and psychological development of juveniles and whether it contributes to juvenile delinquency and youth violence.

The glorification of violence in the media has reached such an extent that a manufacturer of interactive computer games to young people advertises: ''Kill your friends, guilt free.''

With such messages of death and degradation delivered through the media, and with our nation awash with guns easily accessible to young people, is it any surprise that troubled youths are now taking up these weapons and going on rampages, killing their classmates and teachers?

The latest of these tragedies occurred in Littleton, Colorado, where Eric Harris spent hours and hours playing violent computer games like Doom and Quake, featuring the wholesale slaughter of digital enemies before joining his friend Dylan Klebold in killing 12 other students and a teacher.

Isn't it time, at the very least, that the manufacturers of video games, television programs, motion pictures and music acknowledge the impact on young people of the carnage they promulgate and demonstrate through a voluntary code of conduct some willingness to limit the violence?

Isn't it time that the entertainment industry does its best to discourage the production and promotion of gratuitous, simulated death and destruction that all too often triggers real and terrifying acts of violence by our young people?

Isn't it time that we in Congress direct the Justice Department and the Federal Trade Commission to investigate whether deceptive marketing practices are being employed to target minors?

Isn't it time that we in Congress direct the National Institutes of Health to study the effect of these violent video games and music on our young people?

Isn't it time that we do everything we can to stop tragedies like Littleton from happening again?

Mr. KOHL. Mr. President, today I rise to cosponsor this measure, which aims to provide us with a better understanding of how violence in our culture is marketed to children and encourage industry to take self-regulatory steps to reduce this violence. Just as important, it will help us determine whether the video game industry is breaking its promise and targeting ultraviolent games to minors.

Mr. President, as we look to find meaning—or to develop policy—in the wake of the Littleton tragedy, it is clear that there's no single answer as to how we can prevent such a terrible event from happening again. Indeed, throughout my time in the Senate, I've worked very hard for a comprehensive approach: Prevention programs for at-risk kids, laws that try to restrict minors from getting handguns, strong punishments for folks who use guns to commit a crime and for truly violent juveniles, and reasonable restrictions on providing inappropriate information to children. My sense is that by the time we complete action on this juvenile justice bill, many of these issues will be addressed in productive, bipartisan ways.

But one part of this comprehensive approach that I'll focus on today is the marketing of violence to children, especially in ultraviolent video games. Senator LIEBERMAN and I have worked very hard on this issue for quite some time, and we've made some progress since we first held joint hearings on the video game industry back in 1993. Since then, the industry has rated all games, giving parents a far better sense of what they are buying for their kids. Recently, though, we have seen

some disturbing signs of ''backsliding,'' especially on enforcement of the ratings system.

Let me give you just a few examples. The Interactive Digital Software Association—which represents video game manufacturers—has an Advertising Code of Conduct that says, ''Companies should not specifically target advertising to [underage] consumers.'' But the companies who produce games like ''Duke Nukem'' and ''Resident Evil''—both rated ''M'' for age seventeen and up—sell action figures from their games at Toys-R-Us to much younger children.

That is not only wrong, it is unacceptable.

Make no mistake about it: Though these games are for adults, the manufacturers are marketing to our kids. That's why we think an FTC/DOJ study—one that separates out the bad actors from the good ones and gives this disturbing trend the scrutiny it deserves—is not just an appropriate response, it is also a timely one. And while the evidence is much clearer with respect to video games than other forms of entertainment, what harm can there be in a study? It might just prove some folks in the industry are doing a good job.

Mr. President, this amendment also includes an antitrust exemption for the entertainment industry so its members can collaborate on a ''code of conduct'' and how best to implement the various ratings systems. It is not entirely clear that the industry actually needs this ''safe harbor,'' but again, there is no harm to reenacting and expanding Senator SIMON's measure.

Of course, Mr. President, these measures are certainly no panacea—no law can be. But they each represent a small step that we in Congress can take as our national community gains a better understanding of what kind of violent images our children face today and what effect it is having on them. For if we do not take the time to learn more about the root causes of youth violence and, instead, blindly make scapegoats out of games or artists or movies we simply don't like, we might as well know nothing at all. Thank you.

Mr. LEAHY. Mr. President, I understand the thrust of what the distinguished Senator from Kansas wishes to do. I am inclined to agree with him.

I am worried that his amendment may be creating not just one, but two antitrust exemptions in the bill. I do not want, nor do I expect that he would want to create unnecessarily large loopholes in our antitrust laws.

I will support his amendment so we can go on to conference with it, because what he is trying to accomplish is something I think the majority of us here in this Senate would want to accomplish. I suggest that the distinguished Senator, between the time this bill leaves the Senate and goes to conference, may want to work with the distinguished Senator from Utah and myself to make sure that we do not create an antitrust exemption that goes beyond what the distinguished Senator wishes to accomplish.

I am not suggesting such an expertise in antitrust law that I could tell him precisely how we might do that, but there are a couple red flags here. My recommendation is that we pass the amendment, but then that the three of us, and any other Senators who may be interested, may want to look at it closely to make sure that it is drafted, one, to accomplish exactly what all of us want to accomplish, but, two, not to raise an antitrust problem in another area.

With that, Mr. President, I am perfectly willing to yield back the remainder of my time, if there is any time on this side.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 329. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—98

Abraham	Enzi	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McCain
Ashcroft	Fitzgerald	McConnell
Baucus	Frist	Mikulski
Bayh	Gorton	Murkowski
Bennett	Graham	Murray
Biden	Gramm	Nickles
Bingaman	Grams	Reed
Bond	Grassley	Reid
Boxer	Gregg	Robb
Breaux	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bryan	Hatch	Roth
Bunning	Helms	Santorum
Burns	Hollings	Sarbanes
Byrd	Hutchinson	Schumer
Campbell	Hutchison	Sessions
Chafee	Inhofe	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	

NOT VOTING—2

Inouye	Moynihan

The amendment (No. 329) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. ASHCROFT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, parliamentary inquiry: My understanding is the Lautenberg amendment is next and there are 5 minutes to be equally divided before I make a motion to table.

The PRESIDING OFFICER. There are 5 minutes equally divided prior to the motion to table.

Mr. LEAHY. Mr. President, I don't believe the time should start until the Senate is in order. The Senator from New Jersey is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Jersey is recognized.

AMENDMENT NO. 331

Mr. LAUTENBERG. Mr. President, my amendment is pretty simple. It does nothing more than close a loophole—that exists at gun shows—from the Brady law. The loophole allows criminals, children, and other prohibited persons to purchase guns at gun shows without a background check, without giving them a name, without giving them an address. Just take it away. Pay your money and take your gun.

Some people may be surprised to hear you can walk into a show, put your money on the table, walk away with a shotgun, semiautomatic, handgun or any other deadly weapon that you want to get your hands on. It is an unacceptable condition. We have to insist that all gun purchases at gun shows go through the background checks that a gun store has to have or that any federally licensed gun dealer will have to have.

Law-abiding citizens have nothing to fear from this amendment. They can buy a gun to the limits already established. All they have to do is consent to an instant background check which takes only minutes. This won't inconvenience. It will save lives and reduce injuries.

This isn't a time for partisan politics. Our country has seen too much gun violence. If we reflect a little bit, see what happened in Colorado. Understand that at Columbine High School those guns traveled their way through gun shows to get into the hands they did. Too many parents have seen their children killed. Too many families have been torn with grief as they understand what has happened to a child—unbelievably, in a school.

Let us work together. I plead with my colleagues, let us pass this measure. Who does it hurt? It doesn't hurt anybody and it may save someone. Let's make it harder for young people and criminals to gain access to guns.

I think we are reaching a consensus on this issue. There is a broad range of bipartisan support for closing the gun show loophole. An extraordinary alliance supports closing the gun loophole, including gun dealers, law enforcement, Republicans, Democrats, the Bradys.

I hope we can come together, pass this amendment, and show the American people that Democrats and Republicans alike, the gun industry, law enforcement and handgun control, can put partisan politics aside and pass this commonsense legislation.

Mr. CRAIG. Mr. President, you are being asked to table the Lautenberg amendment and to vote up or down on the Craig amendment.

There are very real differences in these two amendments. First of all, there are 40,000 gun laws spread across America. There are 5,000 gun shows and 5 million people attending them on a regular basis.

The question is, Is there a loophole in the law through which illegal activity is going on? If the 1986 gun act is right—that many of you voted on—that says that private citizens have the right to engage in legal transactions, then there is no loophole. In fact, this Justice Department says that less than 2 percent of the guns found in criminal use were sold at gun shows.

What do we do about it? There were 20 laws broken in Littleton, CO. Many people are dead. Laws were broken and now people are being arrested for having violated those laws.

What I offer is a reasonable way to begin to shape gun shows and allow law-abiding citizens the right of access to the FBI instant check system so if they are engaged in the sale of a gun they can make sure that they are safe in that sale. Therefore, we provide an instant check capability at a gun show.

What the Senator from New Jersey did not say is if you are selling at a gun show and you are a licensed dealer, you already come under Federal law. No child, no juvenile walks into a gun show and buys a gun. It is against the law in this country and it is against the law in every State. Nothing should be represented to say anything different. That is the law.

There is a 40-percent sale at a gun show between private citizens, private citizens who are protected under the 1986 gun act who do not engage in gun sales for business purposes.

The Senator from New Jersey goes on to say when two people meet and there are 50 guns present and they exchange a gun, that is a gun show. You have a lot of friends and neighbors that are gun collectors and all of a sudden they find themselves libel.

He also goes on to say promoters must register. Who is a promoter? How about the Mariott Hotel across the street from the convention center of the gun show that has a sign on the marquee; ''Gun sales. People attending the gun show stay here.'' Is that a promotion?

I don't know how to define that definition.

These are the realities of the issues we deal with. I have a much more aggressive, voluntary approach that rapidly begins to tighten down while at the same time protecting the civil liberties of our citizens.

Mr. HATCH. I move to table the amendment.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 331. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—51

Abraham	Enzi	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Cleland	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
Domenici	Mack	Thurmond

NAYS—47

Akaka	Feingold	Lincoln
Bayh	Feinstein	Lugar
Biden	Fitzgerald	Mikulski
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
DeWine	Landrieu	Voinovich
Dodd	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Edwards	Lieberman	

NOT VOTING—2

Inouye	Moynihan

The motion was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 332

The PRESIDING OFFICER (Mr. ABRAHAM). There now are 5 minutes equally divided on the Craig amendment.

Who seeks recognition?

Mr. HATCH. Will either side object to yielding back the time so everybody can vote?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. LEAHY. The Senate is not in order.

The PRESIDING OFFICER. Will Senators please take their conversations off the floor of the Senate.

The Senator from Vermont.

Mr. LEAHY. I thank the Chair.

Mr. President, I have spoken earlier about this. The Craig amendment, as drafted, dismisses pending and future lawsuits against some firearms dealers. And I say ''some,'' because the way it is drafted it is not clear, but it throws out State court cases, Federal court cases, gives blanket immunity. I think that goes to such special interests on gun legislation that we ought to reject it, even in this setting.

I yield the remainder of our time to the Senator from New York.

Mr. SCHUMER. I thank the Senator for yielding.

It is unfortunate we could not take this step forward on the Lautenberg amendment. Let me just inform my colleagues that the Craig amendment would not be a status quo amendment, but it would be a big step back, for three reasons.

One was mentioned by Senator LEAHY, that it would exempt certain people—it is unclear who—from liability. No. 2, it expands the pawn shop loophole. The law now is if you are a criminal, you have to get a background check when you redeem your gun at a pawn shop. Under the Craig amendment, that background check would be erased—no check.

And most significantly of all, the Craig amendment repeals a significant portion of the 1968 gun control act. Right now, if you are a licensed Federal firearms dealer, you can only sell guns at your licensed premises or at a gun show in your State. Under the Craig amendment, you could go anywhere in the country and sell your gun. It is a significant step backward.

I had hoped the Senate would take what would be, in my judgment, a step forward on Lautenberg. But please let us not take a step backward, which we would be doing if we voted for this amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have to deal with the facts and we have to deal with what is in print. Is there a liability exemption? Yes. If you are a new registrant, and you do a background check, and you play by the rules at a gun show, or if you are a new licensed dealer at a gun show, those are the incentives to get there. We are not exempting anybody. What we are saying, by definition—on page 14 it clearly spells out what a qualified civil liability action is.

What the Senator from New York just said is not true. I have not changed any Federal law except to deal with gun shows. I am sorry he has misinterpreted it that way. You cannot have it both ways. If you are a registered firearms dealer, and a Federal dealer, you have to meet those standards and qualifications. You do not ramble around the country. You do not do interstate sales. That is against the law. And he knows it.

But what we are saying, to encourage background checks, to encourage participation at a gun show—under the legal status now, remember, these guns that are sold by individuals without background checks are legal under the law, but we want to tighten it up. So we say, we will protect your liability, not your negligence but your liability, if you get a license and become registered and do background checks and keep a record.

And if you choose not to do that, but you still want to protect yourself, we are putting a new registrant in each gun show qualified by the ATF and the FBI, and you walk over to them and say: I want to sell gun ''X'' to person ''Y.'' Run a background check on them to find out if they are a legal citizen. That is the new law. That is the incentive.

If you believe in the right of free citizens to own a gun, but you want to create incentives to create the kind of thing we are talking about here, then you vote for this amendment. But you do not change the law; you do not create interstate trafficking. That is against the law now, and it will always be.

I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Utah.

Mr. HATCH. I ask unanimous consent that immediately following this vote, Senator THURMOND be recognized for up to 5 minutes for debate and Senator HOLLINGS then be recognized as under the previous order for up to 30 minutes under his control for debate on his TV violence amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. In light of this agreement, there will be no further votes today. The first vote tomorrow will be at 9:40 a.m.

The PRESIDING OFFICER. The question is on agreeing to the Craig amendment No. 332. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—53

Abraham	Cleland	Frist
Allard	Cochran	Gorton
Ashcroft	Collins	Gramm
Bennett	Coverdell	Grams
Bond	Craig	Grassley
Brownback	Crapo	Gregg
Bunning	DeWine	Hagel
Burns	Domenici	Hatch
Campbell	Enzi	Helms
Hutchinson	McConnell	Snowe
Hutchison	Murkowski	Specter
Inhofe	Nickles	Stevens
Jeffords	Roberts	Thomas
Kyl	Santorum	Thompson
Lott	Sessions	Thurmond
Lugar	Shelby	Voinovich
Mack	Smith (NH)	Warner
McCain	Smith (OR)	

NAYS—45

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Fitzgerald	Mikulski
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NOT VOTING—2

Inouye	Moynihan

The amendment (No. 332) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I thank my able colleague for yielding me this time.

I am very pleased that we are considering S. 254, Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act. This legislation is badly needed to help states effectively confront youth crime and violence.

The recent murders in Littleton, Colorado were random and senseless acts of violence. There are no Federal laws, including the bill we are considering here, that would have prevented this terrible tragedy. However, the events there highlight the importance of having an effective policy to deter and combat youth crime and violence. Children aged 15 to 19 committed over 20 percent of all crime in 1997, including 20 percent of all violent crime. America must have safe schools where students can learn, and this bill is part of this Congress' efforts to help families and communities provide this security.

The states have responsibility over almost all juvenile offenders, and this legislation provides hundreds of millions of dollars to assist states in their efforts. In part, it contains flexible block grants to help states hold violent juveniles accountable for their actions. The money can be used for a wide variety of initiatives according to the needs of the states, including drug testing, boot camps, and detention facilities. It also encourages states to implement graduated sanctions for young offenders. This early intervention with appropriate penalties at the first signs of trouble is essential to deterring more serious crime down the road.

Further, the bill provides almost an equal amount of money, over $400 million, that can be used for prevention programs. Indeed, the key feature of S. 254 is that it provides a balance between prevention and accountability. While prevention is important, it is not alone the solution to violent criminal activity.

During the consideration of this bill, there will probably be more discussion about gun laws. This legislation takes a responsible, reasoned approach in this regard, prohibiting someone who commits a violent felony as a juvenile from possessing firearms. Gun control is not the solution to America's crime problem.

Before we take a reactive approach to putting more Federal gun laws on the books, we should consider whether the laws we already have are being adequately enforced. My Subcommittee on Criminal Justice Oversight in the Judiciary Committee recently held a joint hearing with the Youth Violence Subcommittee on gun prosecutions in the Justice Department. We discovered that gun prosecutions during the Clinton administration have declined considerably from the Bush administration. Unfortunately, the Clinton administration is just beginning to take notice of programs, modeled after Bush administration successes, which aggressively prosecute the gun laws already on the books. In Richmond, Virginia, a concerted effort to enforce gun laws has reduced violent crime almost 40 percent. The Congress is working to expand successes such as this into other cities.

Mr. President, it is time for the Congress to address violent crime committed by young people, and S. 254 represents the most comprehensive Federal effort to address this problem in American history. I hope we can work together to enact this critical legislation.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized for up to 30 minutes.

AMENDMENT NO. 328

(Purpose: To amend the Communications Act of 1934 to require that the broadcast of violent video programming be limited to hours when children are not reasonably likely to comprise a substantial portion of the audience)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. DORGAN, Mr. KOHL, Mr. INOUYE, and Mr. BYRD, proposes an amendment numbered 328.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —CHILDREN'S PROTECTION FROM VIOLENT TELEVISION PROGRAMMING

SEC. —01. SHORT TITLE.

This title may be cited as the ''Children's Protection from Violent Programming Act''.

SEC. —02. FINDINGS.

The Congress makes the following findings:

(1) Television influences the perception children have of the values and behavior that are common and acceptable in society.

(2) Broadcast television, cable television, and video programming are—

(A) pervasive presences in the lives of all American children; and

(B) readily accessible to all American children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young age have a higher tendency to engage in violent and aggressive behavior later in life than those children not so exposed.

(5) Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(6) Children exposed to violent video programming have an increased fear of becoming a victim of violence, resulting in increased self-protective behaviors and increased mistrust of others.

(7) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(8) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(9) Because some programming that is readily accessible to minors remains unrated and therefore cannot be blocked solely on the basis of its violent content, restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve a compelling governmental interest.

(10) Warning labels about the violent content of video programming will not in themselves prevent children from watching violent video programming.

(11) Although many programs are now subject to both age-based and content-based ratings, some broadcast and non-premium cable programs remain unrated with respect to the content of their programming.

(12) Technology-based solutions may be helpful in protecting some children, but may not be effective in achieving the compelling governmental interest in protecting all children from violent programming when parents are only able to block programming that has in fact been rated for violence.

(13) Technology-based solutions will not be installed in all newly manufactured televisions until January 1, 2000.

(14) Even though technology-based solutions will be readily available, many consumers of video programming will not actually own such technology for several years and therefore will be unable to take advantage of content based ratings to prevent their children from watching violent programming.

(15) In light of the fact that some programming remains unrated for content, and given that many consumers will not have blocking technology in the near future, the channeling of violent programming is the least restrictive means to limit the exposure of children to the harmful influences of violent programming.

(16) Restricting the hours when violent programming can be shown protects the interests of children whose parents are unavailable, are unable to supervise their children's viewing behavior, do not have the benefit of technology-based solutions, are unable to afford the costs of technology-based solution, or are unable to determine the content of those shows that are only subject to age-based ratings.

SEC. —03. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.

Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

''SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.

''(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to distribute any violent video programming to the public during hours when children are reasonably likely to comprise a substantial portion of the audience.

''(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

''(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

''(2) shall exempt premium and pay-per-view cable programming; and

''(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term violent video programming'.

''(c) ENVORCEMENT.—

''(1) CIVIL PENALTY.—The Commission shall impose a civil penalty of not more than $25,000 on any person who violates this section or any regulation promulgated under it for each such violation. For purposes of this paragraph, each day on which such a violation occurs is a separate violation.

''(2) LICENSE REVOCATION.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, revoke any license issued to that person under this Act.

''(3) LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

''(d) DISTRIBUTE DEFINED.—In this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.''.

SEC. —04. SEPARABILITY.

If any provision of this title, or any provision of an amendment made by this title, or the application thereof to particular persons or circumstances, is found to be unconstitutional, the remainder of this title or that amendment, or the application thereof to other persons or circumstances shall not be affected.

SEC. —05. EFFECTIVE DATE.

The prohibition contained in section 715 of the Communications Act of 1934 (as added by section—03 of this title) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

Mr. HOLLINGS. Mr. President, I understand in the debate on this particular amendment I can have a V-chip device. I ask unanimous consent that I may have that on the floor during the debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. As I understand it from the managers of the bill, on the 3-hour agreement, we are to be allocated 1½ hours per side, with me introducing the particular amendment tonight and using a half hour. I ask the Chair to call my hand at 15 minutes, because I have divided that time with the Senator from North Dakota, Senator DORGAN.

The PRESIDING OFFICER. The Senator will be so informed.

Mr. HOLLINGS. I appreciate that very much.

Mr. President, this is a historic moment for this Senator and the Senate in that I hearken back to 1969, 30 years ago, when the senior Senator from Rhode Island, Senator Pastore, raised the question of violence on television and the deleterious effect it had on children and their particular conduct. After much wrangling and debate, it was forestalled for what? A Surgeon General's report. Mind you me, this is 30 years ago. I say ''historic'' because the stonewalling has been going on for 30 years.

Mr. President, I refer to the Sunday program of ''Meet the Press'' when my distinguished friend, Mr. Jack Valenti of the Motion Pictures Association, was being interviewed by Tim Russert.

I refer exactly to Mr. Russert's question:

> Do you believe that movies can create a sense of violence in people and force them to imitate or copy what they see on the screen, particularly children?

In response, Mr. Valenti said:

> The answer is I don't know. This is why I've supported Senator Joe Lieberman's call for the surgeon general to do an in-depth analysis to find out the ''why'' of violence.

Thereupon, of course, my distinguished friend, Mr. Valenti, went into his dog and pony show of the church, the home, and the school.

Now, there it is, Mr. President. For 30 years, we have been trying to get a measure of this kind up, and it was reported out with only one dissenting vote from the Commerce Committee in the congressional session before last, and again with only one dissenting vote, in a bipartisan fashion, in the last Congress. But we couldn't get it up because they have been very clever about their opposition, their stonewalling, their put-off.

Right to the point, Mr. President, we have done everything possible to show that this particular amendment would pass constitutional muster with all the hearings. There have been some 18 sets of hearings in the Commerce Committee over the 30-year period, with the support of the Parent-Teacher Association, the American Medical Association, the American Psychological Association, and different other ones,

according to this kind of action, with the industry putting in its report, with the cable television people sponsoring it, and finding the same conclusion in here just last year—and with, of all things, the put-off that we had under the leadership of Senator Paul Simon of Illinois. He said the industry ought to be able to get together. But they couldn't on account of the antitrust laws. He wanted to lapse those antitrust laws for a period of time so they could get together and form a code of conduct.

They issued that code of conduct. Of all things, Mr. President, they have been ever since in violation of it.

But I want to refer to the bill itself, and exactly what it does in the sense of having a precedent set, and the idea of TV indecency. We had indecency on TV. It was bothersome to all of the colleagues on both sides of the aisle. We passed a law that the FCC should determine indecency and call the stations' hands if they saw that being violated. Obviously, that thing was taken up immediately under the First Amendment of the Constitution and in the Supreme Court. They found it constitutional.

Incidentally, in the hearings that we had back a few years ago, we had none other than Attorney General Reno attest to the fact that this particular amendment that I now submit would pass constitutional muster. The amendment prohibits the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience.

That is tried and true. We know in the United Kingdom, France, Belgium, countries in Europe, and down under in Australia, that they have had this safe harbor during a period of time, say, from 9 in the morning until 9 in the evening. I think under the indecency one, it is from 6 in the morning until 10 in the evening. But it is to be determined by the Federal Communications Commission.

Under that safe harbor, they are not shooting each other in the schools in Europe. They are not shooting each other in the schools in Australia. It is tried and true. It has been working. And the issue has been taken up to the highest court and found constitutional.

The FCC is required to define ''violent programming'' and determine the appropriate timeframe for the safe harbor.

The bill permits the FCC to exempt news and sports programming from the safe harbor, as well as premium and pay-per-view cable programming.

Incidentally, the emphasis is on gratuitous—excessive, gratuitous violence.

Obviously, with the Civil War series, with ''Saving Private Ryan,'' they are going to require a showing of violence for the authenticity of the film itself. That is not what we are really concerned with. Those are educational, and everyone should know about them, including children. But we are talking about gratuitous violence not being necessary, and even excessive gratuitous violence.

We have legislated in the matter of public interest, after hearings in all of these committees. We have the most restrictive application under the decisions of the Court with respect to the FCC making its findings. Violators of the prohibition would be fined up to $25,000 for each violation on each day on which a violation occurs. The FCC would revoke the licenses of repeat violators of this prohibition. In considering license renewals, the FCC would consider a licensee's record of compliance with the legislation.

Why, Mr. President, the big objection?

We go back. I counsel my friend, Mr. Valenti, to get the three-volume set of ''The History of Broadcasting of the United States,'' the Oxford Press.

I will turn to that first chapter talking about, in 1953, where we had the film ''Man Against Crime.'' I read from page 23, a quote that the writers received for this plot instruction. I think it is very, very important that everybody pay attention to this one. I quote:

> It has been found that we retain audience interest best when our story is concerned with murder. Therefore, although other crimes may be introduced, somebody must be murdered, preferably early, with the threat of more violence to come.

Could there be any better evidence than their writing of their own history of broadcasting to say: Look, the issue here is money. As long as it is going to be supported and, more so, supported with violence, then more money is made. And let's get up to the Congress.

I sort of became amused about these term limitations. We have up here. I am in my 33rd year. We are finally getting the measure that Senator Pastore had in mind when he was put off with the Surgeon General study, which was formulated finally in 1972.

Mr. President, I ask unanimous consent to have printed in the RECORD the summary of that Surgeon General report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TELEVISION AND GROWING UP: THE IMPACT OF TELEVISION VIOLENCE

SUMMARY OF REPORT TO THE SURGEON GENERAL, U.S. PUBLIC HEALTH SERVICE FROM THE U.S. SURGEON GENERAL'S SCIENTIFIC ADVISORY COMMITTEE ON TELEVISION AND SOCIAL BEHAVIOR, 1972

The work of this committee was initiated by a request from Senator John O. Pastore to Health, Education, and Welfare Secretary Robert H. Finch in which Senator Pastore said:

''I am exceedingly troubled by the lack of any definitive information which would help resolve the question of whether there is a causal connection between televised crime and violence and antisocial behavior by individuals, especially children. . . . I am respectfully requesting that you direct the Surgeon General to appoint a committee comprised of distinguished men and women from whatever professions and disciplines deemed appropriate to devise techniques and to conduct a study under this supervision using those techniques which will establish scientifically insofar as possible what harmful effects, if any, these programs have on children.''

* * * * *

Effects on aggressiveness: Evidence from experiments

Experiments have the advantage of allowing causal inference because various influences can be controlled so that the effects, if any, of one or more variables can be assessed. To varying degrees, depending on design and procedures, they have the disadvantages of artificiality and constricted time span. The generalizability of results to everyday life is a question often not easily resolvable.

Experiments concerned with the effects of violence or aggressiveness portrayed on film or television have focused principally on two different kinds of effects: *imitation* and *instigation*. Imitation occurs when what is seen is mimicked or copied. Instigation occurs when what is seen is followed by increased aggressiveness.

Imitation: One way in which a child may learn a new behavior is through observation and imitation. Some 20 published experiments document that children are capable of imitating filmed aggression shown on a movie or television screen. Capacity to imitate, however, does not imply performance. Whether or not what is observed actually will be imitated depends on a variety of situational and personal factors.

No research in this program was concerned with imitation, because the fact that aggressive or violent behavior presented on film or television can be imitated by children is already thoroughly documented.

Instigation. Some 30 published experiments have been widely interpreted as indicating that the viewing of violence on film or television by children or adults increases the likelihood of aggressive behavior. This interpretation has also been widely challenged, principally on the ground that results cannot be generalized beyond the experimental situation. Critics hold that in the experimental situation socially inhibiting factors, such as the influence of social norms and the risk of disapproval or retaliation, are absent, and that the behavior after viewing, through labeled ''aggressive,'' is so unlike what is generally understood by the term as to raise serious questions about the applicability of these laboratory findings to real-life behavior.

The research conducted in this program attempted to provide more precise and extensive evidence on the capacity of televised violence to instigate aggressive behavior in children. The studies variously involve whole television programs, rather than brief excerpts; the possibility of making constructive or helping, as well as aggressive, responses after viewing; and the measurement of effects in the real-life environment of a nursery school. Taken as a group, they represent an effort to take into account more of the circumstances that pertain in real life, and for that reason they have considerable cogency.

In sum. The experimental studies bearing on the effects of aggressive television entertainment content on children support certain conclusions. First, violence depicted on television can immediately or shortly thereafter induce mimicking or copying by children. Second, under certain circumstances television violence can instigate an increase in aggressive acts. The accumulated evidence, however, does not warrant the conclusion that televised violence has a uniformly adverse effect nor the conclusion that it has an adverse effect on the majority of children.

It cannot even be said that the majority of the children in the various studies we have reviewed showed an increase in aggressive behavior in response to the violent fare to which they were exposed. The evidence does indicate that televised violence may lead to increased aggressive behavior in certain subgroups of children, who might constitute a small portion or a substantial proportion of the total population of young television viewers. We cannot estimate the size of the fraction, however, since the available evidence does not come from cross-section samples of the entire American population of children.

The experimental studies we have reviewed tell us something about the characteristics of those children who are most likely to display an increase in aggressive behavior after exposure to televised violence. There is evidence that among young children (ages four to six) those most responsive to television violence are those who are highly aggressive to start with—who are prone to engage in spontaneous aggressive actions against their playmates and, in the case of boys, who display pleasure in viewing violence being inflicted upon others. The very young have difficulty comprehending the contextual setting in which violent acts are depicted and do not grasp the meaning of cues or labels concerning the make-believe character of violence episodes in fictional programs. For older children, one study has found that labeling violence on a television program as make-believe rather than as real reduces the incidence of induced aggressive behavior. Contextual cues to the motivation of the aggressor and to the consequences of acts of violence might also modify the impact of televised violence, but evidence on this topic is inconsistent.

Since a considerable number of experimental studies on the effects of televised violence have now been carried out, it seems improbable that the next generation of studies will bring many great surprises, particularly with regard to broad generalizations not supported by the evidence currently at hand. It does not seem worthwhile to continue to carry out studies designed primarily to test the broad generalization that most or all children react to televised violence in a uniform way. The lack of uniformity in the extensive data now at hand is much too impressive to warrant the expectation that better measures of aggression or other methodological refinements will suddenly allow us to see a uniform effect.

Effects on aggressiveness: Survey evidence

A number of surveys have inquired into the violence viewing of young people and their tendencies toward aggressive behavior. Measures of *exposure* to television violence included time spent viewing, preference for violent programming, and amount of viewing of violent programs. Measures of *aggressive tendencies* variously involved self and others' reports of actual behavior, projected behavior, and attitudes. The behavior involved varied from acts generally regarded as heinous (e.g., arson) to acts which many would applaud (e.g., hitting a man who is attacking a woman).

All of the studies inquired into the relationship between exposure to television violence and aggressive tendencies. Most of the relationships observed were positive, but most were also of low magnitude, ranging from null relationships to correlation coefficients of about .20. A few of the observed correlation coefficients, however, reached .30 or just above.

On the basis of these findings, and taking into account their variety and their inconsistencies, we can tentatively conclude that there is a modest relationship between exposure to television violence and aggressive behavior or tendencies, as the latter are defined in the studies at hand. Two questions which follow are: (1) what is indicated by a correlation coefficient of about .30, and (2) since correlation is not in itself a demonstration of causation, what can be deducted from the data regarding causation?

Correlation coefficients of ''middle range,'' like .30, may result from various sorts of relationships, which in turn may or may not be manifested among the majority of the individuals studied. While the magnitude of such a correlation is not particularly high, it betokens a relationship which merits further inquiry.

Correlation indicates that two variables—in this case violence viewing and aggressive tendencies—are *related* to each other. It does not indicate which of the two, if either, is the cause and which the effect. In this instance the correlation could manifest any of three causal sequences:

—That violence viewing leads to aggression;
—That aggression leads to violence viewing;
—That both violence viewing and aggression are products of a third condition or set of conditions.

The data from these studies are in various ways consonant with both the first and the third of these interpretations, but do not conclusively support either of the two.

* * * * *

General implications

The best predictor of later aggressive tendencies in some studies is the existence of earlier aggressive tendencies, whose origins may lie in family and other environmental influences. Patterns of communication within the family and patterns of punishment of young children seem to relate in ways that are as yet poorly understood both to television viewing and to aggressive behavior. The possible role of mass media in very early acquisition of aggressive tendencies remains unknown. Future research should concentrate on the impact of media material on very young children.

As we have noted, the data, while not wholly consistent or conclusive, do indicate that a modest relationship exists between the viewing of violence and aggressive behavior. The correlational evidence from surveys is amenable to either of two interpretations: that the viewing of violence causes the aggressive behavior, or that both the viewing and the aggression are joint products of some other common source. Several findings of survey studies can be cited to sustain the hypothesis that viewing of violent television has a causal relation to aggressive behavior, though neither individually nor collectively are the findings conclusive. They could also be explained by operation of a ''third variable'' related to preexisting conditions.

The experimental studies provide some additional evidence bearing on this issue. Those studies contain indications that, under certain limited conditions, television viewing may lead to an increase in aggressive behavior. The evidence is clearest in highly controlled laboratory studies and considerably weaker in studies conducted under more natural conditions. Although some questions have been raised as to whether the behavior observed in the laboratory studies can be called ''aggressive'' in the consensual sense of the term, the studies point to two mechanisms by which children might be led from watching television to aggressive behavior: the mechanism of imitation, which is well established as part of the behavioral repertoire of children in general; and the mechanism of incitement, which may apply only to those children who are predisposed to be susceptible to this influence. There is some evidence that incitement may follow nonviolent as well as violent materials, and that this incitement may lead to either prosocial or aggressive behavior, as determined by the opportunities offered in the experiment. However, the fact that some children behave more aggressive in experiments after seeing violent films is well established.

The experimental evidence does not suffer from the ambiguities that characterize the correlational data with regard to third variables, since children in the experiments are assigned in ways that attempt to control such variables. The experimental findings are weak in various other ways and not wholly consistent with one study to another. Nevertheless, they provide suggestive evidence in favor of the interpretation that viewing violence on television is conducive to an increase in aggressive behavior, although it must be emphasized that the causal sequence is very likely applicable only to some children who are predisposed in this direction.

Thus, there is a convergence of the fairly substantial experimental evidence for short-run causation of aggression among some children by viewing violence on the screen and the much less certain evidence from field studies that extensive violence viewing precedes some long-run manifestations of aggressive behavior. This convergence of the two types of evidence constitutes some preliminary indication of a causal relationship, but a good deal of research remains to be done before one can have confidence in these conclusions.

The field studies, correlating different behavior among adolescents, and the laboratory studies of the responses by younger children to violent films converge also on a number of further points.

First, there is evidence that any sequence by which viewing television violence cause aggressive behavior is most likely applicable only to some children who are predisposed in that direction. While imitative behavior is shown by most children in experiments on that mechanism of behavior, the mechanism of being incited to aggressive behavior by seeing violent films shows up in the behavior only of some children who were found in several experimental studies to be previously high in aggression. Likewise, the correlations found in the field studies between extensive viewing of violent material and acting in aggressive ways seem generally to depend on the behavior of a small proportion of the respondents who were identified in some studies as previously high in aggression.

Second, there are suggestions in both sets of studies that the way children respond to violent film material is affected by the context in which it is presented. Such elements as parental explanations, the favorable or unfavorable outcome of the violence, and whether it is seen as fantasy or reality may make a difference. Generalizations about all violent content are likely to be misleading.

Thus, the two sets of findings converge in three respects: a preliminary and tentative indication of a causal relation between viewing violence on television and aggressive behavior; an indication that any such causal relation operates only on some children (who are predisposed to be aggressive); and an indication that it operates only in some environmental contexts. Such tentative and limited conclusions are not very satisfying. They represent substantially more knowledge than we had two years ago, but they leave many questions unanswered.

Some of the areas on which future research should concentrate include: (1) Television's effects in the context of the effects of other mass media. (2) The effects of mass media in the context of individual developmental history and the totality of environmental influences, particularly that of the home environment. In regard to the relationship between

televised violence and aggression, specific topics in need of further attention include: predispositional characteristics of individuals; age differences; effects of labeling, contextual cues, and other program factors; and longitudinal influences of television. (3) The functional and dysfunctional aspects of aggressive behavior in successfully adapting to life's demands. (4) The modeling and imitation of prosocial behavior. (5) The role of environmental factors, including the mass media, in the teaching and learning of values about violence, and the effects of such learning. (6) The symbolic meanings of violent content in mass media fiction, and the function in our social life of such content.

Mr. HOLLINGS. Mr. President, a reading of that report will show a definite causal connection between TV violence and aggressive behavior on the part of children. Time and time again it was shown.

But let me go to the next put-off that we had with my good friend, Senator Paul Simon.

I knew they had somebody to stop me here in the early 1990s.

He got his measure passed. So we couldn't get our bill up for a vote. We had then a finding of standards for the ''Depiction of Violence in Television Programming'' issued by ABC, CBS, and NBC in December 1992.

Mr. President, I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX B. STANDARDS FOR THE DEPICTION OF VIOLENCE IN TELEVISION PROGRAMS

(Issued by ABC, CBS, and NBC—December 1992)

PREFACE

The following standards for the Depiction of Violence in Television Programs are issued jointly by ABC, CBS, and NBC Television Networks under the Antitrust Exemption granted by the Television Violence Act of 1990.

Each network has long been committed to presenting television viewers with a broad spectrum of entertainment and information programming. Each Network maintains its own extensive published broadcast standards governing acceptability of both program (including on-air promotion) and commercial materials.

These new joint standards are consistent with each of the Network's long-standing preexisting policies on violence. At the same time they set forth in a more detailed and explanatory manner to reflect the experience gained under the preexisting policies. While adopting and subscribing to these joint Standards, each Network will continue the tradition of individual review of material, which will necessitate independent judgments on a program-by-program basis.

The standards are not intended to inhibit the work of producers, directors, writers, or to impede the creative process. They are intended to proscribe gratuitous or excessive portrayals of violence.

In principle, each of the ABC, CBS, and NBC Television Networks is committed to presenting programs which portray the human condition, which may include the depiction of violence as a component. The following Standards for the Depiction of Violence in Television Programs will provide the framework within which the acceptability of content will be determined by each Network in the exercise of its own judgment.

STANDARDS FOR DEPICTION OF VIOLENCE IN TELEVISION PROGRAMS

These written standards cannot cover every situation and must, therefore, be worded broadly. Moreover, the Standards must be considered against the creative context, character and tone of each individual program. Each scene should be evaluated on its own merits with due consideration for its creative integrity.

(1) Conflict and strife are the essence of drama and conflict often results in physical or psychological violence. However, all depictions of violence should be relevant and necessary to the development of character, or to the advancement of theme or plot.

(2) Gratuitous or excessive depictions of violence (or redundant violence shown solely for its own sake), are not acceptable.

(3) Programs should not depict violence as glamorous, nor as an acceptable solution to human conflict.

(4) Depictions of violence may not be used to shock or stimulate the audience.

(5) Scenes showing excessive gore, pain, or physical suffering are not acceptable.

(6) The intensity and frequency of the use of force and other factors relating to the manner of its portrayal should be measured under a standard of reasonableness so that the program, on the whole, is appropriate for a home viewing medium.

(7) Scenes which may be instructive in nature, e.g., which depict in an imitable manner, the use of harmful devices or weapons, describe readily usable techniques for the commission of crimes, or show replicable methods for the evasion of detection or apprehension, should be avoided. Similarly, ingenious, unique, or otherwise unfamiliar methods of inflicting pain or injury are unacceptable if easily capable of imitation.

(8) Realistic depictions of violence should also portray, in human terms, the consequences of that violence to its victims and its perpetrators. Callousness or indifference to suffering experienced by victims of violence should be avoided.

(9) Exceptional care must be taken in stories or scenes where children are victims of, or are threatened by acts of violence (physical, psychological or verbal).

(10) The portrayal of dangerous behavior which would invite imitation by children, including portrayals of the use of weapons or implements readily accessible to this impressionable group, should be avoided.

(11) Realistic portrayals of violence as well as scenes, images or events which are unduly frightening or distressing to children should not be included in any program specifically designed for that audience.

(12) The use of real animals shall conform to accepted standards of humane treatment. Fictionalized portrayals of abusive treatment should be strictly limited to the legitimate requirements of plot development.

(13) Extreme caution must be exercised in any themes, plots, or scenes which mix sex and violence. Rape and other sexual assaults are violent, not erotic, behavior.

(14) The scheduling of any program, commercial or promotional material, including those containing violent depictions, should take into consideration the nature of the program, its content and the likely composition of the intended audience.

(15) Certain exceptions to the foregoing may be acceptable, as in the presentation of material whose overall theme is clearly and unambiguously anti-violent.

Mr. HOLLINGS. I thank the Chair.

I will read just one sentence, being limited in time here.

All depictions of violence should be relevant and necessary to the development of character or to the advancement of theme or plot.

Mr. President, that is exactly what we have in the law. We have the opponents agreeing to this particular amendment. Of course not. They will have Members move to table the amendment.

I am trying to plead for favorable consideration. All we are doing is what the industry—ABC, CBS, NBC—issued to themselves in their own code of conduct.

I read:

Gratuitous or excessive depictions of violence are not acceptable.

Exactly what we are saying in this amendment.

Again I read:

Programs should not depict violence as glamorous.

That is exactly what we found last year in the National Television Violence Study. This study is too voluminous to print in the RECORD. It is what they found in the cable TV-sponsored study with the most outstanding authorities imaginable conducting this study. Various campuses were represented, as I recall. Included were the Society for Adolescent Medicine, the National Cable Television Association, the American Psychiatric Association, Producers Guild of America, American Sociological Association, the Caucus for Producers and Writers, the American Bar Association. They say it is too glamorous.

I ask unanimous consent to have those names in support printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NATIONAL TELEVISION VIOLENCE STUDY COUNCIL MEMBERS

Trina Menden Anglin, M.D., Ph.D, Society of Adolescent Medicine.

Decker Anstrom (Ex Officio), National Cable Television Association.

Char Beales, Cable and Telecommunications: A Marketing Society.

Darlene Chavez, National Education Association.

Belva Davis, American Federation of Television and Radio Artists.

Carl Feinstein, M.D., American Psychiatric Association.

Charles B. Fitzsimons, Producers Guild of America.

Carl Gottlieb, Writers Guild of America, West.

Felice Levine, Ph.D., American Sociological Association.

Ann Marcus, Caucus for Producers, Writers and Directors.

Virginia Markell, National Parent Teacher Association.

Robert McAfee, M.D., American Medical Association.

E. Michael McCann, American Bar Association.

Gene Reynolds, Directors Guild of America.

Donald F. Roberts, Ph.D., International Communication Association.

Don Shifrin, M.D., American Academy of Pediatrics.

Barbara C. Staggers, M.D., M.P.H., National Children's Hospital Association.

Brian L. Wilcox, Ph.D., American Psychological Association.

Roughly three-quarters of all violent scenes showed no remorse or penalty for violence.

These are the things, excessive gratuitous violence, that the industry agrees with in their code, but they continue to violate.

That is why I say this is a historic moment, to get a measure that the best of minds have said is what is needed. Otherwise, the industry associates—writers, producers and everyone else—follow exactly what they found in the history of broadcasting in the 1950s, 40-some years ago, that violence pays.

I retain the remainder of our time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. I thank the Senator from South Carolina for raising a number of important issues concerning the quality of TV programming and other programming.

I remember very distinctly a number of years ago I was watching when the Pope came to California and in Hollywood met with top executives. He met with them, encouraged them, and urged them to do a better job, and to start to clean up some of the things being shown on television.

When the program was over, they came out to the TV cameras. They interviewed each one of these executives and asked what happened, and what they thought. They said the Pope had made a number of very important suggestions that deserved great consideration and they thought they could make some progress toward his goals.

Charlton Heston came out. They asked: Mr. Heston, what do you think? Mr. Heston, do you think things will get better? Mr. Heston said: If the Lord himself were speaking to them, they wouldn't change. The only thing they are looking at is the rating.

Since then, things have continued to get worse. I have always remembered that. I think it is fair to say that violence apparently pays. They are looking for ratings and money. It does leave us with a difficult question of what we can do to make this a healthier society, a society that is better for raising children.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

NATO'S MISTAKEN BOMBING OF THE CHINESE EMBASSY IN BELGRADE

Mr. McCAIN. Mr. President, all Americans were disturbed and very sorry about NATO's mistaken bombing of the Chinese embassy in Belgrade. The President has apologized to the Chinese people, and it was, of course, appropriate for him to do so. I think it is also right that those responsible for this tragic error are held accountable for their mistake. I know that neither apologies nor other responses will alleviate the suffering of those who lost loved ones in the bombing. But America does sincerely regret what happened, and as inadequate as that might be to a grieving parent or spouse or friend, it will have to be enough for the Government of China.

It is outrageous that Beijing would claim, suggest or even hint to the Chinese people that the bombing was intentional. It was a mistake and the leaders of China know that. They do us and themselves a great disservice by pretending otherwise. States that aspire to be great powers should not indulge paranoid delusions as a means of motivating their people. The political consequences are seldom predictable or as easy to manage as they might have anticipated.

America and China have a complex, important, and very consequential relationship that will, in large part, shape the history of the next century. That relationship should not be jeopardized as cavalierly as Beijing has allowed it to be jeopardized over these last few days.

China must cease immediately fueling anti-Americanism and tolerating the attacks it engendered on our embassy and on Americans in China. China should cease immediately its calumnies against the United States. America is a just power, and the greatest force for good on Earth. A very regrettable accident does not change that historical fact, and Beijing knows it. Finally, China should cease immediately to threaten the other elements of our relationship, be they human rights discussions, anti-proliferation cooperation or trade agreements. A sound bilateral relationship is a vital interest for both of us, and, indeed, for the world. Both countries' leaders must conduct themselves with that priority in mind at all times.

China should accept our apology confident that it is sincere, and begin to play a constructive role in helping to persuade Milosevic that he must accede to the just demands of humanity, and the, I hope, nonnegotiable demands of NATO.

Terrible things happen in war. People often make bad mistakes in the fog of battle. That is why decent people try to avoid resolving their differences by force of arms. But that is not always possible. The enemy of peace and justice in the Balkans, Milosevic and his regime, are not decent people. They are the cause of this war, and, thus, are ultimately responsible for the tragedy that occurred last week, and the suffering of the people of Serbia. Furthermore, the calamity that Serbia is now experiencing, as awful as it is, in no way approximates the scale of the horror that has been visited on the Kosovars. Let us be clear about that, Mr. President. Should Mr. Milosevic observe the most basic standards of human decency no bombs would fall anywhere in the Balkans.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 11, 1999, the federal debt stood at $5,575,359,326,029.03 (Five trillion, five hundred seventy-five billion, three hundred fifty-nine million, three hundred twenty-six thousand, twenty-nine dollars and three cents).

One year ago, May 11, 1998, the federal debt stood at $5,487,765,000,000 (Five trillion, four hundred eighty-seven billion, seven hundred sixty-five million).

Five years ago, May 11, 1994, the federal debt stood at $4,575,659,000,000 (Four trillion, five hundred seventy-five billion, six hundred fifty-nine million).

Ten years ago, May 11, 1989, the federal debt stood at $2,765,542,000,000 (Two trillion, seven hundred sixty-five billion, five hundred forty-two million).

Fifteen years ago, May 11, 1984, the federal debt stood at $1,480,589,000,000 (One trillion, four hundred eighty billion, five hundred eighty-nine million) which reflects a debt increase of more than $4 trillion—$4,094,770,326,029.03 (Four trillion, ninety-four billion, seven hundred seventy million, three hundred twenty-six thousand, twenty-nine dollars and three cents) during the past 15 years.

THE GREAT APE CONSERVATION ACT OF 1999

Mr. JEFFORDS. Mr. President, yesterday I introduced a bill to assist in the preservation of the great apes. The bill, the ''Great Ape Conservation Act of 1999'', is modeled after the highly successful African and Asian Elephant Conservation Acts, and the Rhinoceros and Tiger Conservation Act. It will authorize up to $5 million per year to fund various projects to aid in the preservation of the endangered great apes.

Great ape populations currently face many threats, including habitat loss, population fragmentation, live capture, and hunting for the bushmeat trade. Of all these threats, the danger posed by the increasing bushmeat trade is the most severe. This trade is being facilitated by the construction of inroads to logging areas, which allows once remote forests to be linked directly with urban markets.

Chimpanzees, gorillas, and bonobos, once hunted sustainably, now face population destruction due to increased illegal trade, powerful weapons, and high market prices. This consumption of ape meat not only threatens ape populations, but poses severe health risks to humans. Human contraction of many viruses, including the Human Immunodeficiency Virus (HIV) has

been linked to the slaughter and consumption of apes. With the loss of ape populations, comes the loss of critical medical knowledge that can be obtained through simple, noninvasive research on wild populations. Some estimates suggest that several thousand apes are killed every year across West and Central Africa, a level that is unsustainable and means the certain destruction of viable populations in the very near future.

If we do not act now, not only will great apes face extinction, but the ecosystems that depend on their contributions will suffer. I urge my colleagues to join me in supporting legislation that can provide funding to the local farming, education and enforcement projects that can have the greatest positive impact. This small, but critical investment of U.S. taxpayer money, matched with private funds, could secure the future of these extraordinary animals.

CORRECTION TO THE RECORD

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The text of amendments Nos. 326 and 328 did not appear in the RECORD of May 11, 1999. The permanent RECORD will be corrected to reflect the proper order. The text of the amendments follow:

REED AMENDMENT NO. 326

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

On page 265, below line 20, add the following:

SEC. 402. APPLICABILITY OF CONSUMER PRODUCT SAFETY ACT TO FIREARMS AND AMMUNITION.

(a) FINDINGS.—Congress makes the following findings:

(1) Firearms are one of the few consumer products not subject to consumer product safety regulations.

(2) There are currently no quality and safety standards in place for domestically manufactured firearms. In contrast, minimal quality and safety standards have been applied to imported firearms since passage of the Gun Control Act of 1968.

(3) As a result, firearms made in the United States often lack even the most basic safety features designed to prevent unintentional shooting by children. Such features include cylinder locks, trigger locks, magazine disconnect safety, manual safety, and increased trigger resistance.

(4) In 1996 alone, 1,134 people were killed in the United States by accidental firearm discharges, including 376 people aged 19 years and under. In addition, 162 children aged 14 years and under committed suicide using a firearm.

(b) PURPOSE.—The purpose of this section is to reduce the number of unintentional shootings in the United States each year, especially among children, by permitting the Consumer Product Safety Commission to regulate firearms and ammunition so as to develop uniform safety standards and protect the public against unreasonable risks of injury from firearms and ammunition.

(c) APPLICABILITY OF CONSUMER PRODUCT SAFETY ACT.—Section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)) is amended by striking subparagraph (E).

HOLLINGS AMENDMENT NO. 328

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, S. 254, surpa; as follows:

At the appropriate place, insert the following:

TITLE—CHILDREN'S PROTECTION FROM VIOLENT TELEVISION PROGRAMMING

SEC. SHORT TITLE.

This title may be cited as the ''Children's Protection from Violent Programming Act''.

SEC. FINDINGS.

The Congress makes the following findings:

(1) Television influences the perception children have to the values and behavior that are common and acceptable in society.

(2) Broadcast television, cable television, and video programming are—

(A) pervasive presences in the lives of all American children; and

(B) readily accessible to all American children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young are have a higher tendency to engage in violent and aggressive behavior later in life than those children not so exposed.

(5) Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(6) Children exposed to violent video programming have an increased fear of becoming a victim of violence, resulting in increased self-protective behaviors and increased mistrust of others.

(7) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(8) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(9) Because some programming that is readily accessible to minors remains unrated and therefore cannot be blocked solely on the basis of its violent content, restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve a compelling governmental interest.

(10) Warning labels about the violent content of video programming will not in themselves prevent children from watching violent video programming.

(11) Although many programs are now subject to both age-based and content-based ratings, some broadcast and non-premium cable programs remain unrated with respect to the content of their programming.

(12) Technology-based solutions may be helpful in protecting some children, but may not be effective in achieving the compelling governmental interest in protecting all children from violent programming when parents are only able to block programming that has in fact been rated for violence.

(13) Technology-based solutions will not be installed in all newly manufactured televisions until January 1, 2000.

(14) Even though technology-based solutions will be readily available, many consumers of video programming will not actually own such technology for several years and therefore will be unable to take advantage of content based ratings to prevent their children from watching violent programming.

(15) In light of the fact that some programming remains unrated for content, and given that many consumers will not have blocking technology in the near future, the channeling of violent programming is the least restrictive means to limit the exposure of children to the harmful influences of violent programming.

(16) Restricting the hours when violent programming can be shown protects the interests of children whose parents are unavailable, are unable to supervise their children's viewing behavior, do not have the benefit of technology-based solutions, are unable to afford the costs of technology-based solutions, or are unable to determinate the content of those shows that are only subject to age-based ratings.

SEC. . UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.

Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

''SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.

''(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to distribute any violent video programming to the public during hours when children are reasonably likely to comprise a substantial portion of the audience.

''(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

''(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

''(2) shall exempt premium and pay-per-view cable programming; and

''(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

''(c) ENFORCEMENT.—

''(1) CIVIL PENALTY.—The Commission shall impose a civil penalty of not more than $25,000 on any person who violates this section or any regulation promulgated under it for each such violation. For purposes of this paragraph, each day on which such a violation occurs is a separate violation.

''(2) LICENSE REVOCATION.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, revoke any license issued to that person under this Act.

''(3) LICENSE RENEWALS.—The commission shall consider, among the elements in this review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section

''(d) DISTRIBUTE DEFINED.—In this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.''.

SEC. . SEPARABILITY.

If any provision of this title, or any provision of an amendment made by this title, or the application thereof to particular persons or circumstances, is found to be unconstitutional, the remainder of this title or that amendment, or the application thereof to other persons or circumstances shall not be affected.

SEC. . EFFECTIVE DATE.

The prohibition contained in section 715 of the Communications Act of 1934 (as added by section—03 of this title) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON A REQUEST FOR FUNDS FOR OPERATIONS OF U.S. FORCES IN BOSNIA AND HERZEGOVINA; TO THE COMMITTEE ON ARMED SERVICES—MESSAGE FROM THE PRESIDENT—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

Section 1203 of the Strom Thurmond National Defense Authorization Act For Fiscal Year 1999, Public Law 105–261 (the Act), requires submission of a report to the Congress whenever the President submits a request for funds for continued operations of U.S. forces in Bosnia and Herzegovina.

In connection with my Administration's request for funds for FY 2000, the attached report fulfills the requirements of section 1203 of the Act.

I want to emphasize again my continued commitment to close consultation with the Congress on political and military matters concerning Bosnia and Herzegovina. I look forward to continuing to work with the Congress in the months ahead as we work to establish a lasting peace in the Balkans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 12, 1999*.

MESSAGES FROM THE HOUSE

At 2:49 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 209. An act to improve the ability of Federal Agencies to license federally owned inventions.

H.R. 1183. An act to amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

H.R. 1550. An act to authorize appropriations for the United States Fire Administration for fiscal years 2000 and 2001, and for other purposes.

ENROLLED BILL SIGNED

At 4:10 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 432. An act to designate the North/South Center as the Dante B. Fascell North-South Center.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1550. An act to authorize appropriations for the United States Fire Administration for fiscal years 2000 and 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Indian Affairs:

S. 28. A bill to authorize an interpretive center and related visitor facilities wihin the Four Corners Monument Tribal Park, and for other purposes.

The Committee on Armed Services was discharged from further consideration of the following measure which was referred to the Committee on the Judiciary:

S. 785. A bill for the relief of Frances Scholchenmaier.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times and placed on the calendar:

H.R. 833. An act to amend title 11 of the United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on April 19, 1999:

EC–2607. A communication from the Director of the Administrative Office of the United States Courts, transmitting, a proposed emergency supplemental request for fiscal year 1999; to the Committee on Appropriations.

EC–2608. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, the report of a rule entitled ''Class III Gaming Procedures'' (RIN1076–AD87) received on April 6, 1999; to the Committee on Indian Affairs.

EC–2609. A communication from the Chairman of the Federal Election Commission, transmitting, supplemental legislative recommendations for 1999; to the Committee on Rules and Administration.

EC–2610. A communication from the Principal Deputy Assistant Secretary for Congressional Affairs, Department of Veterans' Affairs, transmitting, a draft of proposed legislation entitled ''The Department of Veterans' Affairs Employment Reduction Assistance Act of 1999''; to the Committee on Veterans' Affairs.

EC–2611. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on the Judiciary.

EC–2612. A communication from the Director of Government Relations for the Girl Scouts of the U.S.A., transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on the Judiciary.

EC–2613. A communication from the Attorney General, transmitting, pursuant to law, the annual accountability report for fiscal year 1998; to the Committee on the Judiciary.

EC–2614. A communication from the Associate Attorney General, Department of Justice, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1998; to the Committee on the Judiciary.

EC–2615. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, a report relative to the danger pay allowance for the United Nations Transitional Administration for Eastern Slavonia (UNTAES) in Vukovar, Croatia; to the Committee on Foreign Relations.

EC–2616. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, a report relative to the danger pay allowance for Kampala, Uganda; to the Committee on Foreign Relations.

EC–2617. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–2618. A communication from the Secretary of State, transmitting, pursuant to law, a reorganization plan and report; to the Committee on Foreign Relations.

EC–2619. A communication from the General Counsel of the United States Information Agency, transmitting, pursuant to law, the report of a rule entitled ''Cultural Exchange Programs—22 CFR Part 514—Summer Work/Travel'' (RIN3116–AA16) received on April 12, 1999; to the Committee on Foreign Relations.

EC–2620. A communication from the General Counsel of the United States Information Agency, transmitting, pursuant to law, the report of a rule entitled ''Cultural Exchange Programs—22 CFR Part 514—Short-Term Scholar'' (RIN3116–AA15) received on April 6, 1999; to the Committee on Foreign Relations.

EC–2621. A communication from the General Counsel of the United States Information Agency, transmitting, pursuant to law, the report of a rule entitled ''Cultural Exchange Programs—22 CFR Part 514—Au Pair Regulations'' (RIN3116–AA14) received on April 6, 1999; to the Committee on Foreign Relations.

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated on May 12, 1999:

EC–2980. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report of a technical violation of the Antideficiency Act; to the Committee on Appropriations.

EC–2981. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 99–22'', received April 27, 1999; to the Committee on Finance.

EC–2982. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–21—Weighted Average Interest Rate Update'', received April 27, 1999; to the Committee on Finance.

EC–2983. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''New Canadian Province Import Code for Territory of Nunavut'' (RIN0607–AA32), received May 6, 1999; to the Committee on Finance.

EC–2984. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cuban Assets Control Regulations: Sale of Food and Agricultural Inputs; Remittances; Educational, Religious and Other Activities; Travel-Related Transactions; U.S. Intellectual Property'' (31 CFR Part 515), received May 10, 1999; to the Committee on Finance.

EC–2985. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rules and Procedures for Funds Transfers'' (AA38), received May 4, 1999; to the Committee on Finance.

EC–2986. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''Pediatric Asthma Demonstration Act of 1999''; to the Committee On Finance.

EC–2987. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting drafts of proposed changes to the Foreign Assistance Act of 1962 and the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2988. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report of a proposed export license relative to Italy; to the Committee on Foreign Relations.

EC–2989. A communication from the Secretary of Defense, transmitting the reports of retirements; to the Committee on Armed Services.

EC–2990. A communication from the Director, Office of the Secretary of Defense, transmitting a report relative to acquisition and cross-servicing agreements with countries that are not part of the North Atlantic Treaty Organization or its subsidiary bodies; to the Committee on Armed Services.

EC–2991. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report of a plan for the redesign of the military pharmacy system; to the Committee on Armed Services.

EC–2992. A communication from the General Counsel, Department of Defense, transmitting a draft of proposed legislation relative to various management concerns regarding security cooperation programs; to the Committee on Armed Services.

EC–2993. A communication from the Under Secretary, Export Administration, Department of Commerce, transmitting, pursuant to law, a report of the imposition on Serbia of certain foreign policy-based export controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–2994. A communication from the Assistant Secretary, Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Exports To Serbia'' (RIN0694–AB69), received May 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–2995. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Exchange Stabilization Fund for fiscal year 1998; to the Committee on Banking, Housing and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

PO–111. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLUTION 69

Whereas, until 1993, the federal Natural Gas Policy Act of 1978 established the maximum lawful price that a natural gas producer could charge its pipeline customers for natural gas, providing under section 110 of the act that the producer could adjust the maximum price upward in order to recover from pipeline customers any state severance tax payments made by the producer; and

Whereas, in 1988, in the case of *Colorado Interstate Gas Co.* v. *the Federal Energy Regulatory Commission*, 850 F. 2d 769, the United States Court of Appeals for the District of Columbia Circuit ruled that the ad valorem tax levied by the State of Kansas was not a severance tax within the meaning of section 110 of the Natural Gas Policy Act and ordered natural gas producers to refund that portion of the payments received from the pipelines attributable to the cost of the Kansas ad valorem taxes paid plus interest; and

Whereas, upon remand of the matter to the Federal Energy Regulatory Commission, the commission ordered the refunds to be made on that portion of all purchases which had included Kansas ad valorem taxes which were charged after June 28, 1988, the date of the Appeals Court ruling in the *Colorado Interstate Gas Co.* case; and

Whereas, in 1996, in the case of *Public Service Company of Colorado* v. *the Federal Energy Regulatory Commission*, 91 F. 3d 1478, the United States Court of Appeals for the District of Columbia overruled the commission, holding that the refunds should commence from October 1983, when notice was filed in the Federal Register of the petition before the commission challenging the propriety of including the Kansas ad valorem taxes in the price charged for natural gas produced in Kansas; and

Whereas, as of November 1997, the consumers of natural gas in twenty-three states were entitled, pursuant to this ruling and the subsequent order of the Federal Energy Regulatory Commission, to refunds and accrued interest from natural gas producers for the period of October 1983 through June 1988, amounting to more than $334,840,000, with Nebraska consumers to receive approximately $34,360,000 (approximately ten percent of the total); and

Wheres, of those sums, over 60 percent of the total is accrued interest as of that date with additional interest being compounded quarterly on unpaid balances and on those sums not placed in escrow accounts pursuant to commission order; and

Whereas, the United States Senate and the United States House of Representatives in their indiviudal versions of the Emergency Supplemental Appropriations Act for Fiscal Year 1999 (S. 544 and H.R. 1141) have provisions, added by amendment, which would amend the Natural Gas Policy Act of 1978 to prohibit the commission or any court from ordering the payment of any interest or penalties with respect to ordered refunds of rates or charges made, demanded, or received for reimbursement of State ad valorem taxes in connection with the sale of natural gas before 1989; and

Whereas, both acts were adopted by their respective houses of the Congress on March 25 of this year, immediately prior to their Easter adjournment and are pending consideration by a Joint Appropriations Conference Committee; and

Whereas, legislation for the same purpose (S. 626 in the Senate and H.R. 1117 in the House of Representatives) is currently pending; and

Whereas, the sole result of the final adoption of these amendments or these bills will be to mitigate or reduce the liability of natural gas producers for charges wrongfully imposed on consumers in the period of 1983 to 1988 by denying consumers interest on the amount of those charges and relieving the producers of any liability for future penalties flowing from the failure to make court-ordered payments in the prescribed manner; and

Whereas, the lost refunds to Nebraska natural gas consumers will amount to more than 10 percent of the total reduction, representing the fourth largest state loss of the twenty-four states receiving court-ordered refunds; and

Whereas, Nebraska has been urged to join with other states in petitioning Congress to reconsider the adoption of these ill-advised and possibly unconstitutional provisions and avoid future litigation at the expense of all parties involved.

Now, Therefore, be it Resolved by the Members of the Ninety-Sixth Legislature of Nebraska, First Session:

1. That the Legislature hereby petitions the Congress of the United States to oppose the enactment of S. 626 and H.R. 1117 or any version thereof which would have the effect of waiving interest or penalties of any kind with regard to natural gas producer refunds of state ad valorem taxes charged to consumers on the sale of natural gas before 1989.

2. That the Legislature hereby petitions the Congress of the United States to reconsider its actions with regard to S. 544 and H.R. 1141 in the adoption of the amendments which would have the effect of waiving interest or penalties of any kind with regard to natural gas producer refunds of state ad valorem taxes charged to consumers on the sale of natural gas before 1989 and urges that the ultimate version of the Emergency Supplemental Appropriations Act for Fiscal Year 1999 as reported by the conference committee and adopted by the Congress not include any provision having this effect.

3. That the Legislature urges the members of the Nebraska House and Senate delegations to vote against and to take such actions as necessary to prevent the passage of any amendments or legislation which would have the effect of waving interest or penalties of any kind with regard to natural gas producer refunds of state ad valorem taxes charged to consumers on the sale of natural gas before 1989.

4. That the Clerk of the Legislature transmit copies of this resolution to each member of the Nebraska Congressional delegation and that copies be transmitted to the Speaker of the United States House of Representatives and the President of the United States

Senate with the request that it be officially entered into the Congressional Record as a memorial to the Congress of the United States.

POM–112. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the Social Security Act; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 559. A bill to designate the Federal building located at 33 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

S. 858. A bill to designate the Federal building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the ''Lewis R. Morgan Federal Building and United States Courthouse.''

EXECUTIVE REPORT OF A COMMITTEE

The following executive report of a committee was submitted:

By Mr. CHAFEE, for the Committee on Environment and Public Works:

George T. Frampton, Jr., of the District of Columbia, to be a Member of the Council on Environmental Quality.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself, Mr. SARBANES, Mr. BRYAN, and Mr. JOHNSON):

S. 1015. A bill to require disclosure with respect to securities transactions conducted ''online'', to require the Securities and Exchange Commission to study the effects on online trading on securities markets, to prevent online securities fraud, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DEWINE (for himself, Mr. GREGG, Mr. WELLSTONE, and Mrs. MURRAY):

S. 1016. A bill to provide collective bargaining for rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MACK (for himself, Mr. GRAHAM, Mr. SANTORUM, Mr. SARBANES, Mr. CHAFEE, Mr. BRYAN, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. KERREY, Mr. COVERDELL, Mr. ROBB, Mr. CRAIG, Mr. CONRAD, Mr. SHELBY, Mr. ROCKEFELLER, Mr. ALLARD, Mr. DODD, Mr. GRAMS, Mr. JOHNSON, Mr. HAGEL, Mr. SCHUMER, Mr. CRAPO, Mr. LIEBERMAN, Mr. HELMS, Mr. EDWARDS, Mr. ABRAHAM, Mrs. LINCOLN, Mr. SESSIONS, Mrs. BOXER, Mr. HUTCHINSON, Mrs. FEINSTEIN, Mr. LUGAR, Mr. WELLSTONE, Ms. SNOWE, Mr. TORRICELLI, Mr. SPECTER, Mr. DORGAN, Mrs. HUTCHISON, Mr. HOLLINGS, Mr. THOMAS, Mr. DASCHLE, Mr. LAUTENBERG, Mr. KERRY, Mrs. MURRAY):

S. 1017. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit; to the Committee on Finance.

By Mr. EDWARDS:

S. 1018. A bill to provide for the appointment of additional Federal district judges in the State of North Carolina, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 1019. A bill for the relief of Regine Beatie Edwards; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 1020. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

By Mr. KOHL:

S. 1021. A bill to provide for the settlement of claims of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. CONRAD, and Mr. WELLSTONE):

S. 1022. A bill to authorize the appropriation of an additional $1,700,000,000 for fiscal year 2000 for health care for veterans; to the Committee on Veterans' Affairs.

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. SCHUMER, Mr. HELMS, Mr. KERRY, Mr. TORRICELLI, Mr. DURBIN, Mr. SANTORUM, Mr. LIEBERMAN, Mr. KERREY, Mr. LEVIN, Mrs. MURRAY, Mr. SPECTER, Mr. CLELAND, and Mr. EDWARDS):

S. 1023. A bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, Mr. SPECTER, Mr. KERRY, Mr. KERREY, Mr. SANTORUM, Mr. DURBIN, Mr. CLELAND, and Mr. CHAFEE):

S. 1024. A bill to amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. BREAUX, Mr. DASCHLE, Mr. SANTORUM, Mr. DURBIN, Mr. SCHUMER, Mr. KERRY, Mr. SPECTER, Mr. CONRAD, Mr. BAUCUS, Mr. CHAFEE, Mr. KERREY, and Mr. CLELAND):

S. 1025. A bill to amend title XVIII of the Social Security Act to ensure the proper payment of approved nursing and allied health education programs under the medicare program; to the Committee on Finance.

By Mr. DODD:

S. 1026. A bill to amend title XVIII of the Social Security Act to prevent sudden disruption of medicare beneficiary enrollment in Medicare+Choice plans; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself, and Mr. WYDEN):

S. 1027. A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself, Mr. HELMS, Mr. INHOFE, Mr. SANTORUM, Mr. ASHCROFT, Mr. ENZI, Mr. MCCAIN, Mr. SMITH of New Hampshire, and Mr. NICKLES):

S. Res. 100. A resolution reaffirming the principles of the Programme of Action of the International Conference on Population and Development with respect to the sovereign rights of countries and the right of voluntary and informed consent in family planning programs; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK (for himself, Mr. GRAHAM, Mr. SANTORUM, Mr. SARBANES, Mr. CHAFEE, Mr. BRYAN, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. KERREY, Mr. COVERDELL, Mr. ROBB, Mr. CRAIG, Mr. CONRAD, Mr. SHELBY, Mr. ROCKEFELLER, Mr. ALLARD, Mr. DODD, Mr. GRAMS, Mr. JOHNSON, Mr. HAGEL, Mr. SCHUMER, Mr. CRAPO, Mr. LIEBERMAN, Mr. HELMS, Mr. EDWARDS, Mr. ABRAHAM, Mrs. LINCOLN, Mr. SESSIONS, Mrs. BOXER, Mr. HUTCHINSON, Mrs. FEINSTEIN, Mr. LUGAR, Mr. WELLSTONE, Ms. SNOWE, Mr. TORRICELLI, Mr. SPECTER, Mr. DORGAN, Mrs. HUTCHISON, Mr. HOLLINGS, Mr. THOMAS, Mr. DASCHLE, Mr. LAUTENBERG, Mr. KERRY, and Mrs. MURRAY):

S. 1017. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit; to the Committee on Finance.

AFFORDABLE HOUSING OPPORTUNITY ACT OF 1999

Mr. MACK. Mr. President, I rise today to introduce the Affordable Housing Opportunity Act of 1999. My colleague from my home state, BOB GRAHAM, my colleague from Pennsylvania, Senator SANTORUM, and 42 other members of the Senate join me as original cosponsors of this effort to make sure that the Low Income Housing Tax Credit is not undercut by the effects of inflation.

The Low Income Housing Tax Credit is one federal housing program that works. It works to produce affordable rental housing by allowing states to distribute tax credits to those who invest in apartments for low income families. It works because it is decentralized, it is market-oriented, and it relies on the private sector.

The Low Income Housing Tax Credit works because it is based on sound economics. This is in stark contrast to the alternative government approach to the problem of a scarcity of privately owned, affordable housing units, the approach of rent control. Under rent

control, owners are restricted in the price they can charge for their apartments. Since this dramatically reduces the return on their investment in housing, potential owners of rental units take their money elsewhere. The result, confirmed in a study of rent control in California in the early 1990s, is that rent control actually reduces the number of rental units available for low income families.

There is a better way. The Low Income Housing Tax Credit is that way. Under this program, tax credits are allocated by states and their localities to investors in low income housing. In return for agreeing to charge low rents for the units produced, the investors receive a tax credit that makes up for the financial risk of the investment. Instead of mandating low rents, the program provides an incentive for property owners to charge low rents.

And, as Adam Smith would have predicted, this incentive does the job. Since 1987, state agencies have allocated over $3 billion in Housing Credits to help finance nearly one million apartments for low income families, including 70,000 apartments in 1997. In my own state of Florida, the Credit is responsible for helping finance over 52,000 apartments for low income families, including 3,300 apartments in 1997. The demand for Housing Credits nationwide currently outstrips supply by more than three to one.

Despite the success of the Housing Credit in meeting affordable rental housing needs, the apartments it helps finance can barely keep pace with the nearly 100,000 low cost apartments which are demolished, abandoned, or converted to market rents each year. This is because the credit has been set at an annual amount of $1.25 per resident of each state, since its creation in 1986. To make up for the loss in value of the credit due to inflation, we propose to increase this amount to $1.75 per resident and to index the amount for future inflation. It has been estimated that this will increase the stock of critically needed low income apartments by 27,000 each year.

There has long existed in this body a dedication to affordable housing, an interest that knows no party lines. One of the major, early proponents of federally supported affordable housing was Senator Robert A. Taft of Ohio, known in his day as Mr. Republican, whose monument chimes regularly just a few hundred yards from here. With this strong, bipartisan pedigree, I have no hesitation in asking my colleagues on both sides of the aisle to join me to enact this proposal—which is similar to one contained in the President's budget and is supported by the nation's governors and mayors and the affordable housing community—to ensure the continued vitality of a program that works.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1017

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordable Housing Opportunity Act of 1999''.

SEC. 2. INCREASE IN STATE CEILING ON LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Clause (i) of section 42(h)(3)(C) of the Internal Revenue Code of 1986 (relating to State housing credit ceiling) is amended by striking ''$1.25'' and inserting ''$1.75''.

(b) ADJUSTMENT OF STATE CEILING FOR INCREASES IN COST-OF-LIVING.—Paragraph (3) of section 42(h) of such Code (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

''(H) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a calendar year after 2000, the dollar amount contained in subparagraph (C)(i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any increase under clause (i) is not a multiple of 5 cents, such increase shall be rounded to the next lowest multiple of 5 cents.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1999.

Mr. GRAHAM. Mr. President, I rise today with my good friend and colleague, Senator MACK to introduce the Affordable Housing Opportunity Act of 1999. This legislation would raise the annual limit on state authority to allocate low-income housing tax credits from $1.25 to $1.75 per capita, and to index the cap to inflation.

Since its creation in the Tax Reform Act of 1986, the low income housing tax credit program has been a tremendous success that has generated nearly a million units of housing for low and moderate income families. In my home state of Florida the tax credit has produced over 52,000 affordable rental units, valued at over $2.2 billion, including 3,300 apartments in 1997.

This housing tax credit is a valuable incentive for developers to build and rehabilitate low-income housing. It encourages the construction and renovation of low income housing by reducing the tax liability placed on developers of affordable homes. The credit is based on the costs of development as well as the percentage of units devoted to low-income families.

The low income housing tax credit not only helps developers but also benefits families. Those families that get up and go to work every day to earn their rent and mortgage payments, the low income housing tax credit provides families with an important stake in maintaining self-sufficiency. By supporting this credit we make the American dream more available to all Americans.

This credit has succeeded as a catalyst in bringing new sources of funding to low income housing development. This is particularly important at a time when decreasing appropriations for federally-assisted housing and the elimination of other tax incentives for rental housing production have only grown. While this success is gratifying, we should not take for granted the continued growth of this program.

Under the current formula used to fund this program, each state is located $1.25 multiplied by the State's population. Unlike other provisions of the Tax Code, this formula has not been adjusted since the credit was created in 1986. During the same period, inflation has eroded the credit's purchasing power by nearly 45 percent, as measured by the Consumer Price Index. This cap is strangling state capacity to meet the pressing low income housing needs.

By increasing the cap on this credit to $1.75, we will free the 12 year cap on housing credit from it current limitations, as requested by our Nation's governors, and we will liberate states' capacity to help millions of Americans who still have no decent, safe, affordable place to live.

A brief look at the history of the housing credit provides ample evidence of why we need our legislation. Nationwide, demand for housing credits outstrips supply by a ratio of three to one. In 1998, states received applications requesting more than 1.2 billion in housing credits—far surpassing the $365 million in the credit authority available to allocate that year. This trend coupled with the fact that every year nearly 100,000 low cost apartments are demolished, abandoned, or converted to market rate use makes clear the need for this legislation. Increasing the cap as I propose would allow states to finance approximately 27,000 more critically needed low income apartments each year using the housing credit.

In the last Congress, sixty seven Senators cosponsored this legislation, including nearly two-thirds of the Finance Committee, raising the low income housing tax credit to $1.75 and indexing it for inflation. Nearly 70 percent of the House Ways and Means Committee and a total of 299 House Members cosponsored legislation proposing the same increase.

That indicates just how much support this program has in the Congress. Also, the Administration, the nation's governors and mayors, other state and local government groups, and the affordable housing community strongly support this increase. I am confident with all this support that this measure will finally pass this year. I urge all my colleagues to embrace this important legislation.

By Mr. EDWARDS:

S. 1018. A bill to provide for the appointment of additional Federal district judges in the State of North Carolina, and for other purposes; to the Committee on the Judiciary.

JUSTICE FOR WESTERN NORTH CAROLINA ACT

Mr. EDWARDS. Mr. President, I rise to introduce the Justice for Western North Carolina Act—legislation that will create an additional permanent district court judgeship and an additional temporary district court judgeship in the Western District of North Carolina.

The Western District of North Carolina is one of the most overworked districts in the United States. And it is strained almost to the breaking point. The statistics tell the tale: its judges have the heaviest caseload of all the district courts in the Fourth Circuit. That means of all the district court judges working in Maryland, Virginia, West Virginia, North Carolina, and South Carolina—no other judges have a more crushing workload. Indeed, they deal with a caseload almost twice that recommended for any federal judge. The nonpartisan Judicial Conference of the United States, the principal policymaking body for the federal court system, believes that no judge should handle more than 430 weighted case filings. Well, the judges in the Western District have a weighted filing per judge of 703.

The people of western North Carolina feel the impact of this burden. Criminal felony cases take longer to deal with in western North Carolina than any other district in the country but two. And businesses have to wait almost two years to have their lawsuits heard before a jury. Business disputes, Social Security claims, civil rights disputes—all of them are needlessly delayed when we in the Senate fail to fulfill our responsibility to ensure the prompt administration of justice.

Three able Western District Court judges are doing their utmost to deal with this deluge. But they need our help. And we have failed to address the need sooner. It has been more than twenty years since Congress authorized the Western District's third judgeship. In 1978, there were 775 raw case filings. Last year, there were more than 7,000. It is folly to think that three judges should be able to handle the nearly tenfold increase in case filings in the Western District.

Nor is there any relief from a growing caseload in sight. North Carolina is in the midst of a population boom. Since the 1990 census, the state's population grew by 12%. The Charlotte metropolitan area, which is in the western district of North Carolina, grew by 19 percent since 1990, making it the tenth fastest growing region in the country during this period. This growth in population, business, and industry translates into more commercial, corporate, and criminal law cases.

Mr. President, more than any other justice system in the world, ours provides fair and equal administration of justice. We put this at risk when we do not have enough judges. When judges are overworked, they may be unable to give each case the attention it deserves. The maxim that ''justice delayed is justice denied'' is absolutely true. Slow justice does not just affect the litigants. With commercial cases involving major corporations, it can also hurt employees and consumers, as well. Moreover, we cheapen the Constitution when we fail to authorize the resources necessary for the federal judiciary—one of the three, coequal branches of government—to adequately serve society. Congress must respect the principle of an independent federal judiciary by ensuring that federal judges are not so consumed by the backlog of cases that they are not able to give the cases that come before them the attention they deserve.

The legislation I propose puts into effect the recent recommendation made by the Judicial Conference. The Judicial Conference works to ensure that the federal judiciary delivers equal justice under law. On March 16 of this year, it recommended that we add one permanent and one temporary judgeship in the Western District of North Carolina. The Chief Justice serves as the presiding officer of the nonpartisan Judicial Conference. The membership of the Conference includes the chief judges of the 13 courts of appeals, a district judge from each of the 12 geographic circuits, and the chief judge of the Court of International Trade.

No one, at least no one I know, disagrees that the Western District is overworked. But some people have proposed the misguided solution of eliminating a judgeship from the Eastern District of North Carolina and transferring it to the Western District. I think that eliminating a judge from the Eastern District would be a real mistake, as big a mistake as not creating new judgeships in the Western District. The proposal is simply robbing Peter to pay Paul.

Eliminating a judgeship from the Eastern District would leave it in the same painful position that the Western District is in now. Last year, the Eastern District had 2056 weighted filings, or 514 for each of its four judgeships, easily above the national average of 484. Taking away a judgeship from the Eastern District would result in a weighted caseload per judge of 685. Transferring a judgeship from the Eastern to the Western District would do no more than switch the problem from the west to the east.

I am also very concerned about the effect this elimination would have on Raleigh and the many people and companies who are based there and depend on the federal judiciary. For the last twenty years, at least one Eastern District judgeship has been filled by a judge presiding in Raleigh. Today, however, the three active judges in the Eastern District reside in Elizabeth City, Greenville, and Wilmington, and most of the Eastern District's court sessions are held in those cities. It is important that those areas have judges, but it is also important that there be a judge in Raleigh. If we transfer the unfilled judgeship to the west, we will do serious harm to our state capital.

Raleigh is the home of the main offices of the U.S. Attorney, the Federal Public Defender for the Eastern District, the Clerk of Court, the United States Probation Office, the Federal Bureau of Investigation for the Eastern District, and the North Carolina Department of Justice. In addition, many private lawyers who handle civil and criminal cases in the Eastern District come from Raleigh. Finally, the Raleigh metropolitan area, which has more than one million people, is the fifth fastest growing urban area in the nation—swelling by 26 percent since 1990. Eliminating a judgeship based in Raleigh would create unnecessary obstacles to the pursuit of fair administration of justice in that city.

Mr. President, the marble facade on the Supreme Court building says, ''Equal Justice Under Law.'' We in the Congress must not jeopardize this principle by failing to provide the judiciary the resources it needs to do its work. Therefore, I urge your support of the Justice for Western North Carolina Act.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1018

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Justice for Western North Carolina Act of 1999''.

SEC. 2. DISTRICT JUDGES FOR THE NORTH CAROLINA DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of North Carolina.

(b) TEMPORARY JUDGESHIP.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of North Carolina.

(2) FIRST VACANCY NOT FILLED.—The first vacancy in the office of district judge in the western district of North Carolina, occurring 7 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this subsection, shall not be filled.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will reflect the changes in the total number of permanent district judgeships authorized as a result of subsection (a) of this section, the item relating to North Carolina in such table is amended to read as follows:

''North Carolina:	
Eastern	4
Middle	4
Western	4.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this Act.

By Mr. GRASSLEY:

S. 1019. For the relief of Regine Beatie Edwards; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. GRASSLEY. Mr. President, today I am introducing legislation to allow Regine Beatie Edwards, an 18 year old German-born legal resident of the United States, to realize her lifelong dream of becoming a United States citizen.

Miss Edwards is the adopted daughter of Mr. Stan Edwards, a U.S. citizen who married Regine's mother while engaged in military service in Germany. Regine moved to the United States with her mother on October 16th, 1994. In 1997, Mr. Edwards contacted the INS on several occasions, attempting to obtain the proper form to apply for Regine's naturalization. The INS sent Mr. Edwards form N–643, Application for Certificate in Behalf of an Adopted Child. The INS informed Mr. Edwards that the adoption had to be completed by the time Regine turned 18. The adoption was completed on January 13th, 1997, when Regine was 16½ years of age. Mr. Edwards delivered Regine's application to the INS office in Omaha, Nebraska on March 27, 1998.

The INS reported in January of 1998 that the application was to be denied since the adoption of Ms. Edwards had not been completed prior to her 16th birthday, and therefore form N–643 was the incorrect form for application. Previously, the INS had told Mr. Edwards that the adoption need only be completed by Regine's 18th birthday. The INS then refunded to Mr. Edwards the application fee and informed him that, because of her age, Regine met only three of four qualifications to apply for citizenship. Had the INS told the Edwards that Regine needed to be adopted by the age of 16 in order to qualify for citizenship, the Edwards would have expedited the adoption process, and Regine would be closer to her dream of citizenship.

This bill, passed during the last Congress by the Senate but not acted on by the House, would reclassify Regine as a child pursuant to section 101(b)(1) of the Immigration and Naturalization Act, thereby allowing the processing of her citizenship application.

Regine has stated that it has always been a goal of hers to live in the United States, and to become a citizen of, as she puts it, ''a land of freedom and individual opportunity to seek out your dreams and realize them.'' It would be tragic if we were to let a simple mistake on the part of the INS prevent such a promising young woman from becoming a U.S. citizen. I urge my fellow colleagues to support Regine by allowing her to make her dream of U.S. citizenship a reality.•

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 1020. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

MOTOR VEHICLE FRANCHISE CONTRACT ARBITRATION FAIRNESS ACT

• Mr. GRASSLEY. Mr. President, today, along with my colleague from Wisconsin, Senator FEINGOLD, I am introducing the Motor Vehicle Franchise Contract Arbitration Fairness Act.

Over the years, I have been in the forefront of promoting alternative dispute resolution (ADR) mechanisms to encourage alternatives to litigation when disputes arise. Such legislation includes the permanent use of ADR by federal agencies. Last year we also passed legislation to authorize federal court-annexed arbitration. These statutes are based, in part, on the premise that arbitration should be voluntary rather than mandatory.

While arbitration often serves an important function as an efficient alternative to court some trade offs must be considered by both parties, such as limited judicial review and less formal procedures regarding discovery and rules of evidence. When mandatory binding arbitration is forced upon a party, for example when it is placed in a boiler-plate agreement, it deprives the weaker party the opportunity to elect any other forum. As a proponent of arbitration I believe it is critical to ensure that the selection of arbitration is voluntary and fair.

Unequal bargaining power exists in contracts between automobile and truck dealers and their manufacturers. The manufacturer drafts the contract and presents it to dealers with no opportunity to negotiate. Increasingly these manufacturers are including compulsory binding arbitration in their agreements, and dealers are finding themselves with no choice but to accept it. If they refuse to sign the contract they have no franchise. This clause then binds the dealer to arbitration as the exclusive procedure for resolving any dispute. The purpose of arbitration is to reduce costly, time-consuming litigation, not to force a party to an adhesion contract to waive access to judicial or administrative forums for the pursuit of rights under state law.

I am extremely concerned with this industry practice that conditions the granting or keeping of motor vehicle franchises on the acceptance of mandatory and binding arbitration. While several states have enacted statutes to protect weaker parties in ''take it or leave it'' contracts and attempted to prevent this type of inequitable practice, these state laws have been held to conflict with the Federal Arbitration Act (FAA).

In 1925, when the FAA was enacted to make arbitration agreements enforceable in federal courts, it did not expressly provide for preemption of state law. Nor is there any legislative history to indicate Congress intended to occupy the entire field of arbitration. However, in 1984 the Supreme Court interpreted the FAA to preempt state law in Southland Corporation versus Keating. Thus, state laws that protect weaker parties from being forced to accept arbitration and to waive state rights (such as Iowa's law prohibiting manufacturers from requiring dealers to submit to mandatory binding arbitration) are preempted by the FAA.

With mandatory binding arbitration agreements becoming increasingly common in motor vehicle franchise agreements, now is the time to eliminate the ambiguity in the FAA statute. The purpose of the legislation Senator FEINGOLD and I are introducing is to ensure that in disputes between manufacturers and dealers, both parties must voluntarily elect binding arbitration. This approach would continue to recognize arbitration as a valuable alternative to court—but would provide an option to pursue other forums such as administrative bodies that have been established in a majority of states, including Iowa, to handle dealer/manufacturer disputes.

This legislation will go a long way toward ensuring that parties will not be forced into binding arbitration and thereby lose important statutory rights. I am confident that given its many advantages arbitration will often be elected. But it is essential for public policy reasons and basic fairness that both parties to this type of contract have the freedom to make their own decisions based on the circumstances of the case.

I urge my colleagues to join Senator FEINGOLD and myself in supporting this legislation to address this unfair franchise practice.•

• Mr. FEINGOLD. Mr. President, I rise today to introduce, with my distinguished colleague from Iowa, Senator GRASSLEY, the ''Motor Vehicle Franchise Contract Arbitration Fairness Act of 1999.''

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned by the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and agree to arbitrate any future disputes that may arise. Earlier this Congress, I introduced S. 121, the Civil Rights Procedures Protection Act, to amend certain civil rights statutes to prevent the involuntary imposition of arbitration to claims that arise from unlawful employment discrimination and sexual harassment.

It has come to my attention that the automobile and truck manufacturers, which often present dealers with ''take it or leave it'' contracts, are increasingly including mandatory and binding arbitration clauses as a condition of entering into or maintaining an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract rights, and statutorily provided protection. In short, this practice clearly violates the dealers' fundamental due process rights

and runs directly counter to basic principles of fairness.

Franchise agreements for auto and truck dealerships are typically not negotiable between the manufacturer and the dealer. The dealer accepts the terms offered by the manufacturer, or it loses the dealership. Plain and simple. Dealers, therefore, have been forced to rely on the states to pass laws designed to balance the manufacturers' far greater bargaining power and to safeguard the rights of dealers. The first state automobile statute was enacted in my home state of Wisconsin in 1937 to protect citizens from injury caused when a manufacturer or distributor induced a Wisconsin citizen to invest considerable sums of money in dealership facilities, and then canceled the dealership without cause. Since then, all states except Alaska have enacted substantive law to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

A little known fact is that under the Federal Arbitration Act (FAA), arbitrators are not required to apply the particular federal or state law that would be applied by a court. That enables the stronger party—in this case the auto or truck manufacturer—to use arbitration to circumvent laws specifically enacted to regulate the dealer/manufacturer relationship. Not only is the circumvention of these laws inequitable, it also eliminates the deterrent to prohibited acts that state law provides.

The majority of states have created their own alternative dispute resolution mechanisms and forums with access to auto industry expertise that provide inexpensive, efficient, and nonjudicial resolution of disputes. For example, in Wisconsin mandatory mediation is required before the start of an administrative hearing or court action. Arbitration is also an option if both parties agree. These state dispute resolution forums, with years of experience and precedent, are greatly responsible for the small number of manufacture-dealer lawsuits. When mandatory binding arbitration is included in dealer agreements, these specific state laws and forums established to resolve auto dealer and manufacturer disputes are effectively rendered null and void with respect to dealer agreements.

Besides losing the protection of federal and state law and the ability to use state forums, there are numerous reasons why a dealer may not want to agree to binding arbitration. Arbitration lacks some of the important safeguards and due process offered by administrative procedures and the judicial system: (1) arbitration lacks the formal court supervised discovery process often necessary to learn facts and gain documents; (2) an arbitrator need not follow the rules of evidence; (3) arbitrators generally have no obligation to provide factual or legal discussion of the decision in a written opinion: and (4) arbitration often does not allow for judicial review.

The most troubling problem with this sort of mandatory binding arbitration is the absence of judicial review. Take for instance a dispute over a dealership termination. To that dealer—that small business person—this decision is of commercial life or death importance. Even under this scenario, the dealer would not have recourse to substantive judicial review of the arbitrators' ruling. Let me be very clear on this point; in most circumstances an arbitration award cannot be vacated, even if the arbitration panel disregarded state law that likely would have produced a different result.

The use of mandatory binding arbitration is increasing in many industries, but nowhere is it growing more steadily than the auto/truck industry. Currently, at least 11 auto and truck manufacturers require some form of such arbitration in their dealer contracts.

In recognition of this problem, many states have enacted laws to prohibit the inclusion of mandatory binding arbitration clauses in certain agreements. The Supreme Court, however, held in *Southland Corp.* v. *Keating,* 104 S. Ct. 852 (1984), that the FAA by implication preempts these state laws. This has the effect of nullifying many state arbitration laws that were designed to protect weaker parties in unequal bargaining positions from involuntarily signing away their rights.

The legislative history of the FAA indicates that Congress never intended to have the Act used by a stronger party to force a weaker party into binding arbitration. Congress certainly did not intend the FAA to be used as a tool to coerce parties to relinquish important protections and rights that would have been afforded them by the judicial system. Unfortunately, this is precisely the current situation.

Although contract law is generally the province of the states, the Supreme Court's decision in Southland Corp. has in effect made any state action on this issue moot. Therefore, along with Senator GRASSLEY, I am introducing this bill today to ensure that dealers are not coerced into waiving their rights. Our bill, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 1999 would simply provide that each party to an auto or truck franchise contract would have the choice to select arbitration. The bill would not prohibit arbitration. On the contrary, the bill would encourage arbitration by making it a fair choice that both parties to a franchise contract may willingly and knowingly select. In short, this bill would ensure that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

In effect, if small business owners today want to obtain or keep their auto or truck franchise, they may be able to do so only by relinquishing their statutory rights and foreclosing the opportunity to use the courts or administrative forums. Mr. President, I cannot say this more strongly—this is unacceptable; this is wrong. It is at great odds with our tradition of fair play. I therefore urge my colleagues to join in this bipartisan effort to put an end to this invidious practice.●

By Mr. KOHL:

S. 1021. A bill to provide for the settlement of claims of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

MENOMINEE TRIBAL FAIRNESS ACT OF 1999

Mr. KOHL. Mr. President, today I am introducing bipartisan legislation that would give a Congressional ''stamp of approval'' to a settlement for which the Menominee Indian Tribe of Wisconsin has long awaited—a settlement that, in my opinion and in the opinion of the Federal Court that approved it last year, is long overdue.

Specifically, this bill—the ''Menominee Tribal Fairness Act of 1999''—would enforce a settlement owed to the Menominee Tribe by the Federal government, whose termination of the Tribe's federal trust status resulted in enormous damage to the Menominee from 1954 to 1973. Six years ago, Congress passed a congressional reference that ordered the U.S. Claims Court to report back regarding what damages, if any, were owed the Tribe. Last year, the Court approved a $32 million settlement, and now that we have settled the merits of the case, we simply need congressional approval to conclude this 45-year-old matter once and for all. Let me tell you why this legislation is crucially needed.

When Congress passed the Menominee Termination Act of June 13, 1954, it ended the Tribe's federal trust status, effective in 1961. As a result of termination, the Menominee Tribe plunged into years of severe impoverishment and community turmoil. Indeed, according to a 1965 BIA study of conditions on the former reservation, the economic and social effects were disastrous. Unemployment was 26 percent, compared to Wisconsin's 5 percent rate. The school dropout rate was 75 percent, and the per capita income was less than one-third of the state average. The local hospital, which was built with tribal funds, was shut down because it could not meet state standards, effectively eliminating local health care services which in turn increased mortality rates.

Twelve years after termination, Congress recognized the economic and social devastation this Act had caused for the Tribe by passing the Menominee Restoration Act of 1973, which reinstated the Tribe's federal trust status. Clearly, though, BIA mismanagement and termination threatened to devastate the Tribe for generations to

come, and the Tribe subsequently sought relief for its recuperation.

The Menominee Tribe took this matter to the courts, and though it obtained favorable trial court judgments on the merits of its claims, the Tribe encountered a series of technical roadblocks that prevented it from ever really having its case heard.

The Tribe then came to Congress for help. But it was not until 1993 that Congress passed my proposal to settle this matter by sending it to the Court of Claims and ordering the court to report back what damages the Tribe was owed.

After extensive negotiation, the Federal government and the Menominee Tribe agreed upon a settlement of the Tribe's claims for a sum of $32,052,547. The Claims Court, on August 12, 1998, reported back to Congress, concluding that the Tribe has stated legitimate claims and endorsing this settlement.

Now, to compensate the Tribe for damages and implement the decision of the Court of Claims, we must pass this legislation that authorizes the payment of this agreed-to settlement. And the money does not have to be appropriated—it will simply be taken from a Treasury Department ''judgment fund'' account.

Mr. President, the congressional reference procedure is designed so that the court may examine claims against the United States based on negligence or fault, or based on less than fair and honorable dealings, regardless of ''technical'' defenses that the United States may otherwise assert, especially the statute of limitations.

In other words, it is to be used for precisely the types of circumstances surrounding the Menominee Tribe. The tribe and its members suffered grievous economic loss through legislative termination of its rights and from BIA mismanagement of its resources. Indeed, the Federal governments' actions brought the Menominee Tribe to the brink of economic, social, and cultural disaster. In 1973, the tribe was restored to Federal recognition and tribal status by action of the Congress. But the Tribe has yet to be compensated for the damages it suffered.

Mr. President, I urge my colleagues to approve the Court's ruling, support this bill, and settle this case once and for all. And don't take my word for it—this measure has been endorsed by the Chairman of the Indian Affairs Committee, BEN NIGHTHORSE CAMPBELL, and Representative MARK GREEN, who represents the district where the Menominee reservation is located.

I ask unanimous consent that the full texts of my bill, the U.S. Court of Federal Claims Report of the Review Panel, Court Order, and Stipulation for Recommendation of Settlement, along with Chairman CAMPBELL's letter of support for this measure, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1021

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

SECTION 1. PAYMENT.

The Secretary of the Treasury shall pay to the Menominee Indian Tribe of Wisconsin, out of any funds in the Treasury of the United States not otherwise appropriated, $32,052,547 for damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

(1) the enactment and implementation of the Act entitled ''An Act to provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Tribe from Federal jurisdiction'', approved June 17, 1954 (68 Stat. 250 et seq., chapter 303); and

(2) the mismanagement by the United States of assets of the Menominee Indian Tribe held in trust by the United States before April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

SEC. 2. EFFECT OF PAYMENT.

Payment of the amount referred to in section 1 shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in that section.

SEC. 3. REQUIREMENTS FOR PAYMENT.

The payment to the Menominee Indian Tribe of Wisconsin under section 1 shall—

(1) have the status of a judgment of the United States Court of Federal Claims for the purposes of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) be made in accordance with the requirements of that Act on the condition that after payment of attorneys fees and expenses of litigation, of the remaining amount—

(A) not less than 30 percent shall be distributed on a per capita basis; and

(B) not more than 70 percent shall be set aside and programmed to serve tribal needs, including—

(i) educational, economic development, and health care programs; and

(ii) such other programs as the circumstances of the Menominee Indian Tribe of Wisconsin may justify.

[In the United States Court of Federal Claims, No. 93–649X (Filed: August 12, 1998)]

MENOMINEE INDIAN TRIBE OF WISCONSIN, PLAINTIFF, *v.* THE UNITED STATES, DEFENDANT

REPORT OF THE REVIEW PANEL

Pending before the review panel in this congressional reference is the order of the hearing officer of August 11, 1998, adopting the stipulated settlement of the parties. The parties have agreed to resolve this matter without further litigation. The hearing officer carefully reviewed the basis of the settlement and satisfied himself that it was well grounded in fact and law. The parties have waived by stipulation the normal period for filing exceptions to the report.

This panel hereby affirms and adopts the order of the hearing officer in its entirety. After reviewing the order of August 11, 1998, it is the judgment of this panel that the stipulated agreement between the parties is a just and equitable resolution of the lengthy dispute that it resolves. It is the view of the panel that there is a basis in law and in equity to support the payment to the Tribe of the settlement amount and that such payment would not constitute a gratuity.

Accordingly, the review panel recommends that Congress adopt legislation paying to the Menominee Tribe of Wisconsin $32,052,547 in settlement of the claims embraced in this congressional reference.

Because the parties have waived the normal period for requesting reconsideration, the Clerk is directed promptly to forward this order and supporting materials to Congress.

Done this twelfth day of August, 1998.

ROBERT H. HODGES, Jr.,
Presiding Officer.
MOODY R. TIDWELL,
Panel Member.
BOHDAN A. FUTEY,
Panel Member.

[In the United States Court of Federal Claims, No. 93–649X (Filed: August 11, 1998)}

MENOMINEE INDIAN TRIBE OF WISCONSIN, PLAINTIFF, *v.* THE UNITED STATES, DEFENDANT

Charles A. Hobbs, with whom were Jerry C. Straus, Frances L. Horn, Marsha Kostura Schmidt, and Joseph H. Webster, all of Washington, D.C. for plaintiff.

James Brookshire, with whom was Glen R. Goodsell, U.S. Department of Justice, General Litigation Section, Environment & Natural Resources Division, Washington, D.C., for defendant.

ORDER

On August 6, 1993, Senate Resolution 137 referred to the Court of Federal Claims a proposed bill, S. 1335, for the relief of the Menominee Indian Tribe of Wisconsin, and requested the Chief Judge to proceed in accordance with the provisions of 28 U.S.C. §§1492 and 2509 regarding congressional references. The Resolution requested that the court ''report back to the Senate . . . providing such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the damages referred to in such bill as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the Menominee Indian Tribe of Wisconsin by reason of such damages.''

The proposed bill if enacted would authorize the payment, ''out of any money in the Treasury of the United States not otherwise appropriated,'' of ''a sum equal to the damages sustained by the Menominee Tribe of Wisconsin by reason of ''(a) the enactment and implementation of the Act of June 17, 1954 (68 Stat. 250), as amended, and (b) the mismanagement by the United States of the Menominee assets held in trust by the United States prior to April 30, 1961, the effective date of Termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.''

The Menominee Tribe filed with this court a complaint alleging injury and damages that arose from the enactment and implementation of the Menominee Termination Act, as well as for various acts of mismanagement by the Bureau of Indian Affairs (BIA) during the period to Termination, 1951–1961. Specific claims alleged were: Count (I) Congressional Breach of Trust (''Basic'' claim); (II) Forest Mismanagement; (III) Mill Mismanagement; (IV) Loss of Tax Exemption; (V) Loss of Hospital; (VI) Highway Rights-of-Way; (VII) Power Lines; (VIII) Public Water and Sewage Systems; (IX) Mismanagement of Tribal Funds (Accounting); (X) Loss of Government Programs; (XI) Imposition of Bond Debt; and (XII) Loss of Tribal Property.

This case has a long history before this court. Many of the claims at issue in this congressional reference were litigated previously before the U.S. Court of Claims in the case of *Menominee Tribe of Indians* v. *United States*, Nos. 134–67–A through –I, originally filed in April 1967. The case concerned breach of trust and taking claims related to the Termination of the Menominee Tribe and certain claims for mismanagement of tribal

assets during the period prior to Termination (1951–1961). It has been the subject of seven trial court decisions and four decisions before the appellate court. *Manominee Tribe* v. *United States,* 607 F.2d 1335 (Ct. CL. 1979) (congressional breach of trust or ''Basic'' claim); *Menominee Tribe* v. *United States,* 223 Ct. Cl. 632 (1980) (tax exemption statute of limitations); *Menominee Tribe* v. *United States,* 726 F.2d 712 (Fed. Cir. 1983) (deed restrictions); *Menominee Tribe* v. *United States,* 726 F.2d 718 (Fed. Cir. 1984) (forest mismanagement). All of the dockets were ultimately dismissed in 1984, seventeen years after they were filed, on statute-of-limitations and jurisdictional grounds.

Relying on the substantial record developed in that earlier case as well as on substantial supplemental evidence in the current case, the parties in the present congressional reference filed briefs with the court on the issue of liability as to the first three counts of the Tribe's complaint, as well as on the issue of whether there was good cause for removing the bar of the statute of limitations. In an opinion dated October 30, 1997, this hearing officer held that the claims for Congressional Breach of Trust and forest Mismanagement were not equitable claims for which damages could be recommended; rather, payment of damages for these claims would constitute a gratuity. See *Menominee Indian Tribe* v. *United States,* 39 Fed. Cl. 441, 460–62 (1997). This hearing officer held as to the Mill Mismanagement claim that the issues presented were grounded in equity, but reserved to a later time a decision on the merits and damages, if any, as to each of the particular acts of mill mismanagement alleged by the Tribe. *See id*. at 471. Finally, the hearing officer held that there was good cause to remove the bar of the statute of limitations, which had barred some of the claims in the earlier case. *See id*. The Tribe has stated in the stipulation filed by the parties its disagreement with the hearing officer's holdings on the merits of Count I and II and its intention, if the case were not settled, to appeal the ruling to the review panel. The United States has reserved the right to challenge the hearing officer's good-cause ruling.

After those decisions were rendered, the parties entered into settlement discussions and on August 11, 1998, the parties filed with the hearing officer for approval a stipulated settlement agreement, attached hereto, asking the hearing officer to report to Congress that it has approved the stipulation and recommends that Congress adopt it.

The parties have stipulated that the reference overall includes proper equitable claims appropriate for settlement, and though each side contests certain aspects of the case and aspects of the decisions rendered by this hearing officer, the parties have agreed that the case overall is appropriate for compromise and settlement.

The stipulation of the parties, attached hereto, details the claims and the damage award sought by the Tribe in this reference for the twelve claims. The Tribe claims a total value of $141 million on all of its claims. Although the government does not concur in the Tribe's assessment of the individual claims, it has negotiated terms of a settlement with the Tribe that the parties believe to be fair, just, and equitable. Although the parties did not agree on a settlement value to each claim in the case, the parties have stipulated, in compromise and settlement of the reference overall, that the Menominee Tribe should be compensated in the amount of $32,052,547 in total for its claims as a whole.

In issuing its opinion in 1997 with respect to the first three counts, this hearing officer read all the findings and conclusions of the prior litigation, as well as the appellate opinions. In addition the hearing officer read all the expert reports, irrespective of whether they were directed solely to issues raised in the first three counts, and reviewed virtually all the remaining documentary and testimonial evidence. Because the settlement agreement encompasses not only the three claims that were the subject of the prior opinion, however, but also the remaining claims that have not yet been heard on the merits in the present case, as well as other claims that could have been alleged in the reference, the hearing officer considered additional documentary evidence and citations to the record as well as other information to satisfy himself that the reference overall includes claims equitable in nature. This evidence includes documentary exhibits and an expert report bearing on the Tribe's claim for mismanagement of funds. The government reviewed this evidence as well and provided to the hearing officer its position as to the claims.

Upon careful review of the evidence and consideration of the legal issues, and without withdrawing my 1997 opinion, I am satisfied that the reference overall includes substantial equitable claims appropriate for settlement. I have reviewed the evidence in support of the remaining nine counts, as well as the evidence supporting the damages assertions, and believe that there is ample basis in the record to support a settlement on the grounds that these counts embrace equitable claims that could be the subject of an affirmative recommendation by the hearing officer. I also am satisfied that the amount of the settlement proposed is in line with my assessment of a potential recovery, particularly when recognizing that the tribe does not concede the correctness of the 1997 opinion with respect to counts I and II. Further, while recognizing that the United States disagrees, I conclude that, based on my prior good-cause ruling in this matter, there is a proper basis to find that the bar of the statute of limitations, to the extent applicable, should be removed.

Based on the facts presented in the stipulation, and the evidence that the hearing officer has independently reviewed after consideration of the legal issues, the hearing officer hereby reports that:

a. The reference overall states equitable claims against the United States as set forth in the bill referred to this court.

b. The amount agreed by the parties to be equitably due the Menominee Indian Tribe in full settlement of the aforesaid equitable claims, namely $32,052,547, appears fair and reasonable to the hearing officer, and the hearing officer recommends that Congress appropriate this amount to the Tribe.

c. there is good cause to remove the bar of the statute of limitations to the extent it applies to any of the claims.

d. The parties have stipulated that they waive the right they would otherwise have under RCFC appendix D, paragraph nine, to a thirty-day period in which to accept or reject this recommendation. They have stipulated to its acceptability. They have also stipulated, in the event that the review panel accepts this recommendation, to waive the right to reconsideration under RCFC appendix D, paragraph eleven.

ERIC G. BRUGGINK,
Hearing Officer.

[Congressional Reference to the United States Court of Federal Claims, Congressional Reference No. 93–649X (Judge Bruggink)]

MENOMINEE INDIAN TRIBE OF WISCONSIN, PLAINTIFF, *v.* UNITED STATES OF AMERICA, DEFENDANT

STIPULATION FOR RECOMMENDATION OF SETTLEMENT

1. On August 6, 1993, the Senate enacted Resolution 137 which referred to this court a proposed bill, S. 1335, for the relief of the Menominee Indian Tribe of Wisconsin, and requested the Chief Judge to proceed in accordance with the provisions of 28 U.S.C. §§1492 and 2509 regarding Congressional References. The Resolution requested that the court ''report back to the Senate . . . providing such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the damages referred to in such bill as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United Stats to the Menominee Indian Tribe of Wisconsin by reason of such damages.''

2. The proposed bill, S. 1335, sets forth the claims Congress requested the court to consider as follows:

''Section 1. The Secretary of the Treasury is authorized and directed to pay to the Menominee Indian Tribe of Wisconsin, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to the damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

''(a) the enactment and implementation of the Act of June 17, 1954 (68 Stat. 250), as amended, and

''(b) the mismanagement by the United States of the Menominee assets held in trust by the United States prior to April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

''Section 2. Payment of the sum referred to in section 1 shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in such section.''

3. Many of the claims at issue in this Congressional Reference were litigated previously before the United States Court of Claims in the case of *Menominee Tribe of Indians* v. *United States*, Dkt. Nos. 134–67 A through I, originally filed in 1967. That case concerned breach of trust and taking claims related to the Termination of the Menominee Tribe and certain claims for mismanagement of tribal assets prior to Termination. It was the subject of seven trial court decisions and four decisions before the appellate court. All of the dockets were ultimately dismissed in 1984, seventeen years after they were filed, on statute of limitations and jurisdictional grounds; none were dismissed on the merits. The Congressional Reference asks this court to make a recommendation under the principles applicable in Congressional Reference cases as to whether the claims are legal or equitable or a gratuity.

4. The Tribe has alleged twelve claims in this Congressional Reference as follows:

(I) *Congressional Breach of Trust.*—The Tribe claims that the United States breached its trust duty to the Tribe by enacting and implementing the Termination Act of June 17 1954, which terminated federal supervision over the Menominee Tribe. The nature of the alleged wrong was that the Tribe was not prepared for Termination and that, though Congress has the power to terminate a Tribe, it cannot without breaching its trust responsibilities terminate the Tribe prematurely or

in a manner that would result in unreasonable harm to the Tribe. The Tribe claims this was the circumstance in 1954 when the Termination Act was enacted and later in 1961 when the Termination Act was implemented. It is alleged that after the Termination Act was implemented, the economy on the reservation collapsed, and tribal members suffered from poverty, serious lack of health care and education, disruption of tribal institutions and customary ways of making a living, causing severe economic and psychological hardship, so that the once thriving Menominee reservation became a pocket of poverty and despair. In the Tribe's view, the loss of tribal status left tribal members disenfranchised and shorn of their tribal identity and culture.

The Tribe's federal trust status was later restored in 1973. In enacting the Restoration Act, 25 U.S.C. §903, members of the enacting Congress repudiated the policy of Termination as applied to the Menominee as a ''mistake'', a ''failure'' and ''an experiment that has had tragic and disheartening results.'' 119 Cong. Rec. 34308 (Oct. 16. 1973) (statements of Rep. Froehlich, Nelson and Kastenmeier). President Nixon also stated that ''This policy of forced Termination is wrong . . . .'' 6 Pres. Doc. 894 (1970), reprinted in, 116 Cong. Rec. S23258–23262 (July 8, 1970).

In the original ''Basic'' proceeding the trial court held that the United States had breached its trust duties to the Tribe by terminating it. However,on appeal, the Court of Claims held that the court had no jurisdiction to determine if an act of Congress was a wrong subject to judicial remedy. *Menominee Tribe* v. *United States*. 607 F.2d 1335 (Ct. Cl. 1979). Following the reasoning of the Court of Claims, the hearing officer in this Congressional Reference has also held that even though ''the decision to end the Government's relationship with the Tribe when it did was a serious mistake of judgment,'' acts of Congress cannot serve as a source of a wrong even as an equitable claim in a Congressional Reference context.

Whether this conclusion has been, and remains, correct is a subject of contention between the parties. In any event, the Tribe has the right to seek review of this decision by the Review Panel when it becomes final. The Government agrees with the hearing officer's ruling. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The Tribe's valuation of this claim is $60 million.

(II) *Forest Mismanagement*.—This is a claim for beach of trust in the mismanagement of the Menominee Tribe's valuable forest between 1951 and 1961, prior to Termination. The claim springs from the alleged failure of the BIA to seek an amendment to the congressionally imposed but (according to the Tribe) outdated statutory cutting limit which seriously impaired the ability of the agency to properly manage the forest. In the original case the trial court found the BIA had breached its trust duty and awarded damages in the amount of $7.2 million. The decision was overturned when the Federal Circuit ruled the claim was barred by the statute of limitations. *Menominee Tribe* v. *United States*, 726 F.2d 718 (Fed. Cir. 1984).

In the Congressional Reference action, this claim was briefed before the hearing officer, who held that the claim could not be an equitable one because the Tribe was actually challenging an act of Congress. As such the claim was dismissed for reasons similar to those set forth under Count I—i.e., an act of Congress may not constitute a wrong, even for an ''equitable'' claim. The Tribe strenuously disagrees with that assessment because it believes the wrongdoer was the BIA for not warning Congress of the damage being done by the outmoded cutting limit. The Tribe has the right to review of this decision by the Review Panel when it becomes final. The Government disagrees with the Tribes's legal and factual basis for this claim. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The Tribe's valuation of the Forest claim is $6.6 million.

(III) *Mill Mismanagement*.—This claim is for breach of trust in the mismanagement of the Menominee Mill between 1951 and 1961. In the Tribe's view, the Mill and Forest were the heart of the economy on the Reservation. The claim focuses on the BIA's alleged failure to make repairs and to maintain the Mill, as well as update the equipment to make it efficient and safe. The claim is made up of 13 subclaims which deal with specific acts of mill mismanagement. In the original case, the trial court awarded $5.5 million in damages, but the claim was later dismissed by stipulation based on the Federal Circuit's ruling on statute of limitations in the forest mismanagement case.

In this Congressional Reference, the hearing officer ruled that the claim is an equitable claim but has reserved judgment as to liability and damages on each of the 13 subclaims to a later proceeding. The hearing officer also ruled that there is reason to remove the statute of limitations bar. The Government disputes this and has the right to seek review of both rulings. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The Tribe's valuation of this claim is $5.9 million.

(IV) *Tax Exemption Taking*.—This claim alleges the taking of the Tribe's tax exemption with the passage of the Termination Act. The Tribe claims that, at the time of Termination, it held a valuable property right in its tax immunity. According to the Tribe, this immunity from taxes was based on (a) the Tribe's political status as a sovereign entity; (b) the related doctrine that a state has no jurisdiction over a tribe; and (c) the Tribe's treaty-guaranteed right that its land would ''be held as Indian lands are held,'' and hence implied tax exemption. Treaty of 1854, 10 Stat. 1065, Art. 2. The Tribe alleges that this immunity from taxation is a property right protected by the Fifth Amendment. See *Choate* v. *Trappe*, 224 U.S. 665 (1912).

When the Termination Act was passed, it envisioned specifically subjecting the assets and income of the Tribe's successor corporation (Menominee Enterprise, Inc. or MEI) to federal and state taxation. 25 U.S.C. §§898, 899. While Congress has the power to take away the Tribe's immunity from tax, the Tribe contends that immunity is a valuable property right and that the Tribe is constitutionally entitled to just compensation for its taking (*Choate* v. *Trappe*, supra).

In the original case the taking claim was subject to trial and briefing but was ultimately dismissed on statute of limitations grounds. *Menominee Tribe* v. *United States*, 223 Ct. Cl. 632 (1980). The Tribe maintains that, as a taking claim, the claim is an equitable one and that there is a substantial argument that the statute of limitations should be removed. The United States does not concur in the Tribe's assessment of this claim. The hearing officer has not heard this claim. The Tribe's valuation of this claim is $12,675,910 including principal and interest.

(v) *Hospital Breach of Trust*.—The Tribe claims that the BIA breached its trust duty in managing tribal funds which were negligently spent by the BIA in remodeling the Tribe's hospital. The Tribe alleges that the BIA was required to ensure that any renovations to the hospital be in the best interest of the Tribe. In the Tribe's view, this necessarily included bringing the hospital up to state standards when the BIA knew that the hospital would become subject to state laws upon Termination. The Tribe alleges that the BIA failed in this duty by spending hundreds of thousands of dollars of tribal money on major renovations to the Tribe's hospital, though it knew that the renovations would be inadequate under State codes to allow the hospital to continue operating after Termination. Further, according to the Tribe, the BIA failed to remedy these problems in the months before Termination despite the BIA's actual knowledge that the hospital could not be licensed due to numerous violations of State codes. Allegedly as a result, the hospital was forced to close and the tribal money spent on renovations was wasted.

The Tribe alleges that such conduct is a clear violation of the BIA's trust duty to manage tribal funds prudently and is a proper basis for an equitable claim. The original court proceeding did not address this claim directly and it was dismissed by stipulation along with the other unadjudicated claims, in the wake of the unfavorable rulings on the Basic and Forest claims in 1979 and 1984. The Tribe contends that the Court of Claims did however recognize, in dicta, this claim as a potential breach of trust claim. 607 F.2d 1335, 1346–47. The hearing officer has not heard this claim. The United States does not concur in the Tribe's assessment of the facts or law underlying this claim. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The Tribe's valuation of this claim is $3,952,307 including principal and lost interest.

(VI) *Road Right-of-Way Taking*.—Under the Treaty of 1854, the United States held, in trust for the Menominee Tribe, fee title to all land within the Menominee Reservation. The State of Wisconsin built two highways and smaller roads throughout the reservation in the early 1920's. As the 1961 Termination date approached, the State requested and the BIA agreed that the roads on the reservation be brought up to State standards and transferred to the State, and to the future Menominee Town and County. On April 26, 1961, the United States transferred by quitclaim deed for $1.00, a right-of-way over the existing road system on the Reservation as well as additional acreage for the widening of the roads as requested by the State. The Secretary allegedly obtained no compensation for the transfer of the easement or the timber located on the additional right-of-way, nor did the Secretary reserve to the Tribe the right to log that timber.

The Tribe claims that this transfer was a taking under the Fifth Amendment. In the original claim, the trial judge found the transfers were a taking but reserved damages to a later date. The claim was subsequently dismissed by stipulation. As a taking claim, the Tribe maintains that the claim constitutes an equitable claim within the context of the Congressional Reference. The United States does not concur in the Tribe's assessment of this claim. Despite their different positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The hearing officer has not heard this claim. The Tribe's valuation of this claim is $1,664,996 including principal and interest.

(VII) *Power Contract and Right-of-Way Breach of Trust*.—This claim is properly considered included as one of the subclaims in the Mill Mismanagement (count III) count

and damages are included in that total figure.

(VIII) *Water and Sewer Breach of Trust.*—This is a claim that BIA failed to ensure that adequate water and sewer facilities were in place on the Reservation between the period 1951 and 1961. In the original claim, the trial judge found the BIA had breached its fiduciary duty to maintain properly and to upgrade these facilities but reserved damages to a later time. The government disagrees with that ruling. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The hearing officer has not yet heard this claim. The Tribe examined the claim in the context of the current case and decided to drop the claim.

(IX) *Mismanagement of Funds Breach of Trust.*—This is a breach of trust claim for the improper expenditure of tribal trust funds by the BIA between 1951 and 1961 and the loss of interest on the money removed from the trust funds. The Tribe claims there were four types of improper expenditure, and asserts the following arguments in support of its position:

(1) The BIA used tribal funds to pay for the BIA's own agency administrative expenses. Since administrative expenses are considered to be for the benefit of and therefore the responsibility of the Government, use of tribal funds for these expenses was a breach of the Secretary's trust duty to manage the Tribe's funds as a trustee would. *Sioux Tribe* v. *United States*, 105 Ct.Cl. 725 (1946). Moreover, by expending these funds, the Tribe lost interest it would otherwise have earned.

(2) Tribal funds were also used to pay for law and order expenses on the reservation. These expenses are also the responsibility of the Government and not the tribe, and are also not allowed. *Blackfeet Tribe* v. *United States*, 32 Ind. Cl. Comm. 65 (1973); *Red Lake Band* v. *United States*, 17 Ct.Cl. 362 (1989).

(3) Tribal funds were used for the expenses of the tribal council in administering Termination. Since Termination was for the benefit of the Government, the Government should have borne the expense based on the same principles stated in (1) and (2) above;

(4) Tribal funds were used to pay for tribal health, education, and welfare expenses while the Government routinely paid for these services for other tribes with Government funds. The Tribe alleges that it was a breach of trust to spend the Tribe's money on such expenses particularly when the Tribe's funds were depleted far below the amount necessary for the Tribe to operate its mill and forest profitably before Termination, and to have the necessary capital on hand to make repairs and rehabilitation after Termination.

The total amount of funds the Tribe alleges were imprudently spent in these four claims is $2,553,180. Had those funds remained in the Tribe's trust fund, and had the Secretary invested those funds as required by 15 U.S.C. 162a, the Tribe alleges that it would have received additional interest. In the Tribe's view, the lost interest is a valid claim. *Cheyenne-Arapahoe Tribes* v. *United States*, 206 Ct.Cl. 340 (1975). The Tribe's valuation of lost interest to date is $27,388,973. Its total valuation on the accounting claim is therefore $29,942,153. The Tribe maintains that the claim for improper expenditures would be an equitable claim within the context of a reference. The government disagrees with the Tribe's assessment of this claim. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The hearing officer has not heard this claim.

(X) *Loss of Government Programs.*—The Tribe considers that the damages of this claim are properly included within the damages of Count I. No separate claim is stated herein.

(XI) *Imposition of Bond Debt.*—As part of the Termination Plan approved by the Secretary of the Interior, each tribal member received an income bond at $3,000 face value bearing four percent interest. The Tribe argues that, while normally bonds are issued in return for financial capital, in MEI's case a debt was incurred but it received no corresponding funds or assets. Furthermore, the Tribe argues that there was no practical way for MEI to avoid paying the interest on the bonds even when it did not have the funds to do so. The Tribe argues that, although tribal revenues had been sufficient to make stumpage payments to tribal members before Termination, the Secretary knew that MEI would become subject to a massive tax burden, as well as other new expenses after Termination, and that the Secretary also knew, or should have known, that the imposition of such a massive debt burden in addition to these other expenses would undermine the viability of MEI and cause great hardship to the Menominee.

The Tribe argues that the Secretary was required to ensure that the provisions of the Termination Plan which he approved were in the best interest of the Tribe and its members. See *Cheyenne Arapaho Tribes* v. *United States*, 512 F.2d 1390, 1396 (1975) (BIA required to make ''an independent judgment that the tribe's request was in its own best interest''); *Oglala Sioux Tribe* v. *United States*, 21 Cl. Ct. 176, 193 (Cl. Ct. 1990) (BIA not permitted to place responsibility for poor decisions on Tribe, since tribal decisions subject to final BIA approval).

For these reasons, the Tribe argues, the Secretary breached his duty to the Menominee Tribe by approving the bond provisions of the Termination Plan. If the Secretary breached his trust duty to the Tribe as alleged, it would, in the Tribe's view, be the proper basis for a equitable claim. The hearing officer has not heard this claim. The United States disputes the legal and factual bases for this claim. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims. The Tribe's valuation of this claim is $20,574,000.

(XII) *Taking of Tribal Property.*—Upon Termination, the tribal office building was transferred to Menominee County by the Secretary of the Interior. The Tribe alleges that The Termination Act, which required the Secretary to approve and put into effect a plan for the management of tribal assets after Termination, contemplated that such transfers of property from control of the Tribe to other entities would take place. The Secretary issued a deed transferring title to the tribal office building to the County. Despite restoration of the Tribe to federal status in 1973, this property was never returned to the Tribe. Further, according to the Tribe, at no time has the Tribe received any compensation for this property taken by the United States, despite the fact that recognized tribal title, including land and buildings, is protected by the Fifth Amendment, and cannot be taken by the Government without just compensation. The United States does not concur in the Tribe's assessment of this claim. Despite their differing positions, the parties nevertheless agree the claim is appropriate for inclusion in an overall compromise and settlement of all the Reference claims.

This claim, then an undefined part of the accounting claim, was not heard in the original case and it has not been heard by the hearing officer in this Congressional Reference. The Tribe's valuation of this claim is $87,688 including principal and interest.

In summary, the Tribe values its 12 claims at $141 million. The United States does not concur in the Tribe's assessment of the claims. However, as mentioned above, both parties agree that the Reference overall is appropriate for settlement.

5. There has been a full and extensive development of the record in the prior adjudication before the Court of Claims as to many of these claims. Further extensive development of the facts occurred before the hearing officer in the present proceeding including the filing of supplemental evidence in the record of additional plaintiff expert reports, affidavits, and depositions. The parties agree that, after over thirty years of dispute, including seventeen years of litigation in the first case and some thirteen more years of seeking and litigating this Congressional Reference, there has been a sufficient development of all of the claims to support a compromise and settlement. Further, while the parties are each confident in their positions, they each recognize that the outcome with respect to each claim, if fully litigated, is not certain.

6. The hearing officer issued a detailed opinion on the first three claims as well as on the issue of whether the statute of limitations should be removed. This opinion prompted the parties to enter into extensive settlement negotiations.

7. The stipulations herein are based upon an exhaustive review of the evidence by the parties and these stipulations are justified and supported by competent evidence.

Now therefore the parties stipulate and agree,

(a) That the Congress directed the Court through this Reference to determine whether the Menominee Tribe has legal or equitable claims against the United States as a result of ''(a) the enactment and implementation by the United States of the Menominee assets held in trust by the United States prior to April 30, 1961 . . .'';

(b) That this Reference overall is a proper one for compromise and settlement, given the extensive development of the legal and factual record that has already occurred in this and prior litigation between the parties, and given the parties' careful consideration and negotiation of the legal and factual issues in this matter;

(c) That, recognizing that the parties reserve their positions on these matters, the legal and factual record developed with respect to the Menominee in this and prior litigation establishes a basis for equitable claims against the United States within the scope of this Reference, including a potential basis for removal of the bar of the statute of limitations;

(d) That it would be fair, just, and equitable, under the terms of the Reference, to pay the Menominee Tribe of Wisconsin the sum of $32,052,547 as a final settlement of all claims that the Tribe has stated in this action, and that that amount is supported by the record in this and prior litigation;

(e) That, as demonstrated by the record in this and prior litigation, and as acknowledged by President Richard Nixon and members of Congress, the policy of forced termination as applied to the Menominee Tribe, was ''wrong'';

(f) That the hearing officer in this matter, the Review Panel, and the Chief Judge should approve this Stipulation and recommend to Congress the above-stated sum as the appropriate amount to be paid to the Menominee Tribe;

(g) That the compromise and settlement of these claims include any and all claims which were, or could have been, alleged—either directly or indirectly—pursuant to S.

1355, including, but not limited to, claims for attorney's fees and other expenses;

(h) That any and all claims encompassed by S. 1335 will, consistent with Paragraph (i), below, be fully and finally resolved upon a recommendation of payment of $32,052,547 as consistent with the overall merit of the claims;

(i) That, upon the tendering of a recommendation by the hearing officer in approving the compromise and settlement of any and all claims encompassed by S. 1335 for the amount agreed to by the parties, and the transmission to Congress by the Chief Judge of the Court's Report to the same effect, the Reference under S. 1335 to the Court of Federal Claims shall be fully and finally resolved; and

(j) That this compromise and settlement derives from the unique circumstances of the Menominee Tribe with respect to the Act of June 17, 1954, and the Tribe's continuous effort since 1967 to obtain relief, and that this compromise and settlement shall not be cited for, and does not constitute, precedent in any fashion with respect to any other dispute.

(k) That, if this stipulation is accepted by the hearing officer, the parties waive their right under RCFC Appendix D ¶9 to file within 30 days a notice of acceptance or exception to the hearing officer's report. They herewith accept such a report.

(l) That, if the hearing officer accepts this stipulation and so reports to the review panel, and if the review panel adopts the report of the hearing officer, the parties waive the right under Appendix D ¶11 to seek rehearing within ten days, and instead request that the matter be promptly filed with the Clerk for transmission by the Chief Judge to Congress.

Stipulated and signed this 11th day of August, 1998.

CHARLES A. HOBBS,
Attorney for the plaintiff.
JAMES BROOKSHIRE,
Attorney for the United States.

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC, April 22, 1999.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. PATRICK LEAHY,
Ranking Member, Committee on Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH AND SENATOR LEAHY: This letter concerns a Congressional reference made by the United States Senate during the 103rd Congress concerning the Menominee Tribe of Wisconsin. Through Senate Resolution 137, the Senate directed the United States Court of Federal Claims to hear a series of claims of the Menominee Tribe and, based on its findings, make recommendations to Congress.

Senator Kohl has indicated that he will soon introduce legislation based upon the findings, recommendations, and conclusions reached by the Court of Federal Claims on August 11, 1998. I understand that the proposed legislation would authorize the settlement of all of the claims referred by Congress in return for a payment of approximately $32 million. This settlement amount is based on an agreement reached between the Menominee Indian Tribe of Wisconsin and the United States Department of Justice.

On August 12, 1998, the U.S. Court of Federal Claims reported to the Senate that it "recommends that Congress adopted legislation paying to the Menominee Tribe of Wisconsin $32,052,547 in settlement of the claims embraced in this congressional reference." It is significant that the hearing officer independently concluded that the settlement was "fair and reasonable" and that the Court's Review Panel concluded that "the stipulated agreement between the parties is a just and equitable resolution of the lengthy dispute that it resolves.

Accepting the recommendations of the Court of Claims provides a means for brining closure to this painful chapter in our Nation's treatment of the Menominee Tribe. The legislative and judicial path to restitution has been a long road for this Tribe. This journey can and should be brought to an appropriate conclusion during the 106th Congress.

After reviewing this matter, it is clear that the settlement proposal is consistent with past practices and precedents.

Sincerely,
BEN NIGHTHORSE CAMPBELL.

By Mr. DORGAN (for himself, Mr. CONRAD, and Mr. WELLSTONE):

S. 1022. A bill to authorize the appropriation of an additional $1,700,000,000 for fiscal year 2000 for health care for veterans; to the Committee on Veterans' Affairs.

VETERANS EMERGENCY HEALTH CARE ACT OF 1999

Mr. DORGAN. Mr. President, this country made a promise years ago to the men and women who risked their lives in defense of this nation. They were promised that their health care needs would be provided for by a grateful nation. That promise is not being kept, and it is time to stop paying lip service to those who served this country so well.

The current state of veterans' health care funding is shameful. Spending on veterans' health care has seen no significant increase for three consecutive years, at the very time that more and more of our World War II and Korean war veterans are relying on the VA health care system.

In a memo to VA Secretary Togo West, Under Secretary for Health Dr. Kenneth Kizer expressed concern that a fourth year with a stagnant health care budget "poses very serious financial challenges which can only be met if decisive and timely actions are taken." If increased funding is not secured even deeper cuts will be required such as "mandatory employee furloughs, severe curtailment of services or elimination of programs, and possible unnecessary facility closures."

Today, veterans' health care facilities are laying off care-givers and other critical staff.

It is unlikely that the Senate will increase normal appropriations for veterans health care funding enough to correct three years of neglect. That is why Senator CONRAD and I are proposing an additional $1.7 billion in emergency spending to address the health care needs of our country's veterans. We need to keep our promises to those who have served our country and risked their lives to preserve our freedoms. This bill is a step in the right direction.

This legislation will help the Veterans' Administration keep up with medical inflation, provide cost of living adjustments for VA employees, allow new medical initiatives that the VA wants to begin (Hepatitis C screenings and emergency care services), address long-term health care costs, provide funding for homeless veterans, and aid compliance with the Patients Bill of Rights.

In light of other emergency measures this Congress is considering, it is our opinion that preventing a health care catastrophe for our veterans is of equal, if not greater, importance than funding items like the NATO infrastructure fund and overseas military construction projects. Congress is debating right now, many new emergencies, new programs, and new initiatives. I'm not passing judgment on those decisions.

What I am saying, is that because of insufficient funding, and unforeseen health care needs, we have an emergency right now, in our ability to honor our commitment to this nation's veterans. We must not break our promise.

Mr. President, I urge my colleagues to swiftly approve this legislation. The veterans who proudly served their country deserve no less.

Mr. CONRAD. Mr. President, I am very pleased to join my distinguished colleague from North Dakota, in introducing legislation to authorize $1.7 billion in emergency funding for FY 2000 Veterans Health Administration programs. Since the release of the Administration's FY 2000 budget for the Department of Veterans Affairs, I have been deeply concerned by the level of funding—$17.3 billion—for the Veterans Health Administration.

This concerned was heightened by comments in an internal memo by Dr. Kenneth Kizer, VA Undersecretary for Health, in February, regarding the FY 2000 veterans health care budget. In that memo, Dr. Kizer warned VA Secretary Togo West that the Administration budget for FY 2000 "poses very serious challenges which can only be met if decisive and timely actions are taken."

Dr. Kizer went on the say that unless the VA acts soon, "* * * we face the very real prospect of far more problematic decisions, e.g. mandatory employee furloughs, severe curtailment of services or elimination of programs and possible unnecessary facility closures"

Indeed, Mr. President, I can confirm, that concern over VA health care funding in FY 2000, and the possibility of severe curtailment of services, and the furlough VA employees is a very real concern for North Dakota veterans and DVA officials at the Fargo VA Medical Center in North Dakota. Veterans health care funding in FY 2000, and the hope that funding can be authorized this year to under take critical environmental improvements at the Fargo DVA Medical Center are high priorities for North Dakota veterans. These key priorities were discussed during a visit

to the Fargo DVA Medical Center earlier this year, at my request, by Deputy Secretary Hershel Gober. In fact, so concerned are members of the Disabled American Veterans nationwide, including North Dakota members, about funding for VA medical programs, that a rally has been scheduled on May 30th at the Fargo DVA Medical Center to heighten public awareness of the FY 2000 budget for veterans medical care and to press for additional funds.

Mr. President, over the past few months, Members of the Senate Committee on Veterans' Affairs and many of my colleagues have been working hard to increase funding for veterans medical care in FY 2000. I have strongly supported these efforts. During consideration of the FY 2000 budget resolution in committee, and when the resolution was reported to the Senate for consideration, I voted to increase funding for VA medical care by $3 billion, the figure recommended in the FY 2000 Independent Budget supported by the AMVETS, Disabled American Veterans, the Veterans of Foreign Wars, and the Paralyzed Veterans of America. House and Senate conferees eventually agreed to increase veterans health care funding by $1.66 billion in FY 2000. Most recently, I cosigned a letter to Members of the Senate Appropriations Committee urging the committee to provide $1.7 billion above the administration's request for the Veterans Health Administration. Although Senate appropriators have not made a decision on how much to increase funding for veterans medical care, initial reports for a significant increase are not encouraging.

Because of concerns that the FY 2000 appropriations for veterans health are not expected to be adequate, and may result in unnecessary furloughs and disruptions of health care services for veterans, Senator DORGAN and I are introducing legislation to provide an emergency authorization of $1.7 billion in funding above the administration's request for $17.3 billion for the Veterans Health Administration. This figure also represents the level of additional health care funding recommended for the VA to Senate appropriators by Senate Veterans' Committee Chairman ARLEN SPECTER and Ranking Member JOHN D. ROCKEFELLER. We must make every effort to find these emergency FY 2000 funds for veterans medical care, and to include them in appropriate legislation to avoid disruptions in critical health care. We can do no less for our veterans.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF VETERANS AFFAIRS,
Date: Feb. 8, 1999
From: Under Secretary for Health (10)
Subj: FY 99/2000 VHA Budget
To: Secretary (00)

1. As you know, current VHA program projections indicate that the FY 99 budget is adequate to meet demands. However, the President's FY 2000 requested budget, and especially the 1.4 billion of management efficiencies, pose very serious financial challenges which can be met only if decisive and timely actions are taken.

2. Strategic planning initiatives undertaken by VHA networks over the past year are culminating in recommendations for a variety of program adjustments, including facility integrations, bed reductions, program consolidations and mission changes, which reflect necessary shifts in patient care service delivery and practices.

3. In most cases, these changes are, or will be, accompanied by requests for reductions-in-force and staffing adjustments which will better configure our workforce to meet the changing needs of our patients and programs. While difficult, these changes are absolutely essential if we are to prepare ourselves for the limitations inherent in the proposed FY 2000 budget.

4. Please know that I believe we are in a serious and precarious situation and that if we do not institute these difficult changes in a timely manner, then we face the very real prospect or far more problematic decisions, e.g., mandatory employee furloughs, severe curtailment of services or elimination of programs, and possible unnecessary facility closures.

5. In short, the earlier we act in this fiscal year to take the necessary steps to position ourselves for next year's budget, the less likely we will be to face far more drastic and untenable actions in FY 2000.

6. I therefore request that we quickly establish a protocol for rapidly processing requests for actions to right-size the VHA healthcare system. Such a process should identify specific steps and associated timelines for assessing such requests, ensuring proper Congressional notification and issuing approval so that implementation actions can begin.

7. Again, I cannot overstate the need for timely action so as to avoid far more severe actions in the next fiscal year. I am prepared to discuss this with you at your convenience.

KENNETH W. KIZER, MD., M.P.H.

ADMINISTRATORS WARN OF VA HOSPITAL CLOSINGS

(By Katherine Rizzo, Associated Press, February 25, 1999)

Washington (AP)—Veterans' hospitals may have to reduce staff and services next year unless Congress comes up with more money than the president has proposed, say administrators and interest groups.

''When your drug costs go up 15 percent a year and employee salaries go up 4 percent a year and our employees are 70 percent of our budget, at some point there are choices that have to be made,'' said Laura Miller, who oversees hospitals in Ohio and northern Kentucky.

''Administering this budget would be like trying to build a house of cards in an Oklahoma tornado,'' added recently retired Veterans Health Administration official Tom Trujillo.

Trujillo, Miller and other administrators appeared before the House Veterans' Affairs subcommittee on health Wednesday to answer lawmakers' questions about a spending request that all present deemed was insufficient.

Miller said the no-growth budget proposal has her bracing for a cut of 200 positions next year, most likely achieved by closing hospital wards and suspending plans for new outpatient clinics.

Other administrators said they either expected to reduce staff in 2000 or had requests pending to start reducing staff this year.

James Farsetta, director of the VA region that operates seven medical centers in New Jersey and southern New York, said he has already submitted a request to eliminate 400 jobs.

William Galey, who oversees services in Alaska, Washington, Oregon and Idaho, told the subcommittee he's considering staff reductions of anywhere from 300 to 800.

Veterans groups offered their own denunciations.

''It is unfair that in the presence of the largest budget surplus in recent history, while other federal agencies will have double-digit increases, veterans are being asked to once again sacrifice,'' said the Veterans of Foreign Wars.

The Paralyzed Veterans of America accused the Clinton administration of crafting a budget that kills the VA health system ''through intentional budget strangulation.''

''Nobody on either side of the aisle likes this budget,'' said Rep. Mike Doyle, D-Pa. ''I don't know how we can flat-line a budget from 1997 to 2002 and not expect the system to collapse.''

Deputy Under Secretary for Health Thomas Garthwaite said the administration was aware of ''significant financial challenges ahead'' but that plans still was being made to prepare for the possibility that Congress might not add money to the administration's spending request.

The veterans' organizations made public an internal Department of Veterans Affairs memo written by Under Secretary Kenneth Kizer, who heads the hospital system.

''I believe we are in a serious and precarious situation and that if we do not institute these difficult changes in a timely manner, then we face the very real prospect of far more problematic decisions, e.g. mandatory employee furloughs, severe curtailment of services or elimination of programs, and possible unnecessary facility closures,'' Kizer wrote.

The veterans' groups did not say how they obtained the memo, but Garthwaite did not dispute its authenticity. He said he believed it was intended to outline the importance of moving quickly because ''it will cost more later if we don't take the administrative actions early.''

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. SCHUMER, Mr. HELMS, Mr. KERRY, Mr. TORRICELLI, Mr. DURBIN, Mr. SANTORUM, Mr. LIEBERMAN, Mr. KERREY, Mr. LEVIN, Mrs. MURRAY, Mr. SPECTER, Mr. CLELAND, and Mr. EDWARDS):

S. 1023. A bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments; to the Committee on Finance.

GRADUATE MEDICAL EDUCATION PAYMENT RESTORATION ACT OF 1999

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, Mr. SPECTER, Mr. KERRY, Mr. KERREY, Mr. SANTORUM, Mr. DURBIN, Mr. CLELAND, and Mr. CHAFEE):

S. 1024. A bill amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Finance.

MANAGED CARE FAIR PAYMENT ACT OF 1999

By Mr. MOYNIHAN (for himself, Mr. BREAUX, Mr. DASCHLE, Mr. SANTORUM, Mr. DURBIN, Mr. SCHUMER, Mr. KERRY, Mr. SPECTER, Mr. CONRAD, Mr. BAUCUS, Mr. CHAFEE, Mr. KERREY, and Mr. CLELAND):

S. 1025. A bill to amend title XVIII of the Social Security Act to ensure the proper payment of approved nursing and allied health education programs under the medicare program; to the Committee on Finance.

NURSING AND ALLIED HEALTH PAYMENT IMPROVEMENT ACT OF 1999

• Mr. MOYNIHAN. Mr. President, today I am introducing three bills that will provide much needed financial support for America's 144 accredited medical schools and 1,250 graduate medical education (GME) teaching institutions. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States.

The growth of managed for-profit care combined with GME payment reductions under the Balanced Budget Act of 1997 (BBA) have put these hospitals in dire financial straits. Hospitals are losing money—millions of dollars every year. And these losses are projected to increase, as additional scheduled Medicare payment reductions are phased in. Many of the teaching hospitals that we know and depend on today may not survive—including those in my state of New York—if these additional GME payment reductions are not repealed.

To ensure that this precious public resource is maintained and the United States continues to lead the world in the quality of its health care system, the three bills I am introducing today —the Graduate Medical Education Payment Restoration Act of 1999, the Managed Care Fair Payment Act of 1999, and the Nursing and Allied Health Payment Improvement Act of 1999—will provide critically required funding for teaching hospitals.

Everyone in America benefits from the research and medical education conducted in our medical schools and affiliated teaching hospitals. They are what economists call public goods —something that benefits everyone but which is not provided for by market forces alone. Think of an army. Or a dam.

The Medicare program is the nation's largest explicit financier of GME, with annual payments of about $7 billion. In the past, other payers of health care have also contributed to the costs of GME. However, in an increasingly competitive managed care health care system, these payments are being squeezed out.

Earlier this year, I reintroduced the Medical Education Trust Fund Act of 1999. This legislation requires the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, to contribute broad-based and equitable financial support for graduate medical education. I hope that one day Congress will see the wisdom of enacting such a measure. However, our teaching hospitals need help now.

We are in the midst of a great era of discovery in medical science. It is certainly no time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City.

It started in the late 1930s. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Progress since that point sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. One can hardly imagine what might be next—but we do know that much of it will be discovered in the course of ongoing research activities in our teaching hospitals and medical schools. That is a process which is of necessity unplanned, even random—but which regularly produces medical breakthroughs. To cite just a few examples:

At Memorial Sloan-Kettering Cancer Center, the world renowned teaching hospital in New York City, researchers in 1998 discovered among many other things a surgical biopsy technique that can predict whether breast cancer has spread to surrounding lymph node tissue. This technique will spare 60,000 to 80,000 patients each year from having to undergo surgical removal of their lymph nodes.

In 1997, at Mount Sinai-NYU Medical Center, it was discovered that malignant brain tumors in young children can be eradicated through the use of high-dose chemotherapy and stem-cell transplants.

And in May of last year, a doctor at Children's Hospital in Boston created a global media sensation with his discovery that a combination of the drugs endostatin and angiostatin appeared to cure cancer in mice by cutting off the supply of blood to tumors. Although the efficacy of this therapy in humans is not yet known, the research holds great promise that a cure for cancer may actually be within reach. And it was discovered in a teaching hospital.

The Graduate Medical Education Payment Restoration Act, with a total of 15 cosponsors, will freeze the current schedule of BBA reductions to the indirect portion of GME funding. Congressman RANGEL today is introducing a similar bill in the House. Under the BBA, the indirect payment adjustor is scheduled to be reduced from 7.7 percent to 5.5 percent by FY 2001. This bill will maintain the current payment adjustor at its current level of 6.5 percent, thereby rolling back about half of the indirect GME funding cuts in the BBA. In total, this provision restores about $3 billion over 5 years and $8 billion over 10 years in indirect GME funding for teaching hospitals.

The Managed Care Fair Payment Act, with nine cosponsors, will redirect more than $2.5 billion over 5 years of Medicare Disproportionate Share Hospital (DSH) funds from the Medicare managed care payment rates to the more than 1,900 hospitals that qualify for DSH funding. Congressman RANGEL introduced a similar bill in the House this past March. More than two-thirds of teaching hospitals also qualify for DSH funds. Under the current payment method, payments to managed care plans include these DSH funds, but unfortunately, these funds are not necessarily passed-on to DSH hospitals. Managed care plans often do not contract with DSH hospitals, and when they do the negotiated payment rates often do not include these DSH payments. Like GME funding under current law, this bill would carve out DSH funds from the managed care rates and require the Health Care Financing Administration to pass them on directly to qualifying hospitals.

The third bill I am introducing today, which has 13 cosponsors, is the Nursing and Allied Health Payment Improvement Act. This bill was introduced by Congressmen CRANE and BENTSEN on April 20 of this year. While Congress in the BBA of 1997 recognized the need to carve-out GME funding from managed care rates, it unintentionally did not carve out the funding for the training of nurses and allied health professionals. Like DSH funds, without the carve-out, funding for these education programs is unlikely to reach the more than 700 hospitals that provide training to these vitally important health professionals. This bill seeks to correct this problem by carving out the funding for the training of nurses and other allied health professionals and directing them to the hospitals that provide these training programs.

Combined, these three bills will strengthen our nation's teaching hospitals and ensure that the United States will continue to be in the forefront of developing new cures, new medical technology, and training of the worlds finest medical professionals. Without these bills, the state of our nation's teaching hospitals and the delivery of health care will remain in jeopardy.

I ask that the text of the bills, along with two articles from the New York Times, be included in the RECORD.

The material follows:

S. 1023

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Graduate Medical Education Payment Restoration Act of 1999''.

SEC. 2. TERMINATION OF MULTIYEAR REDUCTION OF INDIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by adding ''and'' at the end of subclause (II); and

(2) by striking subclauses (III), (IV), and (V) and inserting the following:

''(III) on or after October 1, 1998, 'c' is equal to 1.6.''.

S. 1024

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Managed Care Fair Payment Act of 1999''.

SEC. 2. CARVING OUT DSH PAYMENTS FROM PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS AND PAYING THE AMOUNTS DIRECTLY TO DSH HOSPITALS ENROLLING MEDICARE+CHOICE ENROLLEES.

(a) IN GENERAL.—Section 1853(c)(3) of the Social Security Act (42 U.S.C. 1395w–23(c)(3)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (D)'';

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

''(D) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

''(i) IN GENERAL.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2001), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted, subject to clause (ii), to exclude from the rate the additional payments that the Secretary estimates were made during 1997 for additional payments described in section 1886(d)(5)(F).

''(ii) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that an annual per capita rate of payment for 1997 described in clause (i) reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.''.

(b) ADDITIONAL PAYMENTS FOR MANAGED CARE ENROLLEES.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking ''clause (ix)'' and inserting ''clauses (ix) and (x)''; and

(2) by adding at the end the following:

''(x)(I) For portions of cost reporting periods occurring on or after January 1, 2001, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital that is a disproportionate share hospital (as described in clause (i)).

''(II) For purposes of this clause, the term 'applicable discharge' means the discharge of any individual who is enrolled with a Medicare+Choice organization under part C.

''(III) The amount of the payment under this clause with respect to any applicable discharge shall be equal to the estimated average per discharge amount (as determined by the Secretary) that would otherwise have been paid under this subparagraph if the individual had not been enrolled as described in subclause (II).

''(IV) The Secretary shall establish rules for an additional payment amount for any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) if such hospital would qualify as a disproportionate share hospital under clause (i) were it not so reimbursed. Such payment shall be determined in the same manner as the amount of payment is determined under this clause for disproportionate share hospitals.''.

S. 1025

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nursing and Allied Health Payment Improvement Act of 1999''.

SEC. 2. EXCLUSION OF NURSING AND ALLIED HEALTH EDUCATION COSTS IN CALCULATING MEDICARE+CHOICE PAYMENT RATE.

(a) EXCLUDING COSTS IN CALCULATING PAYMENT RATE.—

(1) IN GENERAL.—Section 1853(c)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395w–23(c)(3)(C)(i)) is amended—

(A) by striking ''and'' at the end of subclause (I);

(B) by striking the period at the end of subclause (II) and inserting '', and''; and

(C) by adding at the end the following new subclause:

''(III) for costs attributable to approved nursing and allied health education programs under section 1861(v).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply in determining the annual per capita rate of payment for years beginning with 2001.

(b) PAYMENT TO HOSPITALS OF NURSING AND ALLIED HEALTH EDUCATION PROGRAM COSTS FOR MEDICARE+CHOICE ENROLLEES.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(V) In determining the amount of payment to a hospital for portions of cost reporting periods occurring on or after January 1, 2001, with respect to the reasonable costs for approved nursing and allied health education programs, individuals who are enrolled with a Medicare+Choice organization under part C shall be treated as if they were not so enrolled.''.

[From the New York Times, May 6, 1999]

TEACHING HOSPITALS BATTLING CUTBACKS IN MEDICARE MONEY

(By Carey Goldberg)

BOSTON, May 5—Normally, the great teaching hospitals of this medical Mecca carry an air of whitecoated, best-in-the-world arrogance, the kind of arrogance that comes of collecting Nobels, of snaring more Federal money for medical research than hospitals anywhere else, of attracting patients from the four corners of the earth.

But not lately. Lately, their chief executives carry an air of pleading and alarm. They tend to cross the edges of their palms in an X that symbolizes the crossing of rising costs and dropping payments, especially Medicare payments. And to say they simply cannot go on losing money this way and remain the academic cream of American medicine.

Dr. Mitchell T. Rabkin, chief executive emeritus of Beth Israel Hospital, says, ''Everyone's in deep yogurt.''

The teaching hospitals here and elsewhere have never been immune from the turbulent change sweeping American health care—from the expansion of managed care to spiraling drug prices to the fierce fights for survival and shotgun marriages between hospitals with empty beds and flabby management.

But they are contending that suddenly, in recent weeks, a Federal cutback in Medicare spending has begun putting such a financial squeeze on them that it threatens their ability to fulfill their special missions: to handle the sickest patients, to act as incubators for new cures, to treat poor people and to train budding doctors.

The budget hemorrhaging has hit at scattered teaching hospitals across the country, from San Francisco to Philadelphia. New York's clusters of teaching hospitals are among the biggest and hardest hit, the Greater New York Hospital Association says. It predicts that Medicare cuts will cost the state's hospitals $5 billion through 2002 and force the closing of money-losing departments and whole hospitals.

Dr. Samuel O. Thier, president of the group that owns Massachusetts General Hospital, says, ''We've got a problem, and you've got to nip it in the bud, or else you're going to kill off some of the premier institutions in the country.''

Here in Boston, with its unusual concentration of academic medicine and its teaching hospitals affiliated with the medical schools of Harvard, Tufts and Boston Universities, the cuts are already taking a toll in hundreds of eliminated jobs and pockets of miserable morale.

Five of Boston's top eight private employers are teaching hospitals, Mayor Thomas M. Menino notes. And if five-year Medicare cuts totaling an estimated $1.7 billion for Massachusetts hospitals continue, Mayor Menino says, ''We'll have to lay off thousands of people, and that's a big hit on the city of Boston.''

Often, analysts say, hospital cut-backs, closings and mergers make good economic sense, and some dislocation and pain are only to be expected, for all the hospitals' tendency to moan about them. Some critics say the hospitals are partly to fault, that for all their glittery research and credentials, they have not always been efficiently managed.

''A lot of teaching hospitals have engaged in what might be called self-sanctification—'We're the greatest hospitals in the world and no one can do it better or for less'—and that may or may not be true,'' said Alan Sager, a health-care finance expert at the Boston University School of Public Health.

But the hospital chiefs argue that they have virtually no fat left to cut, and warn that their financial problems may mean that the smartest edge of American medicine will get dumbed down.

With that message, they have been lobbying Congress in recent weeks to reconsider the cuts that they say have turned their financial straits from tough to intolerable.

''Five years from now, the American people will wake up and find their clinical research is second rate because the big teaching hospitals are reeling financially,'' said Dr. David G. Nathan, president of the Dana-Farber Cancer Institute here.

In a half-dozen interviews, around the Boston medical-industrial complex known as the Longwood Medical Center and Academic Area and elsewhere, hospital executives who normally compete and squabble all espoused one central idea: teaching hospitals are special, and that specialness costs money.

Take the example of treating heart-disease patients, said Dr. Michael F. Collins, president and chief executive of Caritas Christi Health Care System, a seven-hospital group affiliated with Tufts.

In 1988, Dr. Collins said, it was still experimental for doctors to open blocked arteries by passing tiny balloons though them; now, they have a bouquet of expensive new options for those patients, including springlike devices called stents that cost $900 to $1,850 each; tiny rotobladers that can cost up to $1,500, and costly drugs to supplement the reaming that cost nearly $1,400 a patient.

''A lot of our scientists are doing research on which are the best catheters and which are the best stents,'' Dr. Collins said. ''And because they're giving the papers on the drug, they're using the drug the day it's approved to be used. Right now it's costing us about $50,000 a month and we're not getting a nickel for it, because our case rates are fixed.''

Hospital chiefs and doctors also argue that a teaching hospital and its affiliated university are a delicate ecosystem whose production of critical research is at risk.

''The grand institutions in Boston that are venerated are characterized by a wildflower approach to invention and the generation of new knowledge,'' said Dr. James Reinertsen, the chief executive of Caregroup, which owns Beth Israel Deaconess Medical Center. ''We don't run our institutions like agribusiness, a massively efficient operation where we direct research and harvest it. It's unplanned to a great extent, and that chaotic fermenting environment is part of what makes the academic health centers what they are.''

''There wouldn't have been a plan to do what Judah Folkman has done over the last 20 years,'' Dr. Reinertsen said of the doctor-scientist at Children's Hospital in Boston who has developed a promising approach to curing cancer.

Federal financing for research is plentiful of late, hospital heads acknowledge. But they point out that the Government expects hospitals to subsidize 10 percent or 15 percent of that research, and that they must also provide important support for researchers still too junior to win grants.

A similar argument for slack in the system comes in connection with teaching. Teaching hospitals are pressing their faculties to take on more patients to bring in more money, said Dr. Daniel D. Federman, dean for medical education of Harvard Medical School. A doctor under pressure to spend time in a billable way, Dr. Federman said, has less time to spend teaching.

The Boston teaching hospitals generally deny that the money squeeze is affecting patients' care (a denial some patients would question), or students' quality of medical education (a denial some students would question), or research—yet.

The Boston hospitals' plight may be partly their fault for competing so hard with each other, driving down prices, some analysts say. Though some hospitals have merged in recent years, Boston is still seen as having too many beds, and virtually all hospitals are teaching hospitals here.

Whatever the causes, said Dr. Stuart Altman, professor of national health policy at Brandeis University and past chairman for 12 years of the committee that advised the Government on Medicare prices, ''the concern is very real.''

''What's happened to them is that all of the cards have fallen the wrong way at the same time,'' Dr. Altman said, ''I believe their screams of woe are legitimate.''

Among the cards that fell wrong, begin with managed care. Massachusetts has an unusually large quotient of patients in managed-care plans. Managed-care companies, themselves strapped, have gotten increasingly tough about how much they will pay.

Boston had already gone through a spate of fat-trimming hospital mergers, closings and cost cutting in recent years. Add to the troublesome complaints that affect all hospitals: expenses to prepare their computers for 2000, problems getting insurance companies and the Government to pay up, new efforts to defend against accusations of billing fraud.

But the back-breaking straw, hospital chiefs say, came with Medicare cuts, enacted under the 1997 balanced-budget law, that will cut more each year through 2002. The Association of American Medical Colleges estimates that by then the losses for teaching hospitals could reach $14.7 billion, and that major teaching hospitals will lose about about $150 million each. Nearly 100 teaching hospitals are expected to be running in the red by then, the association said last month.

For years, teaching hospitals have been more dependent than any others on Medicare. Unlike some other payers, Medicare has compensated them for their special missions—training, sicker patients, indigent care—by paying them extra.

For reasons yet to be determined, Dr. Altman and others say the Medicare cuts seem to be taking an even greater toll on the teaching hospitals than had been expected. Much has changed since the 1996 numbers on which the cuts are based, hospital chiefs say; and the cuts particularly singled out teaching hospitals, whose profit margins used to look fat.

Frightening the hospitals still further, President Clinton's next budget proposes even more Medicare cuts.

Not everyone sympathizes, though. Complaints from hospitals that financial pinching hurts have become familiar refrains over recent years, gaining them a reputation for crying wolf. Critics say the Boston hospitals are whining for more money when the only real fix is broad health-care reform.

Some propose that the rational solution is to analyze which aspects of the teaching hospitals' work society is willing to pay for, and then abandon the Byzantine Medicare cross-subsidies and pay for them straight out, perhaps through a new tax.

Others question the numbers.

Whenever hospitals face cuts, Alan Sager of Boston University said, ''they claim it will be teaching and research and free care of the uninsured that are cut first.''

If the hospitals want more money, Mr. Sager argued, they should allow in independent auditors to check their books rather than asking Congress to rely on a ''scream test.''

For many doctors at the teaching hospitals, however, the screaming is preventive medicine, meant to save their institutions from becoming ordinary.

Medical care is an applied science, said Dr. Allan Ropper, chief of neurology at St. Elizabeth's Hospital, and strong teaching hospitals, with their cadres of doctors willing to spend often-unreimbursed time on teaching and research, are essential to helping move it forward.

''There's no getting away from a patient and their illness,'' Dr. Ropper said, ''but if all you do is fix the watch, nobody ever builds a better watch. It's a very subtle thing, but precisely because it's so subtle, it's very easy to disrupt.''

[From the New York Times, May 6, 1999]

NEW YORK HOSPITALS BRACED FOR CUTS

(By Randy Kennedy)

The fiscal knife that has begun to cut into teaching hospitals in Boston and other cities has not yet had the same dire effects—layoffs or widespread operating deficits—in hospitals around New York State.

But hospital executives and health-care experts alike say that if the Federal cuts to Medicare are not softened, the state will lose much more than any other—$5 billion and 23,000 medical jobs—by 2002. And they warn that those cuts, a result of the Balanced Budget Act, pose a huge economic threat to New York, which has the nation's greatest concentration of medical schools and teaching hospitals and trains about 15 percent of the nation's medical residents.

''The carnage which is created by the Balanced Budget Act,'' said Kenneth Raske, president of the Greater New York Hospital Association, a trade group of 175 hospitals and nursing homes, ''will totally disrupt the health care system in New York when it's fully implemented. It goes at the heart of the infrastructure.''

The cuts, now in their second year, come at the same time as sharp increases in uninsured patients and the growing dominance of managed care, which have prompted all hospitals in the New York region to brace for what they say will be one of the most difficult fiscal years ever.

But with critics complaining that New York still has too many hospital beds and administrative fat that should be trimmed, those who run the prestigious teaching hospitals in the city find it hard to make their case that the Medicare cuts put them in real peril.

''I know this sounds like wolf, wolf, wolf because of the successes generally in the health care industry,'' said Dr. Spencer Foreman, president of Montefiore Hospital in the Bronx, which lost $24 million in Medicare money in fiscal 1999. ''But New York teaching hospitals are in trouble.''

His own hospital did $750 million in business in 1993 and ended that year with a $3 million profit margin. This year, it will do $1 billion in business and end with a $6 million margin.

''Those are supermarket margins,'' Dr. Foreman said, adding that the hospital has ''managed to keep a razor-thin margin every year by every year cutting costs and cutting again.''

''But you can only cut so far before things begin to happen,'' he said. ''The industry is touching bottom in a lot of areas, and the difference between profit and loss in this atmosphere is an eyelash. This is not the way normal billion-dollar enterprises are conducted.''

Because the teaching hospitals have traditionally served a high percentage of poor patients, the threat to their future is even more important, Dr. Foreman and others said.

While he and other teaching hospital administrators avoid talking about it, the only way to keep from going into the red is to cut jobs and either shrink or close money-losing departments—which usually means emergency rooms, outpatients clinics, psychiatric and rehabilitation departments and maternity wards, among others.

''The so-called low-hanging fruit has all been picked,'' said Dr. David B. Skinner, the chief executive of New York Presbyterian Hospital, where every department has been asked to cut spending by 5 percent. The Greater New York Hospital Association projects that New York Presbyterian will lose more money over the courts of the Balanced Budget Act than any other American hospital—about $320 million.

Dr. Skinner said that as the Hospital plans its year 2000 budget ''we're going to have to look very closely at staffing ratios.''

''Something's got to give here,'' he said. ''You then look at where can you downsize departments that are losing money. And we're looking at that now. I don't want to say which ones because I don't want to unnecessarily panic the troops.''

While the refrain in health-care politics in New York is usually for hospitals to cry poverty and many experts and budget analysts

to cry hyperbole, experts said yesterday that the teaching hospitals were probably not exaggerating their problems much.

''This certainly appears to be putting real strains on teaching hospitals throughout the country and especially in New York,'' said Edward Salsberg, director of the Center for Health Workforce Studies at the State University in Albany. ''They seem to be building a case that this year it is more real than other years.''●

● Mr. LEVIN. Mr. President, I am proud to be an original cosponsor of the bill introduced today by Senator MOYNIHAN which will help to reduce some of the financial strain that teaching hospitals are currently experiencing due to Graduate Medical Education (GME) cuts put in place under the Balanced Budget Act of 1997 (BBA).

The teaching hospitals in this nation are the very best in the world. There are over 1,200 teaching hospitals in the United States, 57 of which are in my own state of Michigan. Although these hospitals are providing excellent care while training residents, they are currently facing dire financial circumstances brought about by the growth of managed care combined with GME payment reductions. Additional Medicare payment reductions are currently scheduled to be phased in as per the BBA.

A major teaching hospital in my own state, the Detroit Medical Center (DMC), trains over 1,100 residents each year. The DMC stands to lose a total of $53.8 million from IME reductions for Fiscal Years 1998–2002. It is important that we continue to support the DMC and other teaching hospitals, not turn our back on them.

I believe that the survival of our valuable teaching hospitals is at stake if we do not act now which is why I have cosponsored this legislation. This bill will freeze the Indirect Medical Education (IME) adjustment factor (the IME is the part of the GME payment that reflects the higher costs, such as more intensive treatments, of caring for patients at teaching hospitals) at the FY 1999 level of 6.5 percent, thereby rolling back about half of the IME funding cuts in the BBA. In total, this provision restores about $3 billion over 5 years and $8 billion over 10 years in IME funding for teaching hospitals.

Our medical schools and affiliated teaching hospitals conduct a great deal of the research and medical education which benefits everyone in America. The University of Michigan is one of the most prominent teaching institutions in the country. The UM is currently doing important prostate cancer research while providing health care to citizens from every county in the state. It is imperative that we allow this research to continue while we are on the verge of new discoveries in medical science.

Mr. President, I hope the Senate will pass this important legislation.●

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 1027. A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes; to the Committee on Energy and Natural Resources.

DESCHUTES RESOURCES CONSERVANCY REAUTHORIZATION ACT OF 1999

● Mr. SMITH. Mr. President, today I am introducing legislation, cosponsored by my colleague from Oregon, to reauthorize participation by the Bureau of Reclamation in the Deschutes Resources Conservancy for an additional five years.

The Deschutes Resources Conservancy, also known as the Deschutes Basin Working Group, was authorized in 1996 as a five-year pilot project designed to achieve local consensus around on-the-ground projects to improve ecosystem health in the Deschutes River basin. This river is truly one of Oregon's greatest resources. It drains Oregon's high desert along the eastern front of the Cascades, eventually flowing into the Columbia River. It is the state's most intensively used recreational river. It provides water to both irrigation projects and to the city of Bend, which is one of Oregon's fastest growing cities. The Deschutes Basin also contains hundreds of thousands of acres of productive forest and rangelands, serves the treaty fishing and water rights of the Confederated Tribes of Warm Springs, and has Oregon's largest non-federal hydroelectric project.

By all accounts, the Deschutes Basin Working Group has been a huge success. It has brought together diverse interests within the basin, including irrigators, tribes, ranchers, environmentalists, an investor-owned utility, local businesses, as well as local elected officials and representatives of state and federal agencies. Together, the Working Group was able to develop project criteria and identified a number of water quality, water quantity, fish passage and habitat improvement projects that could be funded. Projects are selected by consensus, and there must be a fifty-fifty cost share from non-federal sources.

From October 1998 to March 1999, the Deschutes Resources Conservancy has leveraged 272,180 dollars of its funds to complete 777,680 dollars in on-the-ground restoration projects. These projects include: piping irrigation district delivery systems to prevent loss; securing water rights to be left instream to restore flows to Squaw Creek; providing riparian fences to protect riverbanks; working with private timberland owners to restore riparian and wetlands areas; and seeking donated water rights to enhance instream flows in the Deschutes River Basin. They have been very successful at finding cooperative, market-based solutions to enhance the ecosystem in the basin.

The existing authorization provides for up to one million dollars each year for projects. Funding is provided through the Bureau of Reclamation, the group's lead federal agency. The group did not actually receive federal funding until this fiscal year, but it has already successfully allocated these funds. The Deschutes Resources Conservancy enjoys widespread support in Oregon. It has very committed board members who represent diverse interests in the basin. The high caliber of their work, and their pragmatic approach to ecosystem restoration have been recognized by others outside the region.

I am convinced this pilot project needs to continue. That is why the legislation I am introducing today would extend the authorization for federal funds through fiscal year 2006, and increases the authorization for fiscal years 2002 through 2006 to two million dollars each year. I urge my colleagues to support this project. Not only is it important to central Oregon, but the Deschutes Recources Conservancy can serve as a national model for cooperative watershed restoration at the local level.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. COVERDELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 37

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 37, a bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997.

S. 387

At the request of Mr. MCCONNELL, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for distributions from qualified State tuition programs which are used to pay education expenses.

S. 409

At the request of Mr. DOMENICI, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 409, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 424

At the request of Mr. COVERDELL, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 424, a bill to preserve and protect the free choice of individuals and

employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 566

At the request of Mr. LUGAR, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Nebraska (Mr. KERREY), and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 573

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 573, a bill to provide individuals with access to health information of which they are a subject, ensure personal privacy with respect to health-care-related information, impose criminal and civil penalties for unauthorized use of protected health information, to provide for the strong enforcement of these rights, and to protect States' rights.

S. 577

At the request of Mr. ROBB, his name was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 637

At the request of Mr. SCHUMER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 637, a bill to amend title 18, United States Code, to regulate the transfer of firearms over the Internet, and for other purposes.

S. 659

At the request of Mr. MOYNIHAN, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 660

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 660, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 679

At the request of Mr. GRAMS, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 679, a bill to authorize appropriations to the Department of State for construction and security of United States diplomatic facilities, and for other purposes.

S. 757

At the request of Mr. LUGAR, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 781

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 781, a bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications that is applicable to telephone communications.

S. 783

At the request of Mrs. FEINSTEIN, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 783, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 796

At the request of Mr. DOMENICI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically-based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 820

At the request of Mr. CHAFEE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 866

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 926

At the request of Mr. DODD, the names of the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. FEINSTEIN), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 926, a bill to provide the people of Cuba with access to food and medicines from the United States, and for other purposes.

S. 931

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 931, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 955

At the request of Mr. WARNER, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 955, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefied in Virginia, as previously authorized by law, by purchase or exchange as well as by donation.

S. 980

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 980, a bill to promote access to health care services in rural areas.

SENATE JOINT RESOLUTION 21

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. MACK), the Senator from Alabama (Mr. SHELBY), the Senator from Nebraska (Mr. KERREY), the Senator from Kentucky (Mr. BUNNING), the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Connecticut

(Mr. LIEBERMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Texas (Mrs. HUTCHISON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate September 29, 1999, as ''Veterans of Foreign Wars of the United States Day.''

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution concerning anti-Semitic statements made by members of the Duma of the Russian Federation.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. ASHCROFT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted.

SENATE RESOLUTION 34

At the request of Mr. TORRICELLI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of Senate Resolution 34, a resolution designating the week beginning April 30, 1999, as ''National Youth Fitness Week.''

SENATE RESOLUTION 92

At the request of Mrs. BOXER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 92, a resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially.

SENATE RESOLUTION 96

At the request of Mr. LEAHY, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 96, a resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes.

AMENDMENT NO. 319

At the request of Mrs. BOXER the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 319 intended to be proposed to S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

SENATE RESOLUTION 100—REAFFIRMING THE PRINCIPLES OF THE PROGRAMME OF ACTION OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT WITH RESPECT TO THE SOVEREIGN RIGHTS OF COUNTRIES AND THE RIGHT OF VOLUNTARY AND INFORMED CONSENT IN FAMILY PLANNING PROGRAMS

Mr. BROWNBACK (for himself, Mr. HELMS, Mr. INHOFE, Mr. SANTORUM, Mr. ASHCROFT, Mr. ENZI, Mr. MCCAIN, Mr. SMITH of New Hampshire, and Mr. NICKLES) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 100

Whereas the United Nations General Assembly has decided to convene a special session from June 30 to July 2, 1999, in order to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development;

Whereas chapter II of the Programme of Action, which sets forth the principles of that document, begins: ''The implementation of the recommendations contained in the Programme of Action is the sovereign right of each country, consistent with national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights.'';

Whereas section 7.12 of the Programme of Action states: ''The principle of informed [consent] is essential to the long-term success of family-planning programmes. Any form of coercion has no part to play.'';

Whereas section 7.12 of the Programme of Action further states: ''Government goals for family planning should be defined in terms of unmet needs for information and services. Demographic goals . . . should not be imposed on family-planning providers in the form of targets or quotas for the recruitment of clients.''; and

Whereas section 7.17 of the Programme of Action states: ''[g]overnments should secure conformity to human rights and to ethical and professional standards in the delivery of family planning and related reproductive health services aimed at ensuring responsible, voluntary and informed consent and also regarding service provision''; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) no bilateral or multilateral assistance or benefit to any country should be conditioned upon or linked to that country's adoption or failure to adopt population programs, or to the relinquishment of that country's sovereign right to implement the Programme of Action of the International Conference on Population and Development consistent with its own national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights;

(2)(A) family planning service providers or referral agents should not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning;

(B) subparagraph (A) should not be construed to preclude the use of quantitative estimates or indicators for budgeting and planning purposes;

(3) no family planning project should include payment of incentives, bribes, gratuities, or financial reward to any person in exchange for becoming a family planning acceptor or to program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning;

(4) no project should deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any person's decision not to accept family planning services;

(5) every family planning project should provide family planning acceptors with comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method;

(6) every family planning project should ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits;

(7) the United States should reaffirm the principles described in paragraphs (1) through (6) in the special session of the United Nations General Assembly to be held between June 30 and July 2, 1999, and in all preparatory meetings for the special session; and

(8) the United States should support vigorously with its voice and vote the principle that meetings under the auspices of the United Nations Economic and Social Council, including all meetings relating to the Operational Review and Appraisal of the Implementation of the Programme of Action of the International Conference on Population and Development, be open to the public and should oppose vigorously with its voice and vote attempts by the United Nations or any member country to exclude from meetings legitimate nongovernment organizations and private citizens.

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

BROWNBACK (AND OTHERS) AMENDMENT NO. 329

Mr. BROWNBACK (for himself, Mr. HATCH, Mr. LIEBERMAN, Mr. ABRAHAM, Mr. MCCAIN, Mr. KOHL, and Mr. DEWINE) proposed an amendment to the bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

On page 151, between lines 13 and 14, insert the following:

''SEC. 248. STUDY OF VIOLENT ENTERTAINMENT.

''(a) REQUIREMENT.—The National Institutes of Health shall conduct a study of the effects of violent video games, and music on child development and youth violence.

''(b) ELEMENTS.—The study under subsection (a) shall address—

''(1) whether, and to what extent, violence in video games, and music adversely affects the emotional and psychological development of juveniles; and

''(2) whether violence in video games, and music contributes to juvenile delinquency and youth violence.

On page 176, beginning on line 8, strike ''this title,'' and all that follows through line 11 and insert ''this title—

''(A) of which $20,000,000 shall be for evaluation research of primary, secondary, and tertiary juvenile delinquency programs; and

''(B) $2,000,000 shall be for the study required by section 248;

TITLE V—VOLUNTARY MEDIA AGREEMENTS FOR CHILDREN'S PROTECTION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Children's Protection Act of 1999''.

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) Television is seen and heard in nearly every United States home and is a uniquely pervasive presence in the daily lives of Americans. The average American home has 2.5 televisions, and a television is turned on in the average American home 7 hours every day.

(2) Television plays a particularly significant role in the lives of children. Figures provided by Nielsen Research show that children between the ages of 2 years and 11 years spend an average of 21 hours in front of a television each week.

(3) Television has an enormous capability to influence perceptions, especially those of children, of the values and behaviors that are common and acceptable in society.

(4) The influence of television is so great that its images and messages often can be harmful to the development of children. Social science research amply documents a strong correlation between the exposure of children to televised violence and a number of behavioral and psychological problems.

(5) Hundreds of studies have proven conclusively that children who are consistently exposed to violence on television have a higher tendency to exhibit violent and aggressive behavior, both as children and later in life.

(6) Such studies also show that repeated exposure to violent programming causes children to become desensitized to and more accepting of real-life violence and to grow more fearful and less trusting of their surroundings.

(7) A growing body of social science research indicates that sexual content on television can also have a significant influence on the attitudes and behaviors of young viewers. This research suggests that heavy exposure to programming with strong sexual content contributes to the early commencement of sexual activity among teenagers.

(8) Members of the National Association of Broadcasters (NAB) adhered for many years to a comprehensive code of conduct that was based on an understanding of the influence exerted by television and on a widely held sense of responsibility for using that influence carefully.

(9) This code of conduct, the Television Code of the National Association of Broadcasters, articulated this sense of responsibility as follows:

(A) ''In selecting program subjects and themes, great care must be exercised to be sure that the treatment and presentation are made in good faith and not for the purpose of sensationalism or to shock or exploit the audience or appeal to prurient interests or morbid curiosity.''.

(B) ''Broadcasters have a special responsibility toward children. Programs designed primarily for children should take into account the range of interests and needs of children, from instructional and cultural material to a wide variety of entertainment material. In their totality, programs should contribute to the sound, balanced development of children to help them achieve a sense of the world at large and informed adjustments to their society.''.

(C) ''Violence, physical, or psychological, may only be projected in responsibly handled contexts, not used exploitatively. Programs involving violence present the consequences of it to its victims and perpetrators. Presentation of the details of violence should avoid the excessive, the gratuitous and the instructional.''.

(D) ''The presentation of marriage, family, and similarly important human relationships, and material with sexual connotations, shall not be treated exploitatively or irresponsibly, but with sensitivity.''.

(E) ''Above and beyond the requirements of the law, broadcasters must consider the family atmosphere in which many of their programs are viewed. There shall be no graphic portrayal of sexual acts by sight or sound. The portrayal of implied sexual acts must be essential to the plot and presented in a responsible and tasteful manner.''.

(10) The National Association of Broadcasters abandoned the code of conduct in 1983 after three provisions of the code restricting the sale of advertising were challenged by the Department of Justice on antitrust grounds and a Federal district court issued a summary judgment against the National Association of Broadcasters regarding one of the provisions on those grounds. However, none of the programming standards of the code were challenged.

(11) While the code of conduct was in effect, its programming standards were never found to have violated any antitrust law.

(12) Since the National Association of Broadcasters abandoned the code of conduct, programming standards on broadcast and cable television have deteriorated dramatically.

(13) In the absence of effective programming standards, public concern about the impact of television on children, and on society as a whole, has risen substantially. Polls routinely show that more than 80 percent of Americans are worried by the increasingly graphic nature of sex, violence, and vulgarity on television and by the amount of programming that openly sanctions or glorifies criminal, antisocial, and degrading behavior.

(14) At the urging of Congress, the television industry has taken some steps to respond to public concerns about programming standards and content. The broadcast television industry agreed in 1992 to adopt a set of voluntary guidelines designed to ''proscribe gratuitous or excessive portrayals of violence''. Shortly thereafter, both the broadcast and cable television industries agreed to conduct independent studies of the violent content in their programming and make those reports public.

(15) In 1996, the television industry as a whole made a commitment to develop a comprehensive rating system to label programming that may be harmful or inappropriate for children. That system was implemented at the beginning of 1999.

(16) Despite these efforts to respond to public concern about the impact of television on children, millions of Americans, especially parents with young children, remain angry and frustrated at the sinking standards of television programming, the reluctance of the industry to police itself, and the harmful influence of television on the well-being of the children and the values of the United States.

(17) The Department of Justice issued a ruling in 1993 indicating that additional efforts by the television industry to develop and implement voluntary programming guidelines would not violate the antitrust laws. The ruling states that ''such activities may be likened to traditional standard setting efforts that do not necessarily restrain competition and may have significant procompetitive benefits. . . Such guidelines could serve to disseminate valuable information on program content to both advertisers and television viewers. Accurate information can enhance the demand for, and increase the output of, an industry's products or services.''.

(18) The Children's Television Act of 1990 (Public Law 101–437) states that television broadcasters in the United States have a clear obligation to meet the educational and informational needs of children.

(19) Several independent analyses have demonstrated that the television broadcasters in the United States have not fulfilled their obligations under the Children's Television Act of 1990 and have not noticeably expanded the amount of educational and informational programming directed at young viewers since the enactment of that Act.

(20) The popularity of video and personal computer (PC) games is growing steadily among children. Although most popular video and personal computer games are educational or harmless in nature, many of the most popular are extremely violent. One recent study by Strategic Record Research found that 64 percent of teenagers played video or personal computer games on a regular basis. Other surveys of children as young as elementary school age found that almost half of them list violent computer games among their favorites.

(21) Violent video games often present violence in a glamorized light. Game players are often cast in the role of shooter, with points scored for each ''kill''. Similarly, advertising for such games often touts violent content as a selling point—the more graphic and extreme, the better.

(22) As the popularity and graphic nature of such video games grows, so do their potential to negatively influence impressionable children.

(23) Music is another extremely pervasive and popular form of entertainment. American children and teenagers listen to music more than any other demographic group. The Journal of American Medicine reported that between the 7th and 12th grades the average teenager listens to 10,500 hours of rock or rap music, just slightly less than the entire number of hours spent in the classroom from kindergarten through high school.

(24) Teens are among the heaviest purchasers of music, and are most likely to favor music genres that depict, and often appear to glamorize violence.

(25) Music has a powerful ability to influence perceptions, attitudes, and emotional state. The use of music as therapy indicates its potential to increase emotional, psychological. and physical health. That influence can be used for ill as well.

SEC. 503. PURPOSES; CONSTRUCTION.

(a) PURPOSES.—The purposes of this title are to permit the entertainment industry—

(1) to work collaboratively to respond to growing public concern about television programming, movies, video games, Internet content, and music lyrics, and the harmful influence of such programming, movies, games, content, and lyrics on children;

(2) to develop a set of voluntary programming guidelines similar to those contained in the Television Code of the National Association of Broadcasters; and

(3) to implement the guidelines in a manner that alleviates the negative impact of television programming, movies, video games, Internet content, and music lyrics on the development of children in the United States and stimulates the development and

broadcast of educational and informational programming for such children.

(b) CONSTRUCTION.—This title may not be construed as—

(1) providing the Federal Government with any authority to restrict television programming, movies, video games, Internet content, or music lyrics that is in addition to the authority to restrict such programming, movies, games, content, or lyrics under law as of the date of the enactment of this Act; or

(2) approving any action of the Federal Government to restrict such programming, movies, games, content, or lyrics that is in addition to any actions undertaken for that purpose by the Federal Government under law as of such date.

SEC. 504. EXEMPTION OF VOLUNTARY AGREEMENTS ON GUIDELINES FOR CERTAIN ENTERTAINMENT MATERIAL FROM APPLICABILITY OF ANTITRUST LAWS.

(a) EXEMPTION.—Subject to subsection (b), the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of developing and disseminating voluntary guidelines designed—

(1) to alleviate the negative impact of telecast material, movies, video games, Internet content, and music lyrics containing violence, sexual content, criminal behavior, or other subjects that are not appropriate for children; or

(2) to promote telecast material that is educational, informational, or otherwise beneficial to the development of children.

(b) LIMITATION.—The exemption provided in subsection (a) shall not apply to any joint discussion, consideration, review, action, or agreement which—

(1) results in a boycott of any person; or

(2) concerns the purchase or sale of advertising, including (without limitation) restrictions on the number of products that may be advertised in a commercial, the number of times a program may be interrupted for commercials, and the number of consecutive commercials permitted within each interruption.

SEC. 505. EXEMPTION OF ACTIVITIES TO ENSURE COMPLIANCE WITH RATINGS AND LABELING SYSTEMS FROM APPLICABILITY OF ANTITRUST LAWS.

(a) EXEMPTION FROM ANTITRUST LAWS.—

(1) IN GENERAL.—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement between or among persons in the motion picture, recording, or video game industry for the purpose of and limited to the development or enforcement of voluntary guidelines, procedures, and mechanisms designed to ensure compliance by persons and entities described in paragraph (2) with ratings and labeling systems to identify and limit dissemination of sexual, violent, or other indecent material to children.

(2) PERSONS AND ENTITIES DESCRIBED.—A person or entity described in this paragraph is a person or entity that is—

(A) engaged in the retail sales of motion pictures, recordings, or video games; or

(B) a theater owner or operator, video game arcade owner or operator, or other person or entity that makes available the viewing, listening, or use of a motion picture, recording, or video game to a member of the general public for compensation.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Antitrust Division of the Department of Justice, in conjunction with the Federal Trade Commission, shall submit to Congress a report on—

(1) the extent to which the motion picture, recording, and video game industry have developed or enforced guidelines, procedures, or mechanisms to ensure compliance by persons and entities described in subsection (b)(2) with ratings or labeling systems which identify and limit dissemination of sexual, violent, or other indecent material to children; and

(2) the extent to which Federal or State antitrust laws preclude those industries from developing and enforcing the guidelines described in subsection (b)(1).

SEC. 506. DEFINITIONS.

In this subtitle:

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(2) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.

(3) MOVIES.—The term ''movies'' means motion pictures.

(4) PERSON IN THE ENTERTAINMENT INDUSTRY.—The term ''person in the entertainment industry'' means a television network, any entity which produces or distributes television programming (including motion pictures), the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, each of the affiliate organizations of the television networks, the Interactive Digital Software Association, any entity which produces or distributes video games, the Recording Industry Association of America, and any entity which produces or distributes music, and includes any individual acting on behalf of such person.

(5) TELECAST.—The term ''telecast'' means any program broadcast by a television broadcast station or transmitted by a cable television system.

Subtitle B—Other Matters

SEC. 511. STUDY OF MARKETING PRACTICES OF MOTION PICTURE, RECORDING, AND VIDEO/PERSONAL COMPUTER GAME INDUSTRIES.

(a) STUDY.—

(1) IN GENERAL.—The Federal Trade Commission and the Attorney General shall jointly conduct a study of the marketing practices of the motion picture, recording, and video/personal computer game industries.

(2) ISSUES EXAMINED.—In conducting the study under paragraph (1), the Commission and the Attorney General shall examine—

(A) the extent to which the motion picture, recording, and video/personal computer industries target the marketing of violent, sexually explicit, or other unsuitable material to minors, including whether such content is advertised or promoted in media outlets in which minors comprise a substantial percentage of the audience;

(B) the extent to which retail merchants, movie theaters, or others who engage in the sale or rental for a fee of products of the motion picture, recording, and video/personal computer industries—

(i) have policies to restrict the sale, rental, or viewing to minors of music, movies, or video/personal computer games that are deemed inappropriate for minors under the applicable voluntary industry rating or labeling systems; and

(ii) have procedures compliant with such policies;

(C) whether and to what extent the motion picture, recording, and video/personal computer industries require, monitor, or encourage the enforcement of their respective voluntary rating or labeling systems by industry members, retail merchants, movie theaters, or others who engage in the sale or rental for a fee of the products of such industries;

(D) whether any of the marketing practices examined may violate Federal law; and

(E) whether and to what extent the motion picture, recording, and video/personal computer industries engage in actions to educate the public on the existence, use, or efficacy of their voluntary rating or labeling systems.

(3) FACTORS FOR DETERMINATION.—In determining whether the products of the motion picture, recording, or video/personal computer industries are violent, sexually explicit, or otherwise unsuitable for minors for the purposes of paragraph (2)(A), the Commission and the Attorney General shall consider the voluntary industry rating or labeling systems of the industry concerned as in effect on the date of the enactment of this Act.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Commission and the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

(c) AUTHORITY.—For the purposes of the study conducted under subsection (a), the Commission may use its authority under section 6(b) of the Federal Trade Commission Act to require the filing of reports or answers in writing to specific questions, as well as to obtain information, oral testimony, documentary material, or tangible things.

BOXER (AND OTHERS) AMENDMENT NO. 330

Mrs. BOXER (for herself, Mr. KENNEDY, Mr. DURBIN, and Mr. LAUTENBERG) proposed an amendment to the bill, S. 254, supra; as follows:

At the end, add the following:

SEC. . STUDY OF MARKETING PRACTICES OF THE FIREARMS INDUSTRY.

(a) IN GENERAL.—

The Federal Trade Commission and the Attorney General shall jointly conduct a study of the marketing practices of the firearms industry, with respect to children.

(b) ISSUES EXAMINED.—In conducting the study under subsection (a), the Commission and the Attorney General shall examine the extent to which the firearms industry advertises and promotes its products to juveniles, including in media outlets in which minors comprise a substantial percentage of the audience.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Commission and the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

LAUTENBERG (AND OTHERS) AMENDMENT NO. 331

Mr. LAUTENBERG (for himself, Mr. SCHUMER, Mrs. BOXER, Mr. KOHL, Mrs. FEINSTEIN, and Mr. LEVIN) proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) FINDINGS.—Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States,

attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure, by enactment of this Act, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

(b) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) GUN SHOW.—The term 'gun show' means any event—

''(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

''(B) at which 2 or more persons are offering or exhibiting 1 or more firearms for sale, transfer, or exchange.

''(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

''(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.''

(c) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Regulation of firearms transfers at gun shows

''(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

''(2) pays a registration fee, in an amount determined by the Secretary.

''(b) RESPONSIBILITIES OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) not later that 30 days before commencement of the gun show, notifies the Secretary of the date, time, duration, and location of the gun show and any other information concerning the gun show as the Secretary may require by regulation;

''(2) not later than 72 hours before commencement of the gun show, submits to the Secretary an updated list of all gun show vendors planning to participate in the gun show and any other information concerning such vendors as the Secretary may require by regulation;

''(3) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

''(4) before commencement of the gun show, requires each gun show vendor to sign—

''(A) a ledger with identifying information concerning the vendor; and

''(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

''(5) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe;

''(6) not later than 5 days after the last day of the gun show, submits to the Secretary a copy of the ledger and notice described in paragraph (4); and

''(7) maintains a copy of the records described in paragraphs (2) through (4) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

''(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

''(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(2) record the transfer on a form specified by the Secretary;

''(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

''(A) of such compliance; and

''(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

''(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(A) shall be on a form specified by the Secretary by regulation; and

''(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

''(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

''(A) prepared on a form specified by the Secretary; and

''(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

''(i) the office specified on the form described in subparagraph (A); and

''(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

''(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

''(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(1) shall be in a form specified by the Secretary by regulation;

''(2) shall not include the name of or other identifying information relating to the transferee; and

''(3) shall not duplicate information provided in any report required under subsection (e)(4).

''(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction' includes the exhibition, sale, offer for sale, transfer, or exchange of a firearm.''.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

''(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(C) Whoever willfully violates section 931(d), shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

''(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

''(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

''(ii) impose a civil fine in an amount equal to not more than $10,000.''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

''931. Regulation of firearms transfers at gun shows.''; and

(B) in the first sentence of section 923(j), by striking ''a gun show or event'' and inserting ''an event''; and

(d) INSPECTION AUTHORITY.—Section 923(g)(1) is amended by adding at the end the following:

''(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.''.

(e) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

''(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

''(B) If the violation described in subparagraph (A) is in relation to an offense—

''(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

''(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.''.

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

(1) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ''subsection (s) or (t) of section 922'' and inserting ''section 922(s)''; and

(B) by adding at the end the following:

''(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.''.

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 922(t)(5) of title 18, United States Code, is amended by striking ''and, at the time'' and all that follows through ''State law''.

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

CRAIG AMENDMENT NO. 332

Mr. CRAIG proposed an amendment to the bill, S. 254, supra; as follows:

On page 265, after line 20, add the following:At the end, add the following:

TITLE ____—GENERAL FIREARM PROVISIONS

SEC. ____01. SPECIAL LICENSEES; SPECIAL REGISTRATIONS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) GUN SHOW.—The term 'gun show' means a gun show or event described in section 923(j).

''(36) SPECIAL LICENSE.—The term 'special license' means a license issued under section 923(m).

''(37) SPECIAL LICENSEE.—The term 'special licensee' means a person to whom a special license has been issued.

''(38) SPECIAL REGISTRANT.—The term 'special registrant' means a person to whom a special registration has been issued.

''(39) SPECIAL REGISTRATION.—The term 'special registration' means a registration issued under section 923(m).''.

(b) SPECIAL LICENSES; SPECIAL REGISTRATION.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m) SPECIAL LICENSES; SPECIAL REGISTRATIONS.—

''(1) SPECIAL LICENSES.—

''(A) APPLICATION.—A person who—

''(i) is engaged in the business of dealing in firearms by—

''(I) buying or selling firearms solely or primarily at gun shows; or

''(II) buying or selling firearms as part of a gunsmith or firearm repair business or the conduct of other activity that, absent this subsection, would require a license under this chapter; and

''(ii) desires to have access to the National Instant Check System;

may submit to the Secretary an application for a special license.

''(B) EFFECT OF PARAGRAPH.—Nothing in this paragraph—

''(i) requires a license for conduct that did not require a license before the date of enactment of this subsection; or

''(ii) diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, make repairs, or engage in any other conduct or activity, that was otherwise lawful to engage in without a license before the date of enactment of this subsection.

''(C) CONTENTS.—An application under subparagraph (A) shall—

''(i) contain a certification by the applicant that—

''(I) the applicant meets the requirements of subparagraphs (A) through (D) of subsection (d)(1);

''(II)(aa) the applicant conducts the firearm business primarily or solely at gun shows, and the applicant has premises (or a designated portion of premises) that may be inspected under this chapter from which the applicant conducts business (or intends to establish such premises) within a reasonable period of time; or

''(bb) the applicant conducts the firearm business from a premises (or a designated portion of premises) of a gunsmith or firearms repair business (or intends to establish such premises within a reasonable period of time); and

''(III) the firearm business to be conducted under the license—

''(aa) is not engaged in business for regularly buying and selling firearms from the applicant's premises;

''(bb) will be engaged in the buying or selling of firearms only—

''(AA) primarily or solely for a firearm business at gun shows; or

''(BB) as part of a gunsmith or firearm repair business;

''(cc) shall be conducted in accordance with all dealer recordkeeping required under this chapter for a dealer; and

''(dd) shall be subject to inspection under this chapter, including the special licensee's (or a designated portion of the premises), pursuant to the provisions in this chapter applicable to dealers;

''(ii) include a photograph and fingerprints of the applicant; and

''(iii) be in such form as the Secretary shall by regulation promulgate.

''(D) COMPLIANCE WITH STATE OR LOCAL LAW.—

''(i) IN GENERAL.—An applicant under subparagraph (A) shall not be required to certify or demonstrate that any firearm business to be conducted from the premises or elsewhere, to the extent permitted under this subsection, is or will be done in accordance with State or local law regarding the carrying on of a general business or commercial activity, including compliance with zoning restrictions.

''(ii) DUTY TO COMPLY.—The issuance of a special license does not relieve an applicant or licensee, as a matter of State or local law, from complying with State or local law described in clause (i).

''(E) APPROVAL.—

''(i) IN GENERAL.—The Secretary shall approve an application under subparagraph (A)

if the application meets the requirements of subparagraph (D).

''(ii) ISSUANCE OF LICENSE.—On approval of the application and payment by the applicant of a fee prescribed for dealers under this section, the Secretary shall issue to the applicant a license which, subject to the provisions of this chapter and other applicable provisions of law, entitles the licensee to conduct business during the 3-year period that begins on the date on which the license is issued.

''(iii) TIMING.—

''(I) IN GENERAL.—The Secretary shall approve or disapprove an application under subparagraph (A) not later than 60 days after the Secretary receives the application.

''(II) FAILURE TO ACT.—If the Secretary fails to approve or disapprove an application within the time specified by subclause (I), the applicant may bring an action under section 1361 of title 28 to compel the Secretary to act.

''(2) SPECIAL REGISTRANTS.—

''(A) IN GENERAL.—A person who is not licensed under this chapter (other than a licensed collector) and who wishes to perform instant background checks for the purposes of meeting the requirements of section 922(t) at a gun show may submit to the Secretary an application for a special registration.

''(B) CONTENTS.—An application under subparagraph (A) shall—

''(i) contain a certification by the applicant that—

''(I) the applicant meets the requirements of subparagraphs (A) through (D) of subsection (d)(1); and

''(II)(aa) any gun show at which the applicant will conduct instant checks under the special registration will be a show that is not prohibited by State or local law; and

''(bb) instant checks will be conducted only at gun shows that are conducted in accordance with Federal, State, and local law;

''(ii) include a photograph and fingerprints of the applicant; and

''(iii) be in such form as the Secretary shall by regulation promulgate.

''(C) APPROVAL.—

''(i) IN GENERAL.—The Secretary shall approve an application under subparagraph (A) if the application meets the requirements of subparagraph (B).

''(ii) ISSUANCE OF REGISTRATION.—On approval of the application and payment by the applicant of a fee of $100 for 3 years, and upon renewal of valid registration a fee of $50 for 3 years, the Secretary shall issue to the applicant a special registration, and notify the Attorney General of the United States of the issuance of the special registration.

''(iii) PERMITTED ACTIVITY.—Under a special registration, a special registrant may conduct instant check screening during the 3-year period that begins with the date on which the registration is issued.

''(D) TIMING.—

''(i) IN GENERAL.—The Secretary shall approve or deny an application under subparagraph (A) not later than 60 days after the Secretary receives the application.

''(ii) FAILURE TO ACT.—If the Secretary fails to approve or disapprove an application under subparagraph (A) within the time specified by clause (i), the applicant may bring an action under section 1361 of title 28 to compel the Secretary to act.

''(E) USE OF SPECIAL REGISTRANTS.—

''(i) IN GENERAL.—A person not licensed under this chapter who desires to transfer a firearm at a gun show in the person's State of residence to another person who is a resident of the same State, may use (but shall not be required to use) the services of a special registrant to determine the eligibility of the prospective transferee to possess a firearm by having the transferee provide the special registrant at the gun show, on a special and limited-purpose form that the Secretary shall prescribe for use by a special registrant—

''(I) the name, age, address, and other identifying information of the prospective transferee (or, in the case of a prospective transferee that is a corporation or other business entity, the identity and principal and local places of business of the prospective transferee); and

''(II) proof of verification of the identity of the prospective transferee as required by section 922(t)(1)(C).

''(ii) ACTION BY THE SPECIAL REGISTRANT.—The special registrant shall—

''(I) make inquiry of the national instant background check system (or as the Attorney General shall arrange, with the appropriate State point of contact agency for each jurisdiction in which the special registrant intends to offer services) concerning the prospective transferee in accordance with the established procedures for making such inquiries;

''(II) receive the response from the system;

''(III) indicate the response on both a portion of the inquiry form for the records of the special registrant and on a separate form to be provided to the prospective transferee;

''(IV) provide the response to the transferor; and

''(V) follow the procedures established by the Secretary and the Attorney General for advising a person undergoing an instant background check on the meaning of a response, and any appeal rights, if applicable.

''(iii) RECORDKEEPING.—A special registrant shall—

''(I) keep all records or documents that the special registrant collected pursuant to clause (ii) during the gun show; and

''(II) transmit the records to the Secretary when the special registration is no longer valid, expires, or is revoked.

''(iv) NO OTHER REQUIREMENTS.—Except for the requirements stated in this section, a special registrant is not subject to any of the requirements imposed on licensees by this chapter, including those in section 922(t) and paragraphs (1)(A) and (3)(A) of subsection (g) with respect to the proposed transfer of a firearm.

''(3) NO CAUSE OF ACTION OR STANDARD OF CONDUCT.—

''(A) IN GENERAL.—Nothing in this subsection—

''(i) creates a cause of action against any special registrant or any other person, including the transferor, for any civil liability; or

''(ii) establishes any standard of care.

''(B) EVIDENCE.—Notwithstanding any other provision of law, except to give effect to the provisions of paragraph (3)(vi), evidence regarding the use or nonuse by a transferor of the services of a special registrant under this paragraph shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity for the purposes of establishing liability based on a civil action brought on any theory for harm caused by a product or by negligence.

''(4) IMMUNITY.—

''(A) DEFINITION.—In this paragraph:

''(i) IN GENERAL.—The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (B) for damages resulting from the criminal or unlawful misuse of the firearm by the transferee or a third party.

''(ii) EXCLUSIONS.—The term 'qualified civil liability action' shall not include an action—

''(B) IMMUNITY.—Notwithstanding any other provision of law, a person who is—

''(i) a special registrant who performs a background check in the manner prescribed in this subsection at a gun show;

''(ii) a licensee or special licensee who acquires a firearm at a gun show from a nonlicensee, for transfer to another nonlicensee in attendance at the gun show, for the purpose of effectuating a sale, trade, or transfer between the 2 nonlicensees, all in the manner prescribed for the acquisition and disposition of a firearm under this chapter; or

''(iii) a nonlicensee person disposing of a firearm who uses the services of a person described in clause (i) or (ii);

shall be entitled to immunity from civil liability action as described in subparagraph (B).

''(C) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court—

''(i) brought against a transferor convicted under section 922(h), or a comparable State felony law, by a person directly harmed by the transferee's criminal conduct, as defined in section 922(h); or

''(ii) brought against a transferor for negligent entrustment or negligence per se.

''(D) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this subsection shall be dismissed immediately by the court.

''(5) REVOCATION.—A special license or special registration shall be subject to revocation under procedures provided for revocation of licensees in this chapter.''.

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) SPECIAL LICENSEES; SPECIAL REGISTRANTS.—Whoever knowingly violates section 923(m)(1) shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. 3. CLARIFICATION OF AUTHORITY TO CONDUCT FIREARM TRANSACTIONS AT GUN SHOWS.

Section 923 of title 18, United States Code, is amended by striking subsection (j) and inserting the following:

''(j) GUN SHOWS.—

''(1) IN GENERAL.—A licensed importer, licensed manufacturer, or licensed dealer may, under regulations promulgated by the Secretary, conduct business at a temporary location, other than the location specified on the license, described in paragraph (2).

''(2) TEMPORARY LOCATION.—

''(A) IN GENERAL.—A temporary location referred to in paragraph (1) is a location for a gun show, or for an event in the State specified on the license, at which firearms, firearms accessories and related items may be bought, sold, traded, and displayed, in accordance with Federal, State, and local laws.

''(B) LOCATIONS OUT OF STATE.—If the location is not in the State specified on the license, a licensee may display any firearm, and take orders for a firearm or effectuate the transfer of a firearm, in accordance with this chapter, including paragraph (3) of this subsection.

''(C) QUALIFIED GUN SHOWS OR EVENTS.—A gun show or an event shall qualify as a temporary location if—

''(i) the gun show or event is one which is sponsored, for profit or not, by an individual, national, State, or local organization, association, or other entity to foster the collecting, competitive use, sporting use, or any other legal use of firearms; and

''(ii) the gun show or event has 20 percent or more firearm exhibitors out of all exhibitors.

''(D) FIREARM EXHIBITOR.—The term 'firearm exhibitor' means an exhibitor who displays 1 or more firearms (as defined by section 921(a)(3)) and offers such firearms for sale or trade at the gun show or event.

''(3) RECORDS.—Records of receipt and disposition of firearms transactions conducted at a temporary location—

''(A) shall include the location of the sale or other disposition;

''(B) shall be entered in the permanent records of the licensee; and

''(C) shall be retained at the location premises specified on the license.

''(4) VEHICLES.—Nothing in this subsection authorizes a licensee to conduct business in or from any motorized or towed vehicle.

''(5) NO SEPARATE FEE.—Notwithstanding subsection (a), a separate fee shall not be required of a licensee with respect to business conducted under this subsection.

''(6) INSPECTIONS AND EXAMINATIONS.—

''(A) AT A TEMPORARY LOCATION.—Any inspection or examination of inventory or records under this chapter by the Secretary at a temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at the temporary location.

''(B) NO REQUIREMENT.—Nothing in this subsection authorizes the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license.

''(7) NO EFFECT ON OTHER RIGHTS.—Nothing in this subsection diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition that is in effect before the date of enactment of this subsection, including the right of a licensee to conduct firearms transfers and business away from their business premises with another licensee without regard to whether the location of the business is in the State specified on the license of either licensee.''.

SEC. 4. "INSTANT CHECK" GUN TAX AND GUN OWNER PRIVACY.

(a) PROHIBITION OF GUN TAX.—

(1) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following

"§ 540B. Prohibition of background check fee

''(a) IN GENERAL.—No officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States, may charge or collect any fee in connection with any background check required in connection with the transfer of a firearm (as defined in section 921(a)(3) of title 18).

''(b) CIVIL REMEDIES.—Any person aggrieved by a violation of this section may bring an action in United States district court for actual damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 540A the following:

''540B. Prohibition of background check fee.''.

(b) PROTECTION OF GUN OWNER PRIVACY AND OWNERSHIP RIGHTS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 931. Gun owner privacy and ownership rights

''(a) IN GENERAL.—Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States or officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States shall—

''(1) perform any national instant criminal background check on any person through the system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) (referred to in this section as the ''system'') if the system does not require and result in the immediate destruction of all information, in any form whatsoever or through any medium, concerning the person if the person is determined, through the use of the system, not to be prohibited by subsection (g) or (n) of section 922 or by State law from receiving a firearm; or

''(2) continue to operate the system (including requiring a background check before the transfer of a firearm) unless—

''(A) the National Instant Check System index complies with the requirements of section 552a(e)(5) of title 5, United States Code; and

''(B) does not invoke the exceptions under subsection (j)(2) or paragraph (2) or (3) of subsection (k) of section 552a of title 5, United States Code, except if specifically identifiable information is compiled for a particular law enforcement investigation or specific criminal enforcement matter.

''(b) APPLICABILITY.—Subsection (a)(1) does not apply to the retention or transfer of information relating to—

''(1) any unique identification number provided by the national instant criminal background check system pursuant to section 922(t)(1)(B)(i) of title 18, United States Code; or

''(2) the date on which that number is provided.

''(c) CIVIL REMEDIES.—Any person aggrieved by a violation of this section may bring an action in United States district court for actual damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''931. Gun owner privacy and ownership rights.''.

(c) PROVISION RELATING TO PAWN AND OTHER TRANSACTIONS.—

(1) REPEAL.—Section 655 of title VI of the Treasury and General Governmental Appropriations Act, 1999 (112 Stat. 2681–530) is repealed.

(2) RETURN OF FIREARM.—Section 922(t)(1) of title 18, United States Code, is amended by inserting ''(other than the return of a firearm to the person from whom it was received)'' before ''to any other person''.

SEC. 5. EFFECTIVE DATE.

(a) SECTIONS 2 AND 3.—The amendments made by sections 2 and 3 shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) SECTION 4.—The amendments made by section 4 take effect on the date of enactment of this Act, except that the amendment made by subsection (a) of that section takes effect on October 1, 1999.

McCAIN AMENDMENT NO. 333

Mr. McCAIN proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. FIREARMS PENALTIES.

(a) STRAW PURCHASE PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Notwithstanding paragraph (2), whoever knowingly violates section 922(a)(6) for the purpose of selling, delivering, or otherwise transferring a firearm, knowing or having reasonable cause to know that another person will carry or otherwise possess or discharge or otherwise use the firearm in the commission of a violent felony, shall be—

''(i) fined under this title, imprisoned not more than 15 years, or both; or

''(ii) imprisoned not less than 10 and not more than 20 years and fined under this title, if the procurement is for a juvenile.

''(B) In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' means conduct described in subsection (e)(2)(B).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

(b) JUVENILE WEAPONS PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18 United States Code, is amended—

(A) in paragraph (4), by striking ''Whoever'' and inserting ''Except as provided in paragraph (6), whoever''; and

(B) in paragraph (6), by striking subparagraph (B) and inserting the following:

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; or

''(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile, knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a violent felony, shall be imprisoned not less than 10 and not more than 20 years and fined under this title.

''(C) In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' means conduct described in subsection (e)(2)(B).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

FRIST AMENDMENT NO. 334

(Ordered to lie on the table.)

Mr. FRIST submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENT TO INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii)(I), by inserting ''(other than a firearm)'' after ''weapon'';

(2) by redesignating paragraph (10) as paragraph (11);

(3) by inserting after paragraph (9) the following:

''(10) AUTHORITY OF SCHOOL PERSONNEL REGARDING FIREARMS.—Notwithstanding any other provision of this Act, school personnel with the authority to discipline students may discipline a child with a disability who intentionally possesses a firearm at a school, on school premises, or at a school function, in the same manner that such personnel may discipline a child without a disability, including ceasing educational services. For purposes of this paragraph, a determination concerning whether possession of a firearm is intentional shall not be the subject of a review under paragraph (4).''; and

(4) in paragraph (11), as redesignated in paragraph (2), by adding at the end the following:

''(E) FIREARM.—The term 'firearm' has the meaning given the term in section 921 of title 18, United States Code.''.

HATCH (AND LEAHY AMENDMENT NO. 335

Mr. HATCH (for himself and Mr. LEAHY) proposed an amendment to the bill, S. 254, supra; as follows:

On page 265, below line 20, add the following:

SEC. 402. PROVISION OF INTERNET FILTERING OR SCREENING SOFTWARE BY CERTAIN INTERNET SERVICE PROVIDERS.

(a) REQUIREMENT TO PROVIDE.—Each Internet service provider shall at the time of entering an agreement with a residential customer for the provision of Internet access services, provide to such customer, either at no fee or at a fee not in excess of the amount specified in subsection (c), computer software or another filtering or blocking system that allows the customer to prevent the access of minors to material on the Internet.

(b) SURVEYS OF PROVISION OF SOFTWARE OR SYSTEMS.—

(1) SURVEYS.—The Office of Juvenile Justice and Delinquency Prevention of the Department of Justice and the Federal Trade Commission shall jointly conduct surveys of the extent to which Internet service providers are providing computer software or systems described in subsection (a) to their subscribers.

(2) FREQUENCY.—The surveys required by paragraph (1) shall be completed as follows:

(A) One shall be completed not later than one year after the date of the enactment of this Act.

(B) One shall be completed not later than two years after that date.

(C) One shall be completed not later than three years after that date.

(c) FEES.—The fee, if any, charged and collected by an Internet service provider for providing computer software or a system described in subsection (a) to a residential customer shall not exceed the amount equal to the cost of the provider in providing the software or system to the subscriber, including the cost of the software or system and of any license required with respect to the software or system.

(d) APPLICABILITY.—The requirement described in subsection (a) shall become effective only if—

(1) 1 year after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(A) that less than 75 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided computer software or systems described in subsection (a) by such providers;

(2) 2 years after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(B) that less than 85 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers; or

(3) 3 years after the date of the enactment of this Act, if the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(C) that less than 100 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers.

(e) INTERNET SERVICE PROVIDER DEFINED.—In this section, the term ''Internet service provider'' means a ''service provider'' as defined in section 512(k)(1)(A) of title 17, United States Code, which has more than 50,000 subscribers.

REED AMENDMENT NO. 336

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. GUN DEALER RESPONSIBILITY.

(a) DEFINITIONS.—In this section:

(1) DEALER.—The term ''dealer'' has the meaning given such term in section 921(a)(11) of title 18, United States Code.

(2) FIREARM.—The term ''firearm'' has the meaning given such term in section 921(a)(3) of title 18, United States Code.

(3) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means any officer, agent, or employee of the United States, or of a State or political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.

(b) CAUSE OF ACTION; FEDERAL JURISDICTION.—Any person suffering bodily injury as a result of the discharge of a firearm (or, in the case of a person who is incapacitated or deceased, any person entitled to bring an action on behalf of that person or the estate of that person) may bring an action in any United States district court against any dealer who transferred the firearm to any person in violation of chapter 44 of title 18, United States Code, for damages and such other relief as the court deems appropriate. In any action under this subsection, the court shall allow a prevailing plaintiff a reasonable attorney's fee as part of the costs.

(c) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the defendant in an action brought under subsection (b) shall be held liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from bodily injury or death proximately resulting from the illegal sale of a firearm if it is established by a preponderance of the evidence that the defendant transferred the firearm to any person in violation of chapter 44 of title 18, United States Code.

(2) DEFENSES.—

(A) INJURY WHILE COMMITTING A FELONY.—There shall be no liability under paragraph (1) if it is established by a preponderance of the evidence that the plaintiff suffered the injury while committing a crime punishable by imprisonment for a term exceeding 1 year.

(B) INJURY BY LAW ENFORCEMENT OFFICER.—There shall be no liability under paragraph (1) if it is established by a preponderance of the evidence that the injury was suffered as a result of the discharge, by a law enforcement officer in the performance of official duties, of a firearm issued by the United States (or any department or agency thereof) or any State (or department, agency, or political subdivision thereof).

(e) NO EFFECT ON OTHER CAUSES OF ACTION.—This section may not be construed to limit the scope of any other cause of action available to a person injured as a result of the discharge of a firearm.

(f) APPLICABILITY.—This section applies to any—

(1) firearm transferred before, on, or after the date of enactment of this Act; and

(2) bodily injury or death occurring after such date of enactment.

NOXIOUS WEED COORDINATION AND PLANT PROTECTION ACT

AKAKA AMENDMENT NO. 337

(Ordered referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. AKAKA submitted an amendment intended to be proposed by him to the bill (S. 910) to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; as follows:

On page 55, between lines 17 and 18, insert the following:

SEC. 405. FEDERAL AGENCY ACTION AFFECTING INVASIVE SPECIES.

(a) IN GENERAL.—Each Federal agency, an action of which may affect the status of invasive species, shall, to the maximum extent practicable—

(1) identify the action;

(2) use relevant programs and authorities to—

(A) prevent the introduction of invasive species;

(B) detect, respond rapidly to, and control populations of invasive species in a cost-effective and environmentally sound manner;

(C) monitor invasive species populations accurately and reliably;

(D) provide for restoration of native species and habitat conditions of ecosystems that have been invaded;

(E) conduct research on invasive species;

(F) develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and

(G) promote public education on invasive species; and

(3) not authorize, fund, or carry out an action that the agency determines is likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, under guidelines prescribed by the agency, the agency has determined and made public the determination that—

(A) the benefits of the action clearly outweigh the potential harm caused by the invasive species; and

(B) all feasible and prudent measures to minimize the risk of harm shall be taken in conjunction with the action.

(b) DUTIES.—Each Federal agency shall pursue the duties under this section—

(1) in consultation with the Invasive Species Council established under section 402;

(2) in accordance with the National Invasive Species Action Plan established under section 404;

(3) in cooperation with stakeholders, as appropriate; and

(4) with the approval of the Department of State, in cases in which the Federal agency is working with international organizations or foreign nations.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

BIDEN (AND OTHERS) AMENDMENT NO. 338

(Ordered to lie on the table.)

Mr. BIDEN (for himself, Mr. SCHUMER, Mr. KOHL, and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill, S. 254, supra; as follows:

At the end of the bill, insert the following:

TITLE V—21ST CENTURY COMMUNITY POLICING INITIATIVE

SEC. 501. 21ST CENTURY COMMUNITY POLICING INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7) by inserting ''school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) MATCHING FUNDS.—Section 1701(i) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(i)) is amended by adding after the first sentence the following: ''The Attorney General shall waive the requirement under this subsection of a non-Federal contribution to the costs of a program, project or activity that hires law enforcement officers for placement in public schools.''.

(f) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including (but not limited to) programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(g) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use up to 5 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(h) HIRING COSTS.—Section 1704(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–3(c)) is amended by striking ''$75,000'' and inserting ''$125,000''.

(i) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(j) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,300,000,000 for fiscal year 2000;

''(ii) $1,300,000,000 for fiscal year 2001;

''(iii) $1,300,000.000 for fiscal year 2002;

''(iv) $1,300,000,000 for fiscal year 2003;

''(v) $1,300,000,000 for fiscal year 2004; and

''(vi) $1,300,000,000 for fiscal year 2005.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''85 percent'' and inserting ''$600,000,000''; and

(C) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701(b) and (c), $150,000,000 to grants for the purposes specified in section 1701(d), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).''.

BYRD (AND KOHL) AMENDMENT NO. 339

(Ordered to lie on the table.)

Mr. BYRD (for himself and Mr. KOHL) submitted an amendment intended to be proposed by them to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. TWENTY-FIRST AMENDMENT ENFORCEMENT.

(a) SHIPMENT OF INTOXICATING LIQUOR INTO STATE IN VIOLATION OF STATE LAW.—The Act entitled ''An Act divesting intoxicating liquors of their interstate character in certain cases'', approved March 1, 1913 (commonly known as the ''Webb-Kenyon Act'') (27 U.S.C. 122) is amended by adding at the end the following:

''SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.

''(a) DEFINITIONS.—In this section—

''(1) the term 'attorney general' means the attorney general or other chief law enforcement officer of a State, or the designee thereof;

''(2) the term 'intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

''(3) the term 'person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

''(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(b) ACTION BY STATE ATTORNEY GENERAL.—If the attorney general of a State has reasonable cause to believe that a person is engaged in, is about to engage in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction or other order) against the person, as the attorney general determines to be necessary to—

''(1) restrain the person from engaging, or continuing to engage, in the violation; and

''(2) enforce compliance with the State law.

''(c) FEDERAL JURISDICTION.—

''(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any action brought under this section.

''(2) VENUE.—An action under this section may be brought only in accordance with section 1391 of title 28, United States Code.

''(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS.—

''(1) IN GENERAL.—In any action brought under this section, upon a proper showing by the attorney general of the State, the court shall issue a preliminary or permanent injunction or other order without requiring the posting of a bond.

''(2) NOTICE.—No preliminary or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party.

''(3) FORM AND SCOPE OF ORDER.—Any preliminary or permanent injunction or other order entered in an action brought under this section shall—

''(A) set forth the reasons for the issuance of the order;

''(B) be specific in terms;

''(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts to be restrained; and

''(D) be binding only upon—

''(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

''(ii) persons in active cooperation or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

''(e) CONSOLIDATION OF HEARING WITH TRIAL ON MERITS.—

''(1) IN GENERAL.—Before or after the commencement of a hearing on an application for a preliminary or permanent injunction or other order under this section, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application.

''(2) ADMISSIBILITY OF EVIDENCE.—If the court does not order the consolidation of a trial on the merits with a hearing on an application described in paragraph (1), any evidence received upon an application for a preliminary or permanent injunction or other order that would be admissible at the trial on the merits shall become part of the record of the trial and shall not be required to be received again at the trial.

''(f) NO RIGHT TO TRIAL BY JURY.—An action brought under this section shall be tried before the court.

''(g) ADDITIONAL REMEDIES.—

''(1) IN GENERAL.—A remedy under this section is in addition to any other remedies provided by law.

''(2) STATE COURT PROCEEDINGS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.''.

STEVENS AMENDMENT NO. 340

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

At the appropriate place insert the following new section:

''SEC. . LOCAL ENFORCEMENT OF LOCAL ALCOHOL PROHIBITIONS THAT REDUCE JUVENILE CRIME IN REMOTE ALASKA VILLAGES.

(a) CONGRESSIONAL FINDINGS.—The Congress finds the following:

(1) Villages in remote areas of Alaska lack local law enforcement due to the absence of a tax base to support such services and to small populations that do not secure sufficient funds under existing state and federal grant program formulas.

(2) State troopers are often unable to respond to reports of violence in remote villages if there is inclement weather, and often only respond in reported felony cases.

(3) Studies conclude that alcohol consumption is strongly linked to the commission of violent crimes in remote Alaska villages and that youth are particularly susceptible to developing chronic criminal behaviors associated with alcohol in the absence of early intervention.

(4) Many remote villages have sought to limit the introduction of alcohol into their communities as a means of early intervention and to reduce criminal conduct among juveniles.

(5) in many remote villages, there is no person with the authority to enforce these local alcohol restrictions in a manner consistent with judicial standards of due process required under the state and federal constitutions.

(6) Remote Alaska villages are experiencing a marked increase in births and the number of juveniles residing in villages is expected to increase dramatically in the next five years.

(7) Adoption of alcohol prohibitions by voters in remote villages represents a community-based effort to reduce juvenile crime, but this local policy choice requires local law enforcement to be effective.

(b) GRANT OF FEDERAL FUNDS.

(1) The Attorney General is authorized to provide to the State of Alaska funds for state law enforcement, judicial infrastructure and other costs necessary in remote villages to implement the prohibitions on the sale, importation and possession of alcohol adopted pursuant to state local option statutes.

(2) Funds provided to the State of Alaska under this section shall be in addition to and shall not disqualify the State, local governments, or Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (P.L. 93–638, as amended; 25 U.S.C. 450b(e) (1998)) from federal funds available under other authority.

(c) AUTHORIZATION OF APPROPRIATIONS.

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section

(A) $15,000,000 for fiscal year 2000;

(B) $17,000,000 for fiscal year 2001; and

(C) $18,000,000 for fiscal year 2002.

(2) SOURCE OF SUMS.—Amounts authorized to be appropriated under this subsection may be derived from the Violent Crime Reduction Trust Fund.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, May 12, 1999, in executive session, to mark up the fiscal year 2000 Defense authorization bill.

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

COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet at 2:00 p.m. on

Wednesday, May 12, 1999, in executive session, to mark up the FY 2000 Defense authorization bill.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 12, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on damage to the national security from Chinese espionage at DOE nuclear weapons laboratories.

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

COMMITTEE ON FINANCE

Mr. BROWNBACK. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, May 12, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''ESEA: Title I: Evaluation and Reform'' during the session of the Senate on Wednesday, May 12, 1999, at 9:30 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday May 12, 1999 at 9:30 a.m. to conduct an Oversight Hearing on HUBZones Implementation in Indian Country. The Hearing will be held in room 485 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 12, 1999 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

COMMUNICATIONS SUBCOMMITTEE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be allowed to meet on Wednesday, May 12, 1999, at 9:30 a.m. on S. 800—Wireless Communication and Public Safety Act of 1999.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 12, 1999, to conduct a hearing on ''The Low-Income Housing Tax Credit.''

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

SUBCOMMITTEE ON IMMIGRATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, May 12, 1999 at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: ''Meeting the Workforce Needs of American Agriculture, Farm Workers, and the U.S. Economy''.

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

SUBCOMMITTEE ON SCIENCE TECHNOLOGY AND SPACE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be allowed to meet on Wednesday, May 12, 1999 at 2:30 p.m. on emerging technologies.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism and Government Information of the Committee on the Judiciary be authorized to hold an Executive Business Meeting during the session of the Senate on Wednesday, May 12, 1999 at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism be authorized to meet during the session of the Senate on Wednesday, May 12, 1999 at 3:00 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

ON THE CITADEL'S GRADUATION

• Mr. HOLLINGS. Mr. President, early on in this decade The Citadel in Charleston, South Carolina was challenged and lost the fight for the admission of women to the Corps of Cadets. It was a stormy event, but on Saturday last with dignity and prestige the first woman cadet, Nancy Mace, a gold star honor student, was graduated. The commentator, Pat Buchanan, rendered the graduation address. It was a challenge not only to the graduating class, but for the Nation as well. I ask that the Buchanan address be printed now in the RECORD.

The address follows:

A REPUBLIC, NOT AN EMPIRE

(By Patrick J. Buchanan)

General Grinalds, distinguished guests, and friends of the Citadel. It is truly an honor to address this last graduating class of the 20th century—and a truly unique class it is, of an institution whose name is synonymous with patriotism, courage, and a code of honor.

I must tell you, I was profoundly moved by yesterday's parade, and the Scottish bagpipes playing ''Auld Lang Zyne'' to the Class of '99. I was moved, in part, because we Buchanans are of Scotch ancestry. Indeed, an historian once told me the Buchanans were a Highland warrior clan that had fought at Agincourt, where England's Henry V achieved immortality.

And as I was basking in the reflected glory of my ancestors, however, the historian added, ''Unfortunately, Pat, the Buchanans all fought on the side of the French.''

Now, as my two great grandfathers on the Buchanan side were from Mississippi, and fought with the Confederacy, we Buchanans have an established tradition of Lost Causes. Unfortunately, in 1992 and 1996, I made my own contributions to that family tradition.

My wife Shelley tells me that if I don't win this time, she is going to pack it in—and run for the Senate from New York.

This is not my first trip to the Citadel; in 1995, I was invited to address the student body in its lecture series on the great issues of the day. On the bookshelf in my living room, if you come to visit, you will find in a place of honor what is known as the Brick—a miniature replica of the original Citadel.

Friends of the Citadel, we live in an age of self-indulgence where the values embodied in your code of honor—''A cadet does not lie, cheat, or steal, or tolerate those who do,'' are considered by some to be out of fashion.

But all over this troubled country of ours, people hunger for a restoration of the values which I believe will soon be both relevant and respected again. For this country is not only about to cross over into a new century, we are entering upon a new and potentially dangerous decade.

Indeed, as this era that the historians have already designated ''the American Century,'' approaches an end, it may be instructive to look back to the close of the 19th century, when the British empire was the world's preeminent power.

For the Diamond Jubilee of Queen Victoria, Rudyard Kipling was asked to pen some verses to the greatness and glory of his nation. As he wrote of Britannia's ''(d)ominion over palm and pine,'' Kipling struck a note of unease, of apprehension, that the mighty empire on which the sun never set might itself also pass away. Let me recite a few lines from his poem ''Recessional'':

''Far-called our navies melt away—
On dune and headland sinks the fire—
Lo, all our pomp of yesterday
Is one with Nineveh and Tyre!
Judge of the Nations, spare us yet,
Lest we forget, lest we forget.''

Kipling proved prophetic. In two decades, the British empire was fighting for its life on the fields of France. In half a century, that empire had vanished from the earth.

And so it was with all the great nations that had strode so confidently onto the world's stage at the start of this bloodiest of centuries—all except America. The Austro-Hungarian, German, Russian, and Ottoman empires perished in World War I. Japan's was

destroyed in World War II; the British and French expired soon after.

When the Berlin Wall came down in 1989, in that triumph of human freedom and American perseverance, the empire of Lenin and Stalin collapsed, leaving the United States as the world's sole superpower. In the phrase of our foreign policy elite, we have become the world's ''indispensable nation.''

But it is just such hubristic rhetoric that calls forth apprehension, for it reflects a pride that all too often precedes a great fall.

Long ago, Teddy Roosevelt admonished us: ''Speak softly and carry a big stick.'' Today, we have whittled down the stick, even as we raised the decibel count.

My apprehension is traceable, too, to a belief that our republic has begun to retrace, step by step, the march of folly that led to the fall of the British and every other great empire.

Today, America has become ensnared in a civil war in a Balkan peninsula where no U.S. army ever fought before, and no president ever asserted a vital interest. Daily, we plunge more deeply in.

Our motives were noble—to protect an abused people—but most now concede that we failed to weigh the risks of launching this war.

Among the lessons America should have learned from Vietnam, said General Colin Powell, is that before you commit the army, you must first commit the nation. We did not do that.

Now, it is said that as the credibility of NATO cannot survive defiance by tiny Serbia, we must do whatever needs to be done to win, even if it means ordering 100,000 U.S. ground troops into the Balkans. This sentiment was expressed by a columnist at the New York Times:

''It should be lights out in Belgrade; every power grid, water pipe, bridge, road . . . has to be targeted. Like it or not, we are at war with the Serbian nation . . . and the stakes have to be very clear: Every week you ravage Kosovo is another decade we will set you back by pulverizing you. You want 1950. We can do 1950. You want 1389. We can do 1389 too.''

One cannot read that passage without recalling to mind the phrase, ''the arrogance of power.''

Now, Milosevic is a tyrant and a war criminal. But does America have the right to ''pulverize'' a nation that never attacked the United States? Did the Founding Fathers dedicate their lives, fortunes and sacred honor to the cause of liberty, so that the republic they would create could emulate the empire they overthrew? Is it America's destiny to be the policemen of the world?

In his Farewell Address, our greatest president implored us to stay out of Europe's endless quarrels: ''Why quit our own to stand upon foreign ground?'' Washington asked. ''Why . . . entangle our peace and prosperity in the toils of European Ambition, Rivalship, Interest, Humour, or Caprice?''

When the Greeks rose in rebellion against the Ottoman Turks in a Balkan war, John Quincy Adams, our greatest Secretary of State advocated America's non-intervention.

''Wherever the standard of freedom and independence has been or shall be unfurled,'' said Adams, ''there will [America's] heart, her benedictions, and her prayers be. But she goes not abroad in search of monsters to destroy.''

Now that America is at war, all of us pray for the success and safe return of the men and women we have sent into battle. They are some of the best and bravest of our young. And no matter our disagreements, those are our sons and our daughters out there. But all of us, as citizens of a republic, must debate the decisions as to when, where, and whether to put their lives at risk.

This Balkan war is not the first time America has heard the siren's call to empire. A century ago, we heeded it, and annexed the Philippines. In the fall of 1898, leaders from Grover Cleveland to Sam Gompers implored us to resist the temptation.

''The fruits of imperialism, be they bitter or sweet,'' said William Jennings Bryan, ''must be left to the subjects of monarchy. This is one tree of which citizens of a republic may not partake. It is the voice of the serpent, not the voice of God, that bids us eat.''

America did not listen. And hard upon the annexation of the Philippines came the declaration of an Open Door policy in China, that plunged us into the politics of Asia, out of which would come war with Japan, war in Korea, and war in Vietnam.

Today, this generation is facing the same question. Quo vadis, America? Whither goest thou, America?

Will we conscript America's wealth and power to launch utopian crusades to reshape the world in America's image? Or shall we again follow the counsel of Washington and Adams, and keep our lamp burning bright on the Western shore?

Every citizen needs to take part in deciding the destiny of this republic, for we have now undertaken foreign commitments that no empire in history has ever sustained. We have assumed the role of German empire in keeping Russia out of Europe, of the Austrian empire in policing the Balkans, of the Ottoman empire in keeping peace in the Middle East, of the Japanese empire in containing China, of the British empire in patrolling the Gulf and maintaining freedom of the seas.

How long can America continue to defend scores of countries around the world on a defense budget that has fallen to the smallest share of the U.S. economy since before Pearl Harbor?

As we see a limited air war in the Balkans stretch U.S. power to where F–16s are cannibalized for spare parts, our Air Force runs low on laser-guided munitions, our Apache helicopters take weeks to be deployed, and our Pacific fleet is stripped of carriers, it is clear: The long neglect of America's military must come to an end.

We must restore this nation's military power, or we are headed for humiliations such as have marked the fall of every great nation that has ever embarked on the imperial course we now pursue.

America must retrench; and America must rearm. To make up for this lost decade, let us restore America's defenses to what they were when the decade began. Let us make our country, again, invincible on land, sea, and air, and build the missile defense that a great president, Ronald Reagan, sought as his legacy to America.

To be prepared for war, Washington reminded us, is the best guarantee of preserving peace.

But if there is cause for apprehension over what lies ahead, there is also cause for confidence and hope. That confidence, that hope, rests not only on the boundless resources of this providential land, but on the almost infinite capacity of the American people to rise and overcome any challenge with which history confronts them.

We, after all, are the heirs of the heroes who launched the world's first revolution for liberty. We are the sons and daughters of the great generation that brought us through the Depression and crushed fascism in Europe and Asia. We are the men and women who persevered and triumphed in a half century of Cold wAr against the most monstrous tyranny mankind has ever known.

Now the time of testing is coming for you. The America that this Class of '99 shall inherit is rich and prosperous and powerful, but also envied and resented.

And whether America retains into this new century what she carries out of this old on, depends now on your generation. Fifty years from now, at the end of your lives, you will look back, and say one of two things: Yes, we, too, made our contribution to the preservation of the greatest republic the world has ever seen. Or you will say that it was during your custodianship that the lamp began to flicker, that we began to follow inexorably in the footsteps of all the other great nations, down the staircase of history.

All, then, will come to depend on the character, and courage of this generation, for, as Churchill said, courage is the greatest of all virtues, because it alone makes all the others possible.

Last night at dinner, General Grinald's wife told me that when members of the graduating classes are asked what they will take away from the Citadel, almost invariably they say, ''After going through the Citadel, I believe that I can do anything.''

That is the spirit the Citadel instills, and that is the spirit America needs. Because you have gone through this Citadel that has always cherished duty, honor and country, you are more prepared than most of your generation for what lies ahead.

And the debt you owe the Citadel, the debt you owe your parents, the debt you owe your teachers, and all those who have gone before, is to be able to say, at the end of your lives: We, too, were faithful to the Citadel; we, too, did our duty; we, too, gave over to our children and their children the greatest country the world has ever known.

God bless the Citadel, and God bless the Class of '99.●

A MILESTONE FOR NEW MEXICO ACEQUIAS

● Mr. DOMENICI. Mr. President, since my early days as a Senator, I have worked with Northern New Mexicans who have irrigated apple orchards, chile crops, beans, and other subsistence commodities by using a unique system of irrigation that is native to New Mexico's high desert plateaus of the Rocky Mountains. For hundreds of years, Hispanics have channeled Rio Grande River water for their crops through a complex system of ditches. I first started working with these ''acequia'' associations in 1976, when we first brought their needs to the attention of the Bureau of Reclamation.

Water from the Rio Grande River has been carefully syphoned off to provide a basis for Hispanic life and culture for centuries. The annual rituals of cleaning, operating, and sharing this precious water have become an integral part of northern New Mexico's cultural life. Irrigators have formed alliances and cooperative agreements to meet the many water needs of the area. ''Acequias,'' as they are known in Spanish, are the irrigation ditches that have given rise to centuries of critical life support systems.

Much of the beauty of cottonwood trees and apple orchards between Espanola and Taos was created by these man-made acequias. In addition to watering the orchards and fields, the acequias are a vital source of precious water for the old trees that also live off this water system.

The historic value of this system of cooperative watering is well known in northern New Mexico. In fact, when the acequia associations and I agreed to improve this system, our suggestions were resisted by State of New Mexico agencies on the grounds that concrete lining, for example, would alter the historic value of these acequias.

Of course, the state agency did not want to help with the expensive and frequent repairs and annual maintenance. They wanted the subsistence farmers to do this themselves, at their own expense.

Working with Las Nueve Acequias Steering Committee, and their excellent Chairman Wilfred Gutierrez, we are now celebrating a quarter century of overcoming bureaucratic barriers and making real improvements to this vast system of acequias. In the past twenty five years, I have been able to convince my colleagues in the Senate of the value of acequias to the economy and culture of northern New Mexico.

The Congress has been accepting of my proposals. At my urging, the Congress authorized a special program to make the needed physical improvements to acequias, while maintaining the traditional cooperative relationships. The traditional leader of an acequia is the ''mayordomo.'' Mike Martinez, the current mayordomo of the Chicos ditch in Velarde was on hand to christen the latest section of improvements in late April. This event was a milestone that marks a quarter century of a vital partnership with the federal government to keep these acequias operable for the next century.

We are still a couple of years away from completing $30 million worth of improvements in the Velarde area of New Mexico. Miles of acequias have been greatly improved in the past quarter century. I have been fortunate to have the support of my colleagues for many appropriations over all these years. In gratitude for the consistent support of my colleagues for funding these acequia projects, I would like them to see the attached newspaper article from the Rio Grande Sun, May 6, 1999, by Cynthia Miller, entitled, ''After 25 Years, Acequia Project Finally Finished''. This article gives us important insights into the value of the acequias to thousands of northern New Mexicans. After a quarter century of improvements, the acequia users and associations can continue to rely on this essential source of water for their lifestyles, and their livelihood.

I ask that this article be printed in the RECORD.

The article follows:

[From the Rio Grande Sun, May 6, 1999]

AFTER 25 YEARS, ACEQUIA PROJECT FINALLY FINISHED

(By Cynthia Miller)

When the Chicos ditch in Velarde was opened April 28 during a ceremony to celebrate the completion of 3000 feet of improvement work, Las Nueve Acequias Steering Committee Chairman Wilfred Gutierrez said he witnessed not only the one ditch's progress that day, but also the past 25 years of progress on a $20 million federal project covering nine ditches in the area.

The 3000 feet of concrete piping from a Rio Grande dam up the Chicos marks one of the last stages of the project, Gutierrez said, estimating $15 million in federal funds has been spent on the project so far.

He said the ditch was christened by acequia mayordomo Mike Martinez and several federal Bureau of Reclamation officials who gathered April 28 to watch as water was released from the newly lined dam for the first time this spring.

The pricey nine-ditch project was initiated in the 1970s, Gutierrez said, when residents of Velarde and surrounding communities rebelled against a $28 million federal plan to build a canal from the Rio Grande to the Santa Cruz River.

The group successfully stopped the canal from going in and the community's irrigation water supply from going out, he said, and then members got some ideas of their own. ''People started asking me why couldn't we use some of that money to rehabilitate our acequias?''

Gutierrez said the farmers in the area were always putting time, money and labor into rebuilding dams and ditches which were washed away by heavy river flows, and fixing spots where muskrats, crawfish and other wildlife dug holes.

Rather then constantly rebuild the acequias just to see them destroyed again, the community members wanted to improve the ditches in a way that would be more permanent and would require less strenuous maintenance efforts, he said.

In 1976 officers from the nine acequias organized into the Las Nueve Acequias Steering Committee and asked Gutierrez to serve as chairman, he said. The group then sought U.S. Sen. Pete Domenici's help in securing Bureau of Reclamation funds for their ditch improvement projects.

Following a Bureau of Reclamation feasibility study around 1980, he said, it was determined that the work would cost about $20 million. Funds began to come in and plans were made to get started.

The first and most crucial phase was to build new dams, Gutierrez said. ''Before that, it was just the old ones that the Spanish and the Indians built. Literally, we were just washing money down the river.''

With each heavy rain, he said, the dams just washed away and had to be rebuilt.

Seven new permanent dams were built by Las Nueve Acequias and the Bureau of Reclamation to replace the nine previous dams, he said, and then work was started on lining ditches and creating other structures.

He explained the group is set up so that each ditch has its own officers to make decisions on what work it wants done.

''What's nice about this project is that it's up to the people in the acequias to determine what they want. They have to make the request,'' he said, adding he has served from the start as an at-large representative of the steering committee.

He represents no individual acequia, he said, and works instead for the good of all nine.

Part of his work has included overcoming obstacles standing in the way of ditch improvements, such as the state Environment Department and the state Game and Fish Department's objections to ditch work, Gutierrez said.

The departments wanted the ditches to remain in their more natural states.

''They wanted the acequias to exist like before, but they didn't realize how expensive it was. And they didn't want to help fix them,'' he said. ''They wanted the acequia groups to be burdened with the expense of keeping the acequias as they had existed.''

Gutierrez said he was glad to see the project is nearing its completion.

''When we started it, we thought we could finish it in eight years,'' he said, ''and it's taken 25. . . . We'd like to finish this project in the next two years.''

Gutierrez said Las Nueve Acequias has plans to do more work on its ditches this fall.●

AMERICAN HOSPITAL ASSOCIATION AWARD WINNER

● Mrs. FEINSTEIN. Mr. President, the week of May 9, 1999 is National Hospital Week, when communities across the country celebrate the people that make hospitals the special places they are. This year's theme sums it up nicely: ''People Care, Miracles Happen.'' It recognizes the health care workers, volunteers and other health professionals who are there 24 hours a day, 365 days a year, curing and caring for their neighbors who need them.

An example of this dedication is the Sexual Assault Response of Antelope Valley Hospital in Lancaster, California. The program won the American Hospital Association's prestigious Hospital Award for Volunteer Excellence for 1999, which highlights special contributions of hospital volunteers.

The Sexual Assault Response Service is a team of hospital volunteers that offers specialized assistance to sexual assault victims, families, hospital personnel and law enforcement agencies. To meet the program's high standards, volunteers get more than 60 hours of training.

Responding to a call from any area hospital emergency department, they provide support to victims while helping to solicit histories, preparing evidence collection kits, assisting with medical and legal examinations, and overseeing the completion of state forms. Volunteers work with the district attorney's office throughout the court process and offer one-on-one counseling, a referral service, a lending library and community education.

Mr. President, I want to congratulate Antelope Valley Hospital for this award-winning effort and for their generous contributions to their community.●

IN RECOGNITION OF CFIDS AWARENESS DAY

● Mr. SANTORUM. Mr. President, I rise today to recognize the efforts of the Chronic Fatigue Syndrome Association of Lehigh Valley in fighting Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS), or Chronic Fatigue Syndrome (CFS).

Through a tireless effort, the CFS Association of Lehigh Valley is committed to finding a cure for CFIDS, increasing public awareness and providing support for victims of this disease. Public education is an integral part of the association's mission, and the Lehigh Valley organization works to raise awareness through the International CFIDS Awareness Day, which

is held on May 12 each year. In addition, the Lehigh Valley organization is actively involved in CFS-related research and regularly participates in seminars to train health care professionals. It is also important to note that the CFS Association of Lehigh Valley received the CFIDS Support Network Action Award in 1995 and 1996 for their public advocacy initiatives.

Although some progress has been made in the study of CFIDS, this condition is largely still a mystery. With no known cause or cure for the disease, victims experience a variety of symptoms including extreme fatigue, fever, muscle and joint pain, cognitive and neurological problems, tender lymph nodes, nausea and vertigo. The Centers for Disease Control has given CFIDS ''Priority 1'' status in the new infectious disease category which also includes cholera, malaria, hepatitis C and tuberculosis. The Lehigh Valley organization will persistently continue its research and education campaigns until this disease is obliterated.

Mr. President, I urge my colleagues to join me in commending the Lehigh Valley organization and in supporting the following proclamation:

PROCLAMATION

Whereas, on May 12, 1999 the Chronic Fatigue Syndrome (CFS) Association of Lehigh Valley joined the Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS) Association of America, the largest organization dedicated to conquering CFIDS, in observing International Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day; and

Whereas, CFIDS is a complicated disease which is characterized by neurological, rheumatological and immunological problems, incapacitating fatigue, as well as a number of other symptoms that can persist for months or years and can be severely debilitating; and

Whereas, estimates suggest that hundreds of thousands of American adults already have CFIDS; and

Whereas, the medical community, as well as the public should receive more information and develop a greater awareness of the effects of CFIDS. While much has been done at the national, state and local level, more must be done to support patients and their families; and

Whereas, research has been enhanced by the efforts of the Centers for Disease Control, the National Institutes of Health and other private institutions, the CFS Association of Lehigh Valley recognizes that there is still much more to be done to encourage further research so that the mission of conquering CFIDS and related disorders can be achieved;

Therefore, the United States Senate commends the efforts of the CFS Association of Lehigh Valley, as well as those battling the disease and applauds the designation of May 12, 1999 as CFIDS Awareness Day.●

COLORADO BOYS RANCH

● Mr. ALLARD. Mr. President, I would like to take a moment to draw attention to an anniversary. Forty years ago yesterday, the Colorado Boys Ranch Foundation was incorporated. Yesterday they celebrated forty years as a leader in the field of youth work.

The Colorado Boys Ranch places emphasis upon youth, especially those who are vulnerable to or troubled by the negative influences and pressures of our society. Their motto is ''It's easier to build a boy than mend a man.''

Thirty eight years ago, my predecessor, Senator John Carroll of Colorado, spoke on this floor on the merits of the then still new Ranch, and I am here to echo the spirit of his comments.

Colorado Boys Ranch was created through volunteer labor and public and private contributions. This ranch is located just north of La Junta, Colorado. In 1959 the La Junta Chamber of Commerce and the Colorado County Judge's Association had a vision to build a treatment center for wayward youth coming from broken and unloving homes. The City of La Junta had received from the United States Government an abandoned WWII air field, and they gave the Foundation the civilian housing area from that field. Businesses and volunteers immediately came forth with offers to help remodel this facility to accommodate plans for the Ranch.

Of the committee of ten that started the ball rolling, two are still alive. Of the four judges that were involved personally, only one remains. Their volunteerism inspired others over the past forty years, and the overall efforts have been great and still continue strong to help the Ranch in its great efforts.

Over the past forty years, 4,000 plus youth have been treated at Colorado Boys Ranch and over 85% have continued on to be productive citizens. The Ranch is accredited with commendation by the Joint Commission on Accreditation of Healthcare Organizations, and is certified and licensed by the Colorado Department of Human Services, Mental Health and Education.

The Colorado Boys Ranch program is based upon the following beliefs: That preserving families and family ties takes continual effort and a spirit of renewal. That youth require essential life experiences and skills to maximize their growth and development. That something special happens when the lives of youth and animals connect. And, that CARING BRINGS RESULTS.

Recently, the Ranch received the Samaritan Institute Award for Ethics. This prestigious award is presented annually to a non-profit organization that best illustrates the importance of ethical values through its chartered work and its partnership with the business community.

I commend the goals of the ranch, and its purpose as a leader in the field of working with vulnerable youth and helping them find their role in modern society. I invite you to visit the Colroado Boys Ranch should you ever be in the state—over its forty year history, it has served youth from over twenty states across our nation.

Mr. President, the fortieth anniversary of the Colorado Boys Ranch Foundation would be special any day that it happened to fall upon, but today it is especially notable. We debate today on youth violence and youth crime, and ways to curb that horrible scourge. The Ranch has found a solution, a solution that will not perhaps work across the whole nation, but is certainly working for those it serves.

Following also in the path of Senator Carroll, I ask that an article from the Denver Post on the Ranch and its good works be printed in the RECORD.

The article follows.

[From the Denver Post, Jan. 23, 1999]

BOYS RANCH HELPS TROUBLED YOUTH

(By Keith Coffman)

Those seeking testimonials about how the horsemanship program helps troubled youth at the Colorado Boys Ranch don't need to look far. Current ranch residents will gladly oblige, thank you very much.

''Before I came here, I was living on the street, taking drugs and didn't care about anything, even myself,'' said George, a 17-year-old who's been at the ranch for six months. ''Now I've learned responsibility by taking care of my horse and focusing on one objective at a time.''

George is one of 60 youth at the ranch, a residential treatment center for troubled boys ages 12 to 18. He was facing jail time for a variety of petty crimes in Nevada. But after six months in Colorado, he now thanks his probation officer for giving him a second chance by suggesting the ranch.

''I still show a little stubbornness, but I've gotten better at listening to people,'' he said.

Located on 320 acres near La Junta in southeastern Colorado, the private, non-profit Colorado Boys Ranch offers therapy, education and pre-vocational training to its residents, many of whom are referred by courts and social service agencies nationwide.

A handful of residents and staff participated in several activities at this year's National Western Stock Show and Rodeo as part of the ranch's animal-assisted therapy program.

Boys in the program trained three roping, or heading, horses for entries by Colorado Boys Ranch ranch hands in the pre-circuit team roping event earlier in the show. They also showed a 4-year-old donated quarter horse in the halter competition.

Although insurance regulations prohibit residents from competing in rodeo and other events, the boys took pride in seeing their contributions to a major event like the National Western, said Jim Kerr, director of the horsemanship program for the Boys Ranch.

''They also get a chance to see our staff and other professionals as positive role models, which I think is very important,'' Kerr said.

But the horsemanship program isn't just about playing cowboy, Kerr said. The ranch teaches its charges all facets of horsemanship, from riding to the less-glamorous task of cleaning corrals,. Classroom instruction also is incorporated into real world experience on the ranch.

For instance, Kerr said, students apply their math skills to calculate correct feed amounts for the animals they tend, or watch a mare give birth to a foal to get a valuable biology lesson. He said therapists also have found that many boys are more forthcoming in counseling sessions done during a leisurely horseback ride at the ranch, than those held in more formal office settings.

For many of the youth, relating to animals often helps them relate to people and prepare them for mainstream society, Kerr said.

That's the case for Thurman, 17, who was skipping school and getting into fights in his native Detroit before coming to the ranch 18 months ago.

Raising and halter breaking an orphaned filly named Sweet Pea, he said, has taught him to become disciplined enough to get on track for his high school equivalency diploma, with a goal of one day becoming an animal trainer.

''When my mom comes to visit me, she sees how I've changed,'' he said. ''I used to be very angry and aggressive, and couldn't sit still.''

But none of the ranch's success stories surprise Kerr, a former public school teacher.

''I witness a miracle a day here,'' he said.●

TRIBUTE TO ARLENE SIDELL

● Mr. McCAIN. Mr. President, I would like to pay tribute to Ms. Arlene Sidell, who will soon be retiring from a long and distinguished career in the U.S. Senate.

Ms. Sidell is the Director of the Senate Commerce Committee Public Information Office. She first came to the Committee 36 years ago, in March of 1963. Ms. Sidell is an extraordinary public servant, who has consistently served all the Members and staff on the Committee with total dedication and commitment.

The Commerce Committee, at a recent Executive Session, expressed its gratitude to Ms. Sidell for all she has done for the Committee and the Senate with extended applause.

Mr. President, I ask that the text of my statement made on Ms. Sidell's behalf at the Commerce Committee Executive Session held on May 5, 1999, be printed in the RECORD.

The statement follows:

ACKNOWLEDGMENT OF ARLENE SIDELL

Before we begin to consider items on today's agenda for our Executive Session, I would like to take a moment to acknowledge and extend my heartfelt thanks to Arlene Sidell. Arlene, sitting before us, is the Director of the Commerce Committee Public Information Office, and our official clerk for Committee Executive Sessions. This will be the last time we will see Arlene at one of our mark-ups, as she will soon be retiring from an exemplary career in public service.

Arlene began her tenure with the Commerce Committee 36 years ago, in March of 1963. She has served the Senate and our Committee with distinction ever since, and will certainly be missed. Again, Arlene, please know how grateful I am for your dedication, commitment and tireless efforts on behalf of the Members, both past and present, of this Committee.●

TRIBUTE TO ERNIE AND MICHELLE LOPEZ, FATHER-DAUGHTER TEAM

● Mr. DOMENICI. Mr. President, I want to commend a most unique father-daughter team of New Mexicans for their excellent science and engineering accomplishments. Ernie Lopez, a teacher at Taos New Mexico Middle School and science coordinator for the Taos Municipal Schools, has consistently inspired Taos students to excel in science and engineering. That inspiration is best characterized by his record of having at least one of his students at the Intel International Science and Engineering Fair for 23 of the past 25 years.

I know Mr. Lopez was especially proud this year when his own daughter, Michelle Lopez, won one of the top prizes in this year's fair for the project judged to be the best zoology project at this year's Fair.

I want to add my enthusiastic congratulations to Michelle for the dedication and hard work that she has invested in her winning project. That work should lay a solid foundation for a future career marked by major contributions in her chosen fields.

Ernie Lopez was also honored at the International Fair, for ''outstanding accomplishment as a science educator,'' one of seven teaching awards handed out at this year's Fair.

It's with great pleasure that I salute this superb father-daughter team from New Mexico. They serve as great inspiration to students and teachers in my home State.●

IN MEMORY OF LT. WILFRID ''BILL'' DESILETS

● Mr. SMITH of New Hampshire. Mr. President, I rise to pay tribute to Lt. Wilfrid Desilets, a U.S. Army Air Corps P–47 pilot from Worcester, Massachusetts who was lost over New Guinea on August 18, 1943. His remains were recently located and identified, and I was privileged and deeply honored to assist his family—including one of his sisters, Therese Auger of Portsmouth, New Hampshire—with efforts to bring this case to resolution. I was also proud to attend the military funeral for Lt. Desilets this past weekend and to present the Flag of the United States to the surviving family members. Lt. Desilets was an American hero and a patriot who loved his country, loved his family, and loved to fly. He made the ultimate sacrifice for the cause of freedom during the Second World War, and I am pleased to have this opportunity to recognize his unselfish service to his country.

But no words of mine can match the moving eulogy delivered by Therese's husband, Lt. Col. Elvin C. Auger, USAF-ret. Mr. President, I therefore ask that a copy of the eulogy, as delivered by Colonel Auger, appear in the RECORD.

The eulogy is as follows:

FLIGHT OFFICER WILFRID DESILETS: EULOGY BY LT. COL. RET. ELVIN C. AUGER, MAY 8, 1999

I would like to welcome all of you here today, a day this family has waited so long for.

I want to begin by thanking you, Senator Smith, for all the assistance you have given this family. Senator Bob Smith is from New Hampshire. He's my Senator. We thank you for being here today.

I have written this eulogy with the hope that all of you but especially our sons, daughters, and now our grand-children will get to know the Bill that we knew.

I would like to start by saying that I did know Bill and his family before he left for the service and I am proud to say that I have been a member of this family for 55 years.

Now Bill grew up in this family with both loving and caring parents. He was the only boy with 7 sisters. To put it mildly these 7 sisters simply adored him, or as my wife would say today, ''Bill was simply the best''. Bill was a very handsome young man, very religious, started many a day in the service by going to early Mass. He was a good athlete, loved sports and played most all of them.

Now I'm not sure where Bill was on that Sunday, Pearl Harbor Day, but I can tell you for sure where he was very early the next morning. He, with a very good buddy called Kip would be at the Army Recruiting Office to volunteer and serve. Both men knew exactly what they wanted. Bill had to be a pilot and Kip wanted to be a gunner. Hopefully that day they thought Bill's gunner. Incidentally that young man Kip was not only Bills good buddy, he was my big brother.

Now Bill was so good at writing letters home that to read them today is like reading a diary of his military career. In fact the first days in the service when he was issued his uniforms he would write, today I am a soldier.

Now Bill was off to basic training and as he completed it he would be devastated for the Army was sending him to radio operator school not pilot training. Though you know his heart was broken he would write, at least I'll be flying on a crew. Bill did go and complete radio school but then someone somewhere would decide that this young man should be given a chance for pilot training. Now you can imagine how high the morale would be and how his letters home would sound.

Now Bill was off for the pilot training program, preflight primary flying school, basic flying school, and then advance. Now advance being the final phase would terminate with Bill's graduation. We were all so proud of Bill for he was going to be an Army Air Corps pilot.

Two of Bill's very pretty younger sisters would go to Florida to be with him. They would be there the night before graduation to attend the squadron dance with Bill and his buddies and be there the following day with him for the ceremonies to pin the bars and coveted silver wings on Bill. I know for sure how very proud Bill felt that day, not only for completing his pilot traing but also for having those two sisters there with him. I know for sure how he felt for in a couple of years later one of those sisters would be my wife and be there with me at my graduation to pin my wings on.

Now Bill must have finished high in his class for his first assignment would be to the 342 Fighter Squadron. Here he would be flying the P47 Thunderbolt. At that time it was one of our most modern and powerful fighter aircraft we had. Now what was even nicer, Bill would do his transition flying at the old Bedford Airport just 50 miles from home. This would be the happiest time for Bill and his family for when Bill had a little time off we could drive down and bring him home for visits. He was also close enough that on some of his local flights he might do just a little buzzing. What a thrill it was for me to see Bill and his fighter come screaming in low and pull up and away. At that time I would soon be old enough to join and I made up my mind that I had to be a pilot like Bill.

It was a also at this time that Bill would marry his sweetheart Ann. Two short days after the wedding Bill and his squadron would have their orders and be on their way overseas. At the time it seemed like the cruelest, harshest thing that could happen. And it was, but now when I think back I would like to believe that at least Bill had some

days of great happiness and he left knowing that his bride Ann would be here waiting for him to come home. How these had to be wonderful thoughts and memories for Bill to take with him.

Now during the war the boys could not tell us where they were stationed overseas but Bill did write he had seen his first Kangaroo. Years later reading a book on Australian airfields during the war I would read where Bill and his squadron with their aircraft would come to Australia by ships. Here the aircraft would be offloaded, reassembled, test flown and on to New Guinea.

Now in New Guinea in about one month Bill would fly his last mission. It was a big one. 16 of those fighters were in that formation. They were flying a protective cover for some air transports. That flight would enter into a box canyon where the mountains went up to 10 and 12 thousand feet. The weather deteriorated so badly that the flight could not turn and exit that canyon. The pilots all had to break their formation and climb blindly up through the clouds. Bill never came up. In the days that followed, his good buddy then Capt. Roddy would fly search missions over that area but the jungle was not ready to give up its secret.

Now I was with the family that Sunday evening when the notice of a telegram came. You can imagine the thoughts, the fear, and the prayers that went through that family that long night for a war time telegram was most always bad news. Very early the next morning I drove Bill's dad to get that telegram. I will never forget the look on his face and what he said as he came back to the car.

He said, ''It's Bill, it's Bill, he is missing in action. This will kill my wife.'' We had to take this news back home. I can still see Mom and all the sisters on the back porch as we drove in the yard. I guess they knew by his face that it was bad news. All that poor man could do was to keep trying to tell them that Bill was not dead, Bill was not dead, Bill was missing in action.

Two years later the second telegram came. Bill was presumed dead.

In the years that followed we lost Dad, Mom, and a sister, Jean. I can assure you that their thoughts, their hopes and their prayers were that someday Bill would be coming home.

Many, many years later while reading a book of the air wars in New Guinea, I would read in this book that Flight Officer Wilfrid Desilets was lost in the jungles of New Guinea forever. That's the way it remained for 53 long years. Then into our lives came the most amazing young man that I have ever had the opportunity to meet and call a friend. He is a successful businessman, a great writer, a fellow pilot but most of all he was an adventurer and a man with a quest. This man's quest was to find an aircraft that a great uncle had been lost in during this war. The uncle's body had been recovered some 14 years later. This man knows well what a family goes through. On his second trip to New Guinea high up in the mountains and deep in the jungle, he, with the natives, would find Bill and his aircraft. Now he notified the proper authorities and he knew that they could take years to make a recovery identification, and then notify a family. And he so rightfully thought that if Bill still had a family that they would be aging and should know. So upon his return he learned that Bill was probably from the Worcester area so he, with his secretary Arlean, started a massive telephone search for the surname Desilets. They were finally successful and notified Yvette, one of the sisters. Now when we first heard what this stranger said he had done it was unbelievable, but we learned he had done it.

Now as all of you might well expect there are not adequate words to express the feelings that this family has for this man, the gratitude, the great respect, yes the love we feel for this man. so for today I am simply going to say thank you. Yes, thank you Fred Hagen, for without you we would never have had our day today. I guess Fred it is your day too for I have the feeling that you have adopted this family and I know we have adopted you.

We have met and made such wonderful new friends during this time. We have with us Colonel Roddy and a Colonel Benz, two men, fighter pilots who were in that flight with Bill on his last mission. You can imagine the honor it was for me to meet these men and talk and learn of Bill's last mission. We were recently invited to Bill's fighter squadron reunion. We went there as guests and came home honored members. We heard such wonderful stories and memories of Bill. One I would like to share with you today. It is from a letter that a Sergeant Iddings had written to Colonel Roddy when he learned Bill had been found. In his letter he expressed the great sorrow that the maintenance and ground support boys felt when Bill was missing. He also said that in his mind Bill's tombstone should be engraved with a blue ribbon and on it, it should say that Bill was a blue ribbon gentleman and a blue ribbon pilot. How I wish the Sergeant was with us today that we may thank him but he to passed away last year.

To you sisters if I may. We have lived with this tragedy most all of our lives. Now that we have what some may call closure I would hope that when you think of Bill or look at his pictures maybe your hearts may be just a little lighter and remember too Bill will always remain that handsome young man. He will never grow old as we have. I know too that each of you have your own special memories of growing up with Bill. Cherish them for they are yours forever.

I, for one, will always honor Bill for he was the type of young man who, as his country was going to war, would be among the first to volunteer and serve.

Bill was my hero for as a young man watching him fly his fighter made me want to be a pilot like him.

Now if we had to lose Bill during this war, then I am grateful that it would be while Bill was fulfilling his greatest dream, for Bill was a fighter pilot.

Today from here, Bill will be taken to rest with his Mom and Dad. Bill is no longer lost in that jungle. Bill is now home, home with his family truly forever.●

REREFERRAL OF S. 28

Mr. SESSIONS. Mr. President, I ask unanimous consent that S. 28 be discharged from the Energy Committee and referred to the Committee on Indian Affairs.

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

REREFERRAL OF S. 785

Mr. SESSIONS. Mr. President, I ask unanimous consent S. 785 be discharged from the Committee on Armed Services and referred to the Committee on the Judiciary.

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

AMENDING THE PEACE CORPS ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 107, H.R. 669.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 669) to amend the Peace Corps Act to authorize appropriations for fiscal years 2000 through 2003 to carry out that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the measure appear in the RECORD.

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

The bill (H.R. 669) was read the third time and passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, the appointment of James B. Lloyd, of Tennessee, to the Advisory Committee on the Records of Congress.

ORDERS FOR THURSDAY, MAY 13, 1999

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, May 13. I further ask consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, the time for the two leaders be reserved for their use later in the day, and that the Senate immediately resume consideration of the juvenile justice crime bill, S. 254. I further ask consent that at 9:30 a.m. there be 6 minutes of debate on the Hatch-Leahy amendment, equally divided in the usual form, with no amendments to the amendment in order prior to a vote at 9:40 a.m.

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

PROGRAM

Mr. SESSIONS. For the information of all Senators, the Senate will convene on Thursday at 9:30 a.m. and immediately resume consideration of the Hatch-Leahy amendment, with a vote to take place at 9:40 a.m. Following that vote, the Senate will resume consideration of the Hollings amendment on TV violence for the remaining 2 hours of debate. Senators can therefore expect votes throughout the morning session of the Senate, with the first vote occurring tomorrow morning at 9:40.

I further ask that immediately following the 9:40 a.m. vote, Senator BRYAN be recognized for up to 12 minutes for a morning business statement.

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

ORDER FOR ADJOURNMENT

Mr. SESSIONS. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order at the conclusion of the remarks of Senator DORGAN, which he will commence at this time.

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

PRIVILEGE OF THE FLOOR—S. 254

Mr. SESSIONS. Mr. President, if I could, before he begins his remarks, I ask unanimous consent that Kristi Lee, my staff member for the Judiciary Committee, be granted the privilege of the floor through the consideration of this legislation.

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

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 328

Mr. DORGAN. Mr. President, I rise as a cosponsor, along with my colleague from South Carolina, Senator HOLLINGS, of the amendment he has just introduced, the Children's Protection From Violent Programming Act amendment.

That is kind of a long title. What it means is Senator HOLLINGS and I would like to restore in television broadcasting a period of time during the evenings when children are likely to be watching television, where the television programming would not be containing excess violence.

The reason we feel that way is study after study, year after year—in fact, for decades—studies have shown the excessive violence in television programming hurts our children. Yet, if you evaluate television programming during what would normally be considered family viewing hours in this country, you will find the language has become more coarse, words are used that were previously not used, that are not suitable for children. You will also find substantial amounts of programming violence, gratuitous violence, during those shows.

Some would say, what about censorship? I think there are times when it is appropriate for the Federal Communications Commission to establish a family viewing period in the evening where the television broadcasting would be more appropriate, more suitable for our children, when children are watching those programs. We already have an instance dealing with obscenity, and the Supreme Court has upheld the opportunity and the responsibility given the Federal Communications Commission to carve out a period in which certain kinds of words and obscenities cannot be used because it is inappropriate for them to be used at a time when we expect children to be watching television.

We believe the same ought to be true with respect to television violence. One might say, this is much ado about nothing; television violence is nothing new; it is really not very important. Yet that is in defiance of all the conclusions of virtually all the studies. By the time young children graduate from high school in our country, they will have gone to school in classrooms for about 12,500 hours of their lives. But they will have watched television for about 20,000 hours. They have sat in a classroom 12,500 hours and sat in front of a television set 20,000 hours. Regrettably, too many of them are more a product of what they have watched than what they have read.

What is it they are watching? Some years ago I sponsored a project with a college on the North Dakota-Minnesota border that created a television violence report card. Volunteers at that college watched television programs for an entire week and cataloged each and every program and produced a report card on what kind of violence on television was being portrayed to our children. If you simply condense what our children are watching on television—yes, even during what would be considered family viewing hours—it is quite remarkable.

Imagine if someone came to your door tomorrow and said: You know, you have two children. They are age 6 and 9. We would like to put on a dramatic play for them. We have a group of actors out here in our van and we have some stage props. We would like to come into your home, into your living room, and we would like to put on a little play for your children.

So they come in. In the living room they put on a play. In this dramatic play they shoot each other, stab each other, beat each other up. Blood runs freely. There is screaming, there is horror.

You would probably say to those actors: You are just committing child abuse in my living room, doing that in front of my children. What on Earth can you be thinking of? Yet that is exactly what happens in our living rooms with that electronic box, with programming coming to our children at times when children are watching television, programming that is not fit for children.

So the response they have is, turn the television set off. Easy to say. Of course, most homes have a good number of television sets, probably two or three in different parts of the homes. In many homes there are circumstances where the parents are attentive parents, good parents, who try very hard to supervise the children's viewing habits, but it is very, very hard to do.

In fact, if you were watching, one day recently, a television set that depicted the unspeakable horror that was visited upon those students in Littleton High School, in the middle of the live reports with SWAT teams and students running out of school, with the understanding that children had been murdered, in the middle of all that one television network took a break and on came a commercial—of course, louder than everything else because commercials are always louder—advertising that you really needed to pay attention to their next big program. The next program was ''Mr. Murder.'' You really needed to watch ''Mr. Murder'' because this was going to be exciting.

All of this, coming at our children in television programming, study after study points out, hurts our children. This is not helpful to children. It is hurtful to children.

Newton Minow, many, many years ago—1961 in fact—said, ''Television is a vast wasteland of blood, thunder, mayhem, violence, sadism and murder.'' He said, ''In 1961 I worried that my children would not benefit much from television. But in 1991 I worry that my children will actually be harmed by it.''

Television executives produce some wonderful programming as well. You can turn to certain programs on television and be struck by the beauty and the wonder and the information. I have sat with my children watching the History Channel, for example, or certain programs on the Discovery Channel. I should not begin naming them. There are some wonderful, beautiful things from time to time on television. But there are some ugly, grotesque things on television as well, some of which come through our television sets during times children are expected to be watching.

What the Senator from South Carolina proposes is very simple: to go back to a time when we had in this country a period described by the FCC as a ''family viewing period'' that would be relatively free of gratuitous violence being displayed in those programs.

Is that so extreme, so radical? Do we really believe that we have to hurt our children in order to entertain our adults? I do not think so. It does not make any sense to me. There is plenty of opportunity in a lot of areas to entertain adults in this country, but it seems to me perfectly reasonable that at certain times when you expect families to be watching with children in the household that we could try to reduce the amount of violence on television.

I understand that some will portray this as a terrible idea. They will say we now have some ratings systems, and the ratings will give parents the capability of better supervising their children's viewing habits. That is true. I commend the broadcasting industry for having ratings. Not all do. One of the major networks has declined. The ratings themselves have not been used very much.

We have a V-chip that is coming in all new television sets. I offered the first V-chip bill in the Senate some years ago. That is now law, and that will help parents sort out the programming with certain violent scenes.

The fact is, we need to do more. The Senator from South Carolina and I have offered an amendment that we think will be helpful. We do not believe it has constitutional problems. This is not about free speech. You can say pretty much what you want to say and you can depict violence, but we are saying during a certain period of time, you cannot do it in a way that injures children.

I thought it might be useful to go over a couple of the pieces of evidence that most all of us have become acquainted with in all of the studies and hearings that we have had. I guess I have been involved in this issue for 7, 8 years. We have had hearings in the Commerce Committee and elsewhere.

I have a couple of young children who are now age 12 and age 10. We try very hard to make certain that we monitor their viewing habits. Our 12-year-old said to us: Well, friends of ours are able to go to movies that are PG–13 movies.

We say: That might be something their parents let them do, but we don't. We don't want you to see material that is inappropriate.

Movies have ratings, and so you make affirmative decisions whether you are going to go out or allow your child to go out with someone else and see a movie. But television is different. Television is in our family rooms, in our homes. When we turn that dial on the television, the programming that is shown on that television set is programming that is offered for entertainment and for profit.

The first amendment allows people to produce all kinds of programming. As I mentioned before, there are some wonderful, wonderful things on television. There is also some trash on television. It seems to me it would be helpful for parents to have the assistance of the Federal Communications Commission and broadcasters in complying with an amendment of this sort adopted by the Congress that will give parents the feeling that during certain periods, they will not have to worry about what kind of violent scenes are going to be displayed to their children on that television set.

I have a fair amount of things I want to say about the amendment in addition to this, but we have a conference committee meeting. The appropriations conference committee is ongoing in the basement of this building, and I am a conferee, so I must return. I know Senator HOLLINGS and I will be back on the floor tomorrow morning and will be speaking on behalf of this amendment.

My hope is between now and then we will be able to encourage other Members of the Senate to be supportive of this amendment. I know others have come out. I have been in the conference committee, and I have not been here for much debate on the juvenile justice bill.

Also tomorrow, I want to take a moment to describe a visit I just made to the Oakhill Detention Center in Laurel, MD. I went out there because I wanted to sit down and talk with juvenile offenders. I wanted to try to understand from judges who were there, from prosecutors and from public defenders, and from the juvenile offenders themselves: What is going on?

I sat with a young boy who had been in a gang and shot three times and sold drugs at age 12.

I sat with a girl who was 15 years old. She had a baby 2 years previous to that. She was abused by her mother. She sold drugs at age 13.

I sat with another young boy who was selling drugs at age 12 who had been involved with guns and very serious offenses.

These are kids who shot people, kids who committed armed robbery, kids who were in a lot of trouble.

One of the boys said something that was quite remarkable—most all of them came from circumstances of really difficult conditions, no parental supervision. In fact, the young girl said her mother was a drug addict and told her, from the moment she was able to understand what her mother was saying, that she would never amount to anything. She told this girl: You will never amount to anything and I never wanted you in the first place. That was from a drug-addict mother. This young girl is now locked up and has been convicted of selling drugs and other criminal acts. She has a baby and is only 15 years old.

We talked about supervision, how do you get your life straight? Who cares about you? Somebody said: But you need to have a parent check up on you once in a while, don't you?

This young boy said: No, you don't need a parent to check up on you once in a while. That's the problem.

If you have maybe a grandparent or uncle and aunt and someone checks in once in a while, once in a while is not enough for children. Children need help, need parental supervision, not once in a while.

I spent a half day out at the Oakhill Detention Center just talking with kids to try to understand. I should also say—I will talk a bit about it tomorrow—there is another part of that Oakhill Detention Center that left me feeling a little buoyant and hopeful.

There were some young men—in this case it was older young boys, some young boys who had committed horrible crimes, who had been drug addicts from age 12 on to about 17, 18, young boys in a program to shed themselves of their drug addiction and to turn their lives around. One young boy was going to be released the Friday I was there. This is a couple weeks ago, and he had a job. He had gone out for an interview and had gotten himself a job.

This young guy had gone through the drug program. He has become straight. It is fascinating to listen to him describe his background, where he wants to go, and what he now knows he needs to do to get his life back in order.

The reason I want to talk about it is part of this issue of juvenile justice is, yes, detention and protection and law enforcement, and another part of it is to say there is something else here that we need to do to help. I know that is a debate that has occurred on this floor now for many, many hours. But mentoring programs, afterschool programs—there are a lot of programs that can make a difference in young people's lives, especially programs dealing with drugs. Drugs were at the root of a lot of the troubled lives of the young children whom I saw at this detention center.

I hope we can come back tomorrow and talk a little bit about the Juvenile Justice Act.

Mr. SESSIONS. Will the Senator yield?

Mr. DORGAN. I will be pleased to yield.

Mr. SESSIONS. Mr. President, it is wonderful that the Senator has done that. I feel as if we are two trains passing in the night on this bill. I hope the Senator will understand something that is extremely, extremely important: that the juvenile accountability block grant—which has been referred to as nothing but a ''lock them up'' program and that what we need is prevention money—is to encourage just the kind of situation the Senator is talking about because had those children just been released again, and not been sent to a well-run, well-organized drug treatment school, detention facility, in which they were removed from their community, they probably would be on the streets now, maybe committing a more serious crime or a victim themselves of a serious crime.

So I think there is a false contrast between what is prevention and what is not. I would say that a child who is already running into trouble with the law—as these children are—has to be confronted. There has to be an effective intervention in a life going wrong. And these kinds of facilities are going on around the country.

I visited one in Illinois. Judge Grossman gave us a tour. The county and the State, and some Federal moneys, have helped create a panoply of options when a young person comes before him for sentencing. He has a number of options. Instead of the juvenile going to where there are a few bed spaces in the State pen or released with nothing, the judge has a series of things right there in the community he can do. The accountability block grant, with graduated sanctions, provides that opportunity.

So I would hope the Senator, as he studies this, would realize that the prevention money that we put in would not go to support that, but the block grant accountability money would support the judiciary as it seeks to intervene. Sometimes you have to be

tough—some of these kids have really been on a bad road a long time—to intervene effectively.

Thank you for taking the time to personally visit and study one of those centers.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:42 p.m., adjourned until Thursday, May 13, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 12, 1999:

DEPARTMENT OF STATE

JOSEPH LIMPRECHT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

IN THE COAST GUARD

THE FOLLOWING INDIVIDUAL FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

JAMES W. SEEMAN, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be major

DONNA R. SHAY, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 628:

To be major

JOSEPH B. HINES, 0000
*JOYCE J. JACOBS, 0000
*PETER J. MOLIK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be lieutenant colonel

TIMOTHY P. EDINGER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

To be lieutenant colonel

CHRIS A. PHILLIPS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be lieutenant colonel

ROBERT B. HEATHCOCK, 0000
JAMES B. MILLS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 531, 624, 628 AND 3064:

To be colonel

PAUL B. LITTLE, JR., 0000

To be lieutenant colonel

*THEODORE A. DORSAY, 0000
JOHN M. SHEPHERD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN UNDER TITLE 10, U.S.C. SECTIONS 624 AND 3064:

To be lieutenant colonel

BRYAN D. BAUGH, 0000
DAVID J. COLWELL, 0000
THOMAS C. CONDRY, 0000
THOMAS E. DRAKE, 0000
PATRICK O. EASLEY, 0000
GORDON G. GROSECLOSE, 0000
JEFFERY S. HARTMAN, 0000
HARDIE M. HIGGINS, 0000
CHARLES E. JACKSON, 0000
RICHARD C. JACKSON, 0000
KENNETH L. KERR, 0000
RICHARD D. KING, 0000
LARRY R. LAWRENCE, 0000
THOMAS A. MACGREGOR, 0000
MARC A. MINTEGUI, 0000
DAVID C. MORAN, 0000
MARKKU J. NURMESVIITA, 0000
STEPHEN R. PAINE, 0000
DANIEL M. PARKER, 0000
JAMES J. PUCHY, 0000
KENNETH B. RATLIFF, 0000
JOHN D. READ, 0000
GARY K. SEXTON, 0000
CHARLES E. SMITH, 0000
JAMES R. STEPHEN, 0000
THOMAS C. VAIL, 0000
CHARLES R. WALKER, 0000
JACK A. WOODFORD, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DALE A. CRABTREE, JR., 0000
JOHN C. HOLT, JR., 0000
ALLEN M. JACOBS, 0000
WILLIAM E. JENNINGS, 0000
LAWRENCE KOCIAN, 0000
JAMES J. KRAUS, 0000
THOMAS R. LASHBROOK, 0000
JAY H. LIETZOW, 0000
MATTHEW J. O DONNELL, 0000
CARLOS L. SANDERS, 0000
JAMES B. SCRUGGS, JR., 0000
ROGER STEPHENS, 0000
KEVIN P. TOOMEY, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JAMES C. ADDINGTON, 0000
THOMAS E. BECKER, JR., 0000
MITCHELL D. BLACK, 0000
TONY W. BRILL, 0000
MICHAEL E. BROWN, 0000
WILLIAM J. BUDDS, 0000
LEO E. CAMPBELL, 0000
ROBERT L. CAMPBELL, 0000
RICHARD A. CLARK, 0000
RONALD W. COCHRAN, 0000
DONALD E. DAVIS, 0000
BRIAN R. DUVAL, 0000
DONALD A. DYKSTRA, 0000
DONALD E. EVANS, JR., 0000
JAY E. FERRISS, 0000
DARYLL E. FULFORD, 0000
JAMES A. GAVITT, 0000
GARY P. GONTHIER, 0000
CYNTHIA A. GREENLEE, 0000
GERALD J. GRIFFIN, 0000
WILLIAM E. HIDLE, 0000
DANNY A. HURD, 0000
JOHN F. IRVING, 0000
LARRY D. JOHNSON, 0000
JOEL F. JONES, 0000
MICHAEL J. KOEHLER, 0000
LYLE G. LAYHER, 0000
DAN M. MIELKE, 0000
TERRANCE W. MORROW, 0000
JOHN C. MOTT, 0000
MICHAEL S. NISLEY, 0000
DARRYL S. PHILLIPS, 0000
WALTON S. PITCHFORD, 0000
RONALD K. POSEY, 0000
CHRISTOPHER A. PROSSER, 0000
EDWARD R. RANES, 0000
BRENDA L. ROBERTS, 0000
CHARLES A. ROTONDA, 0000
JOHN J. SCHWARZEL, 0000
JOHN F. SISSON, JR., 0000
MICHAEL P. SMITH, 0000
KENNETH O. SPITTLER, 0000
DAVID M. TIFFT, 0000
ROBERT J. TURPIN, 0000
EARNEST R. WALLS, 0000
JAMES A. WALTER, JR., 0000
DAVID J. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JAMES C. ANDRUS, 0000
FRANK A. BALESKIE, 0000
GARY L. BEAVER, 0000
JOHN W. BERKLEY, 0000
BARRY L. BOULTON, 0000
WILLIAM H. BUCKLEY, 0000
ANITA E. BURGESS, 0000
STEPHEN W. CLAYTON, 0000
THOMAS V. COLELLA, 0000
JEFFREY A. CORY, 0000
MICHAEL N. DAILY, 0000
MARY A. DEVLIN, 0000
TERESA L. DILLON, 0000
WILLIAM V. GALLO, 0000
RODNEY J. GERDES, 0000
BRUCE A. GIRON, 0000
LEON J. HASKINS, 0000
ROBERT N. HERING, JR., 0000
KEVIN P. HUGHES, 0000
ROBERT A. JAKUCS, 0000
TIMOTHY J. KAMINSKI, 0000
JOHN F. KAYSER, JR., 0000
KENNETH R. KNAPP, 0000
GEORGE S. KOVACK, 0000
JOHN T. LARSON, 0000
PAUL S. LOSCHIAVO, 0000
PATRICK W. MC DONOUGH, 0000
PAUL F. MC HALE, JR., 0000
CHARLES R. MIZE, JR., 0000
STEVEN W. MYHRE, 0000
DONNA J. NEARY, 0000
JAMES J. NEUBAUER, 0000
FRANK D. OGORZALY, 0000
ROBERT D. PAPAK, 0000
ROBERT E. PARCELL, 0000
JONATHAN D. PEARL, 0000
JERRY L. PHILLIPS, 0000
MARK A. PILLAR, 0000
DAVID E. PRUETT, 0000
WILLIAM A. RADTKE III, 0000
CURTIS G. RAETZ, 0000
MARK W. ROGERS, 0000
EDWARD P. RUSSELL, JR., 0000
CRAIG R. SCOTT, 0000
DENNY G. SEABOLT, JR., 0000
GREGORY L. SMITH, 0000
MARGARETE A. VINSKEY, 0000
CHARLES E. WARD, 0000
ROBERT E. WARD, JR., 0000
RAYMOND W. WERSEL, 0000
ARTHUR E. WHITE, 0000
PHILIP A. WILSON, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

NORBERTO G. JIMENEZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

NEIL R. BOURASSA, 0000
ANN P. FALLON, 0000
JEROME L.D. REID, 0000
STEPHEN C. SHOEN, 0000

To be lieutenant commander

JOHN R. COOPER, 0000
RICHARD J. JEHUE, 0000
STEVEN D. TATE, 0000

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

BASILIO D. BENA, 0000
KEVIN P. BOYLE, 0000
THOMAS R. BUCHANON, 0000
SCOTT R. COUGHLIN, 0000
MICHAEL R. DARGEL, 0000
JOSEPH R. DARLAK, 0000
BRIAN L. DAVIES, 0000
ROBERT B. DUMONT III, 0000
ROBERT C. DUNN, 0000
JOHN P. ECKARDT, 0000
ROMMEL M. ESTEVES, 0000
WILLIAM E. FIERY, 0000
MATTHEW G. FLEMING, 0000
KENDALL GENNICK, 0000
LAWRENCE A. JONES, 0000
PATRICK J. KIMERLE, 0000
TIMOTHY P. KOLLMER, 0000
DOUGLAS M. LEMON, 0000
DAVID A. LOTT, 0000
JAMES P. MC GRATH III, 0000
BRIAN C. MOUM, 0000
STEPHEN H. MURRAY, 0000
JOHN P. NEWTON, JR., 0000
DANIEL L. PACKER, JR., 0000
DAVID L. PETERSON, 0000
JAMES D. RAULSTEN, 0000
GARY A. ROGENESS, 0000
CHRISTOPHER L. SAAT, 0000
SCOTT D. SILK, 0000
TIMOTHY G. SPARKS, 0000
SCOTT A. TUPPER, 0000
WILLIAM P. WOOD, 0000
HAROLD T. WORKMAN, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531, 5582(A), AND 5582(B):

To be lieutenant commander

SEVAK ADAMIAN, 0000
LACY H. BARTEE, 0000

WILLIAM C. BEUTEL, 0000
JEAN A. BLANKS, 0000
STEPHEN L. CHRISTOPHER, 0000
ROBERT N. DOBBINS, 0000
THOMAS V. FONTANA, 0000
DAVID P. JOHNSON, 0000
MARK S. LARSEN, 0000
MARISA LEANDRO, 0000
GARY D. LEASURE, 0000
CATHERINE J. MCDONALD, 0000
MICHAEL D. THOMAS, 0000
MYRON YENCHA, 0000

To be lieutenant

ERIC M. ACOBA, 0000
ALAN L. ADAMS, 0000
HORACE D. ALEXANDER, 0000
THERESA M. ANTOLDI, 0000
JESS W. ARRINGTON, 0000
JAMES J. BEIER, 0000
WILLIAM M. BOLAND, 0000
LISA A. BOSIES, 0000
NEIL M. BRENNAN, 0000
REBEKAH R. BROOKS, 0000
CHRISTINE Y. BUZIAK, 0000
DAVID A. BYMAN, 0000
GILBERT T. CANIESO, 0000
JEFFREY C. CASLER, 0000
ROBIN L. CASSIDY, 0000
BETTY CLAUSS, 0000
KATHRYN CLUNE, 0000
SHERI R. COLEMAN, 0000
SUSAN D. CONNORS, 0000
CEDRIC M. CORPUZ, 0000
JOHN N. CRANE, 0000
JAMES H. CRAWFORD, 0000
SARA A. DAHLSTROM, 0000
BRIAN M. DANIELSON, 0000
DERRICK M. DAVIS, 0000
ERIC J. DAVIS, 0000
JANET L. DAVIS, 0000
JANET L. DEWEES, 0000
GLENDON B. DIEHL, JR., 0000
THOMAS S. DIVITO, 0000
JOEL A. DOOLIN, 0000
GREGORY D. DUNNE, 0000
JENNIFER K. EAVES, 0000
JENNIFER L. EICHENMULLER, 0000
KARL P. EIMERS, 0000
STEPHEN C. ELGIN, 0000
JOSEPH B. ESSEX, 0000
BRIAN M. FERGUSON, 0000
WALDO F. FERRERAS, 0000
SUSAN K. FIACCO, 0000
JUSTIN S. FINE, 0000
MICHAEL A. FLUDOVICH, JR., 0000
WILLIAM L. FOSTER, 0000
CHRISTOPHER C. FRENCH, 0000
HARRY L. GANTEAUME, 0000
JAY M. GEHLHAUSEN, 0000
JAMES B. GINDER, 0000
KEITH R. GIVENS, 0000
GWENDOLYN M. GRAVES, 0000
BRUCE P. GRIMSHAW, 0000
DAVID M. GROOM, 0000
RICHARD J. GRUENHAGEN, 0000
THINH V. HA, 0000
STEVEN D. HALL, 0000
BRENDA R. HAMILTON, 0000
MATTHEW M. HAMILTON, 0000
JOHN S. J. HAN, 0000
DALE O. HARRIS, 0000
LAURA M. HARTMAN, 0000
SAMUEL HAVELOCK, JR., 0000
KATY M. HAWKINS, 0000
ANDREW H. HENDERSON, 0000
GEOFFREY G. HERB, 0000
BENJAMIN L. HEWLETT, 0000
SCOTT M. HIELEN, 0000
DANIEL J. HIGGINS, 0000
ANGELA B. HIGHBERGER, 0000
EDWARD J. HILYARD, 0000
SHELBY L. HLADON, 0000
DAVID F. HOEL, 0000
STEVEN T. HUDSON, 0000
JAMES C. HUNT, 0000
KEITH L. HUTCHINS, JR., 0000
SCOTT D. INGALLS, 0000
MARY K. JACKSON, 0000
KELLEY C. JAMES, 0000
WILLIAM K. JAMES, 0000
DEBBIE R. JENKINS, 0000
ROBERT F. JOHNSON, 0000
MICHAEL S. KAVANAUGH, 0000
JOHN P. KENDRICK, 0000
ROBERT J. KILLIUS, 0000
NANETTE KINLOCH, 0000
SUSAN M. KRAMER, 0000
JAMES C. KRASKA, 0000
RICHARD F. KUTSCHMAN, 0000
MARY J. LARSEN, 0000
ROBERT L. LAWRENCE, 0000
BILLY R. LEDBETTER, JR., 0000
LAURA J. LEDYARD, 0000
LORI A. LEE, 0000
STEVEN W. LIGLER, 0000
JENNIFER M. LITTLE, 0000
MARK W. LOPEZ, 0000
DEREK L. MACINNIS, 0000
JAMES T. MAHONEY, 0000
GATHA L. MANNS, 0000
MICHAEL L. MARAVILLA, 0000
RALPH J. MARRO, 0000
CHARLES R. MARSHALL, 0000
ERIK R. MARSHBURN, 0000
ADONIS R. MASON, 0000
JACQUELINE A. MATELLI, 0000
SHIRLEY A. MAXWELL, 0000
COLLEEN L. MCCORQUODALE, 0000
JEROLD P. MCMILLEN, 0000
ANDRES MEDINA, 0000
JOSEPH B. MICHAEL, 0000
JEFFREY A. MILLER, 0000
MONTE G. MILLER, JR., 0000
STEVEN M. MINER, 0000
MICHELE M. MINGRONE, 0000
JO A. MOLDENHAUER, 0000
JILLIAN L. MORRISON, 0000
TODD R. MOTLEY, 0000
ANNE J. NANS, 0000
JAMES R. NASH, 0000
BRIAN C. OHAIR II, 0000
ORLANDO J. OLMO, 0000
ROBERT J. ONEILL, 0000
SUSAN B. OTTO, 0000
DEIDRA M. PARKER, 0000
JOSEPH W. PARRAN, 0000
LAURENCE M. PATRICK, 0000
DAVID R. PENBERTHY, 0000
DEAN W. PIERSON, 0000
DUSTINE PIERSON, 0000
MICHAEL C. PREVOST, 0000
DOUGLAS E. PUTTHOFF, 0000
SANDRA H. RAY, 0000
KAREN E. REILLY, 0000
MANUEL REYES, 0000
JOSHUA S. REYHER, 0000
VALERIE J. RIEGE, 0000
HEIDI Y. ROBERTS, 0000
SHARLEEN L. ROMER, 0000
LANA R. ROWELL, 0000
ROME RUIZ, 0000
FLOYD I. SANDLIN III, 0000
ROBERT M. SCANLON, JR., 0000
DYLAN D. SCHMORROW, 0000
JEOSALINA N. SERBAS, 0000
MICHAEL D. SHANE, 0000
MICHAEL L. SHEPARD, 0000
BRIAN G. SCHORN, 0000
CHRISTIE A. SIERRA, 0000
MICHAEL D. SMITH, 0000
RICHARD S. SMITH, 0000
STEVEN R. SOURCE, 0000
STEPHEN E. SPRATT, 0000
ANTHONY D. STARKS, 0000
GUY H. STURDIVANT, 0000
SCOTT A. SUAZO, 0000
DANIEL J. SULLIVAN IV, 0000
JEREMIAH J. SULLIVAN, 0000
ROHINI SURAJ, 0000
AMY K. SYKES, 0000
SCOTT F. THOMPSON, 0000
JOSUE TORO, 0000
GERARDO A. TUERO, 0000
RUSSELL J. VERBY, 0000
PAULO B. VICENTE, 0000
MACHELLE A. VIEUX, 0000
JESSE L. VIRANT, 0000
AMY E. WAGAR, 0000
JACK H. WATERS, 0000
THOMAS J. WELSH, 0000
STEVEN M. WENDELIN, 0000
GERARD J. WOELKERS, 0000
JANINE Y. WOOD, 0000

To be Lieutenant (Junior Grade)

BRIAN J. ANDERSON, 0000
JEFFREY G. ANDERSON, 0000
EDMOND A. ARUFFO, 0000
CHARLES H. AUGUSTUS, 0000
JOHN F. BAEHR, 0000
THURRAYA S. BARNWELL, 0000
GLENN A. BEISERT, 0000
TRACI L. BROOKS, 0000
KURT A. BROWER, 0000
GREGORY D. BUCHANAN, 0000
MARK S. BUDELIER, 0000
KEVIN P. BUSS, 0000
ALISON J.C. CALLOWAY, 0000
DOUGLAS R. CAMPBELL, 0000
STANFORD P. COLEMAN, 0000
DENNIS W. CONNORS, 0000
SCOTT M. CORRIGAN, 0000
JONATHAN W. COTTON, 0000
JEFFREY A. DAMASCHKE, 0000
MERRYL DAVID, 0000
DAVID DESANTOS, 0000
JAMES W. DICKINSON, 0000
MICHAEL E. DIGMAN, 0000
DAVID A. FEATHERBY, 0000
NICOLA M. GATHRIGHT, 0000
JESSIE GEE, 0000
KEITH J. GOLDSTON, 0000
TRAVIS N. GOODWIN, 0000
JOSEPH D. HENDERSON, JR., 0000
KRISTEN M. HERR, 0000
MALCOLM L. HILL, 0000
ANNE E. HOWELL, 0000
THOMAS M. HUNT, 0000
MOONI JAFAR, 0000
CELESTINE D. JOHNSON, 0000
WYATTE B. JONESCOLEMAN, 0000
TRENT C. KALP, 0000
ERIK J. KARLSON, 0000
ROBERT M. KERNER, 0000
MARTIN W. KERR, 0000
DEVERY L. KINDER, 0000
MICHAEL E. KRAUS, 0000
KAREN R. KRULL, 0000
JOSEPH B. LAWRENCE, 0000
CRAIG M. LEAPHART, 0000
BRIAN T. LINDOERFER, 0000
JESSE L. MAGGITT, 0000
JULIA A. MCDADE, 0000
CECIL L. MCQUAIN, 0000
BERNARD T. MEEHAN II, 0000
CHRISTOPHER K. MERCER, 0000
SHERYL A. NEWSTRUM, 0000
CHRISTOPHER J. NICHOLS, JR., 0000
MICHAEL L. OBERMILLER, 0000
DANIEL A. OGDEN, 0000
CHRISTOPHER OUDEKERK, 0000
ARVIS OWENS, 0000
ALVIN T. PAYNE, 0000
KEVIN N. QUINETTE, 0000
CYNTHIA A. RAMSEY, 0000
DAVID M. REED II, 0000
VERNON R. RICHMOND, 0000
JENNIFER E. RUHLMAN, 0000
MICHAEL K. RUNKLE, 0000
KEVIN A. SCHNITTKER, 0000
STEVEN C. SCHOENECKER, 0000
STEVEN R. SHINDLER, 0000
KATHALEEN L. SIKES, 0000
MATTHEW J. SMITH, 0000
TODD L. SMITH, 0000
DENNIS L. SPENCE, 0000
ERIC J. STPETER, 0000
STANLEY STYK, 0000
DEAN A. TEAGUE, 0000
WILLIAM P. TEALEY, 0000
TIMOTHY W. TERRY, 0000
HEATH A. THOMAS, 0000
VAN T. WENNEN, 0000
CLINT WEST, 0000
BARBARA C. WHITESIDE, 0000
JOHNNETTA N. WIDER, 0000
ANTHONY R. WILLIAMS, 0000
DEACQUANITA R. WILLIAMS, 0000
BERNIE WILLIAMSMCGUIRE, 0000
ROBERT L. WING, 0000
ALEXANDER Y. WOLDEMARIAM, 0000
AMY E. WOOTTEN, 0000
ALEJANDRO YBARRA, 0000
ROBERT W. ZURSCHMIT, 0000

To be Ensign

MICHAEL D. APRICENO, 0000
CRAIG A. ARGANBRIGHT, 0000
DEANGELO ASHBY, 0000
BRETT A. BALAZS, 0000
FRANK J. BANTELL, 0000
MICHAEL BARNES, 0000
BRIAN C. BASTA, 0000
MATTHEW L. BETIT, 0000
TIMOTHY C. BOELKE, 0000
CHRISTOPHER G. BOHNER, 0000
WILLIAM E. BOUCEK, 0000
ANDREW F. BRACKENRIDGE, 0000
KEVIN F. BRAVOFERRER, 0000
CHARLES A. BROWN, 0000
TIMOTHY A. BROWN, 0000
IAN W. BRUCE, 0000
RAOUL J. BUSTAMANTE, 0000
JEFFERY W. CARMODY, 0000
JEFFREY A. CARROLL, 0000
ROBERT CARTER, 0000
CHRIS D. CASTLEBERRY, 0000
JOHN C. CHAUVIN, 0000
ANDREW J. CLARK IV, 0000
NATHAN D. CLARK, 0000
WILLIAM CLARK, 0000
JAMES N. COLSTON, 0000
BRENNA C. CONWAY, 0000
DANIEL J. COREY, 0000
JOHN D. CRADDOCK, 0000
RUSSEL CZACK, 0000
EDWARD E. DAVIS, 0000
JEFFREY P. DAVIS, 0000
LIBERTY P. DELEON, 0000
ADRIAN C. DELL, 0000
RICHARD J. DIXON, JR., 0000
KRISTIAN M. DORAN, 0000
ANTHONY S. DUTTERA, 0000
CHARLES DWY, 0000
ANDREW A. EATON, 0000
MICHAEL D. EBERLEIN, 0000
SHANE ELLER, 0000
JOSEPH P. ESPIRITU, 0000
JEFFREY J. FLOGEL, 0000
BRIAN G. FRECK, 0000
DAVID P. FRIEDLER, 0000
TERREL L. GALLOWAY, 0000
JOSEPH D. GOLDBACH, 0000
MICHAEL S. GUILFORD, 0000
MICHAEL D. HALTOM, JR., 0000
ALEXANDER F. HARPER, 0000
FERNANDO HARRIS, 0000
SCOTT HERMON, 0000
MATTHEW D. HOLMAN, 0000
JULIE HUDDLESTON, 0000
BRIAN D. HUNTLEY, 0000
FRANK INGULLI, 0000
MATTHEW P. JEFFERY, 0000
SCOTT D. KEENAN, 0000
BENJAMIN L. KELSEY, 0000
JOHN J. KOBLE, 0000
ROGER L. KOOPMAN, 0000
ANDREW G. KREMER, 0000
DAVID KRITSCHGAU, 0000
KEITH A. LANZER, 0000
JOSHUA J. LAPENNA, 0000
BRIAN LEDDEN, 0000
JEREMY T. LEGHORN, 0000
ARON LEWIN, 0000
ORLANDO LORIE, 0000
MANUEL X. LUGO, 0000
MICHAEL R. LUM, 0000

CHRISTIAN M. MAHLER, 0000
RALPH J. MAINES, 0000
RICHARD L. MARCHAND, 0000
WILLIAM J. MARTZ, 0000
MATTHEW N. MC CALL, 0000
KEVIN MC HUGH, 0000
KENT A. MEYER, 0000
RANDALL L. MILLER, 0000
JEFFREY C. MITCHELL, 0000
JOHN G. MIX, 0000
JOAQUIN J. MOLINA, 0000
NATHAN A. MORGAN, 0000
JOHN S. MORTELLARO, 0000
JAMES H. MURPHY, 0000
HAIT NGUYEN, 0000
ROGER K. ONAGA, 0000
CHUN H. PARK, 0000
LEE A. PARKER, 0000
RICHARD A. PHILLIPS, 0000
RICHARD C. PLEASANTS, 0000
JUSTIN J. PLUNKETT, 0000
JESSIE A. PORTER, 0000
LYNN J. PRIMEAUX, 0000
HOMERO RAMOS, 0000
BRIAN E. REINHART, 0000
JOHN M. RHODES, 0000
GREGORY D. RILEY, 0000
NANCY B. RODDA, 0000
BRIAN S. SCHLICHTING, 0000
MARK SHEFFIELD, 0000
ROLF B. SPELKER, 0000
THOMAS A. STEPHEN, 0000
JAMES J. TERRY, 0000
DAVID A. TONINI, 0000
TAWNYA R. TSCHACHE, 0000
ALSANDRO H. TURNER, 0000
RICHARD J. TWILLEY, 0000
TARAIL VERNON, 0000
DAWN WARREN, 0000
MICHAEL J. WAUTLET, 0000
JOHN F. WEBB, 0000
PHILIP K. WESSEL, 0000
JOSEPH WHEELER, 0000
SCOTT C. WIECZOREK, 0000
DANIEL E. WILBURN, 0000
WILLIAM E. WREN, JR., 0000
PHILLIP J. YALE, JR., 0000
MICHAEL YORK, 0000
JOHN E. YOUNG, 0000

EXTENSIONS OF REMARKS

A BILL TO AUTHORIZE THE PAYMENT OF A FEDERAL COURT SETTLEMENT TO THE MENOMINEE INDIAN TRIBE OF WISCONSIN

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. GREEN of Wisconsin. Mr. Speaker, today I have introduced before this House a bill I hope will finally bring an end to a decades-long legal struggle and also provide much-needed financial assistance to one of the most impoverished areas of my Congressional District and, indeed, the entire state of Wisconsin.

Specifically, the bill I've introduced authorizes the U.S. government to finally make good on a $32 million court settlement with the Menominee Indian Tribe in my district. The history of this settlement can be traced back to 1954, when the federal government terminated the tribe's federal trust status and the Bureau of Indian Affairs grossly mismanaged many of the tribe's assets.

In 1967, the tribe filed a lawsuit in federal court challenging this termination and seeking damages. After decades of litigation, in 1993 Congress passed a congressional reference directing the U.S. Claims Court to determine what damages, if any, were owed to the tribe.

In August of last year, following three decades of lengthy court trials and appeals, the tribe finally settled its claim against the federal government for $32 million.

As the members of this House are aware, Congress must authorize the payment of this court settlement before any U.S. funds can be released. The court has done its job and the tribe has waited long enough. Now it is time for Congress to do its job and agree to this settlement.

Mr. Speaker, I'd like to briefly spell out four key reasons why this proposal is worthy of support:

First, I believe it is our responsibility to make good on public commitments that have been made by representatives of our government in federal court proceedings. In this case, both sides negotiated this settlement in good faith, and it was approved by the court. Now it is our duty to finalize the court actions in this matter and award the settlement as agreed to.

Second, I believe this legal battle has gone on long enough, and the taxpayers should be relieved of the ongoing cost burden of this litigation. The first lawsuit dealing with this matter was filed in 1967—more than 31 years ago. After numerous trials and appeals over the last three decades, we have finally reached the light at the end of the tunnel. It is time for Congress to close the book on this matter once and for all and approve the release of these funds.

Third, the Menominee Indian Tribe needs and deserves this settlement. The Menominee are one of the most economically troubled Indian nations in America. This is due in part to the Menominee Termination Act and the Bureau of Indian Affairs' mismanagement of Menominee tribal resources from 1961 to 1973.

Finally, this settlement will provide a boost to the local economies of northeastern Wisconsin—a part of my state in need of help due to the recent farm crisis and other economic factors. This settlement will provide at least a small amount of relief to communities throughout this area.

One final note. Today, Senator KOHL has introduced nearly identical legislation in the Senate. I am pleased to be working with him and I applaud his years of hard work in trying to improve the economic situation on the Menominee Reservation.

I would also like to thank Menominee Chairman Apesanahkwat for his willingness to work with me to ensure these funds, if approved, won't be used to take any land off the tax rolls. These dollars will be used to improve education, health care and economic opportunities for the tribe.

I encourage my colleagues to join me in an effort to being this matter to a speedy and successful vote on the floor of this House. For the sake of our country's credibility, for people of northeastern Wisconsin, and for the Menominee Nation, now is the time for this matter to be closed.

INTRODUCTION OF THE FEDERAL EMPLOYEES' OVERTIME PAY LIMITATION AMENDMENTS ACT OF 1999

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. CUMMINGS. Mr. Speaker, along with my colleagues, Representatives DAVIS and MORELLA, I am pleased to introduce the Federal Employees' Overtime Pay Limitation Amendments Act of 1999.

The overtime cap for federal managers and supervisors has not changed for thirty years. Under current law, their overtime pay is limited to that given to a General Schedule level 10 step 1 employee. As the result, managers and supervisors, the majority of whom rank above that level, earn less on overtime than they do for work performed during the regular work week.

When this issue was raised at a civil service reform hearing last year, the Director of the Office of Personnel Management (OPM) testified that the cap was unfair and warranted looking into. My response was, "When are you going to look into it." Like the rest of us, federal managers and supervisors only have their kids and families for a certain amount of time. They deserve to be fairly compensated so that they can adequately provide for their loved ones. They want to send their kids to college, they want to give them violin lessons, they want to move into a new house, and if we wait 10 to 15 years, then they have missed out on a whole lot of life.

Representatives DAVIS and MORELLA, and I kept the pressure on OPM until it drafted overtime legislation to address this issue. It is this legislation that I am pleased to introduce today. The legislation would change existing law so that no federal employee would receive less than his or her hourly rate of pay for overtime work.

Please join me by cosponsoring this legislation for federal managers and supervisors and their families.

SAVE THE SOCIAL SECURITY SURPLUS—COSPONSOR H.J. RES. 53, THE BALANCED BUDGET AMENDMENT THAT PROTECTS THE TRUST FUND

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. ISTOOK. Mr. Speaker, I rise today to urge my colleagues to cosponsor H.J. Res. 53, the Balanced Budget Amendment that protects the Social Security Trust Fund.

Many years ago, the Congress made a promise. We promised to take a portion of every American's paycheck and keep it in a special trust fund. From that trust fund, the government would send a check to every American over the age of 65 so that no American would have to worry about growing old without someone to care for them. We called that promise Social Security.

We should keep our promise. Most of us now realize Congress has used the trust fund as a slush fund to finance other programs. Taking Social Security "off-budget" is meaningless. Congress did it in 1983, 1985, and 1990, and then later quietly ignored the "off-budget" rules. An ordinary law can't restrain future Congresses. An ordinary law can be overturned whenever "convenient."

There is only one way to make certain future Congresses devote that money to Social Security—to take it away from them so that they can't spend it on anything else. We must pass an amendment to the Constitution which would guarantee that all Congresses, present and future, will protect Social Security.

The only protection is to require a balanced budget that does not use the Social Security surplus. To do that, we must add to the proposed Balanced Budget Amendment the requirement that a surplus in Social Security cannot be counted as revenue.

We can still consider other reforms to Social Security, but first things first. Let's finally make a bond that we cannot break, and use the Social Security dollars only for Social Security.

It's the only right and honorable thing to do. To cosponsor this version of the Balanced Budget Amendment that protects the Social Security Trust Fund, call Dr. Bill Duncan on

Mr. Istook's staff at 5–2132, or Charlie DeWitt on Mr. Campbell's staff at 5–2631.

HONORING IDUS ''BABE'' CONNER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. DUNCAN. Mr. Speaker, just a few weeks ago, a good friend of mine, Idus ''Babe'' Conner, was honored for his service to the citizens of Lenoir City and Loudon County, Tennessee.

For the last 21 years, Babe Conner has been an active member of the Lenoir City Council. Babe is, no doubt, one of the most respected leaders in Loudon County and indeed throughout East Tennessee.

Before Mr. Conner was elected to the City Council, he served as a Loudon County Commissioner for 20 years. He even spent time as a Justice of the Peace, marrying many couples without charging a fee for his services.

Mr. Speaker, above all of this, Babe Conner is a family man. In 1946, he married Juanita Jennings and enjoyed 51 years of marriage until her death in 1997. That marriage produced a beautiful family. Babe and Juanita have one son and one daughter and four grandchildren.

Mr. Speaker, Babe Conner is also a God-fearing man who has served in many leadership positions in the First Presbyterian Church since its formation on October 13, 1957. He has even served as an Elder longer than any other church member. Mr. Conner is truly an outstanding role model for our children today.

Mr. Speaker, I know that I join with the citizens of Loudon County and Lenoir City in congratulating Idus ''Babe'' Conner for his service and devotion to the citizens of East Tennessee. I am proud to call him a friend, and I wish him well in the years to come.

Mr. Speaker, I would like to thank Idus ''Babe'' Conner for his service to the citizens of East Tennessee and the rest of our thankful Nation. I have included a copy of a Lenoir City Resolution honoring Babe Conner that I would like to call to the attention of my fellow members and other readers of the RECORD.

Whereas, the governing body of the City of Lenoir City has adopted a policy of recognizing and honoring outstanding individuals living in Lenoir City, Tennessee, and

Whereas, Idus ''Babe'' Conner will celebrate his 80th birthday on April 1999, being born in the year of our Lord 1919; and

Whereas, Idus ''Babe'' Conner was married in 1946 to Juanita Jennings and was devoted husband to her for 51 years until she went to be with our Lord in 1997; and

Whereas, Idus ''Babe'' is the proud father of one son, Gary, and one daughter, Susan, and the grandfather of two grandsons, Richard and Cory, and two granddaughters, Angela, and Hannah, whom he loves dearly; and

Whereas, Idus ''Babe'' was born upstairs in a house on Kingston Street and has lived in Lenoir City all of his life. He was educated in the school of Lenoir City, where he participated in all sports activities. Upon graduating from high school, he enlisted in the Air Force, where he served four and a half years in Ground Forces; and

Whereas, Idus ''Babe'' Connor became a Justice of the Peace in 1960. He married between 75 and 100 couples during his tenure without charging for the service. If a donation was given, he gave it back to the bride. He loves to tell humorous stories about the couples he encountered who were seeking his services to get married. In 1978 Conner was elected to the City Council, from which he will retire this month. He has been a strong supporter of our school system, both supporting the Lenoir City School system as well as sponsoring the motion to construct the present Loudon High School during his tenure as County Commissioner. We shall always be grateful for his sincere dedication and service to the citizens of Lenoir City; and

Whereas, Idus ''Babe'' Conner retired from Martin Marietta in 1983 after over 33 years of continuous service; and

Whereas, Idus ''Babe'' Conner has been a Presbyterian all of his life and has been a pillar in the First Presbyterian Church since its formation October 13, 1957. He was the church's first choir director and song leader and has served as Sunday school teacher and Deacon. He has served as Elder longer than any other church member.

Now, therefore, I Charles T. Eblen, Mayor of the City of Lenoir City, Tennessee, do hereby PROCLAIM that Idus ''Babe'' Conner be recognized and singularly honored April 19, 1999 on Idus ''Babe'' Conner Day in Lenoir City, Tennessee.

Be it further proclaimed that a copy of this proclamation, signed by the Mayor, attested by the City Recorder, and bearing the great seal of the City be presented to Idus ''Babe'' Conner.

TRIBUTE TO THE AMERICAN FUJIAN ASSOCIATION OF COMMERCE AND INDUSTRY

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. WEINER. Mr. Speaker, I rise today to invite my colleagues to pay tribute to the American Fujian Association of Commerce and Industry on the occasion of its 7th Anniversary Annual Banquet.

The members of the American Fujian Association of Commerce and Industry have long been known for their commitment to community service and to enhancing the quality of life for all New York City residents.

This banquet is not only a festive happening, it is a chance for all of us to celebrate and pay tribute to a group of individuals who have dedicated their lives to helping others.

The American Fujian Association of Commerce and Industry is a not for profit corporation whose membership is entirely composed of business owners who have immigrated to the United States from the Fujian Province of China. The Association, which was established in 1992, enjoys a membership of approximately 1,000 business leaders throughout the city of New York.

The Association's membership, ever mindful of the rigors of immigration, have devoted their efforts to the integration of new immigrants from China into American society as productive citizens. The American Fujian Association of Commerce and Industry fosters programs that are designed to introduce immigrants to the American way of life and our country's economic and political system so that they may become productive citizens. Members of the Association have also devoted themselves to the development of the trade and commerce between the state of New York and the provinces of Fujian, Shandong, Jiangsu, Guangdong, Hepei, Liaoling, and Anhui Sichuan China.

Under the dedicated leadership of its Chairman, William P. Chiu, the American Fujian Association of Commerce and Industry have embraced the belief that trade breeds mutual understanding and respect which in turn promotes peace between the United States and China.

The members of the American Fujian Association of Commerce and Industry have long been known as innovators and beacons of good will to all those with whom they come into contact. Through their dedicated efforts, they have each helped to improve my constituents' quality of life. In recognition of their many accomplishments on behalf of my constituents, I offer my congratulations to the American Fujian Association of Commerce and Industry on the occasion of it's 7th Anniversary Annual Banquet.

STATEMENT ON NATIONAL TEEN PREGNANCY PREVENTION MONTH

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. CASTLE. Mr. Speaker, as Co-Chair of the House Advisory Panel to the National Campaign to Prevent Teen Pregnancy, I would like to recognize May as National Teen Pregnancy Prevention Month. According to new data recently released by the U.S. Department of Health and Social Services, both the teen birth rate and the teen pregnancy rate in the United States have shown another decline. And while this is good news, the United States still has the highest rates of teen pregnancy and births in the western industrialized world—53 births out of every 1,000 births is to a teenage girl. More than 4 out of 10 young women become pregnant at least once before they reach the age of 20—resulting in nearly 1 million births per year. While many government officials would take the fact that the numbers are dropping as good news, I think this is only a small step in the right direction.

We need to continue to work toward lowering these numbers. Representative LOWEY and I have introduced the Teenage Pregnancy Reduction Act of 1999, legislation to authorize Federal dollars to be used to conduct a study of effective teen pregnancy prevention programs. The study emphasizes determining the factors contributing to the effectiveness of the programs and methods for replicating successful programs in other locations. It also would call for the creation of a clearinghouse to collect, maintain and disseminate information on prevention programs which would develop an effective network of prevention programs.

Far too many of our children spend the hours following school unsupervised and engaging in delinquent or unproductive behavior. Studies tell us that unsupervised children are at a significantly higher risk of truancy, stress, receiving poor grades, substance abuse and risk taking behaviors, including engaging in sexual activity. That is why I have introduced my ACE Act—After School Children's Education Act—it is another initiative that will go

far in preventing teen pregnancy. This legislation aims to study how after school programs can be expanded and improved to keep our children safe and help them learn between the hours of 3 p.m. and 6 p.m.

Helping our communities prevent teen pregnancy is an important mission. Unmarried teenagers who become pregnant face severe emotional, physical, and financial difficulties. The children born to unmarried teenagers will struggle to fulfill the promise given to all human life, and many of them simply will not succeed. Many of them will remain trapped in a cycle of poverty, and unfortunately may become part of our criminal justice system.

However, sometimes no matter what we do here in Washington and what parents do at home, kids have the most impact on each other. Young people can be and are positive influences on each other. Parents and other adults can encourage positive peer influence and mitigate negative peer influence. We must do all we can to encourage teens to take advantage of the potential positive influence of peers.

Our goal to reduce teen pregnancy is challenging and difficult. But if we work together, we can make a difference.

EXPOSING RACISM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. THOMPSON of Mississippi. Mr. Speaker, in my continuing efforts to document and expose racism in America, I submit the following articles into the CONGRESSIONAL RECORD.

PLAN TO CHANGE CONFEDERATE PARK TO CANCER MEMORIAL DRAWS COMPLAINTS

MEMPHIS, TENN.—The Civil War battle that surrendered Memphis to Northern hands took place just below bluffs on the Mississippi River.

For 90 years, a 2½-acre city park atop the bluffs has served as a memorial to the Confederacy. But now, a squabble is brewing over a plan to rename the park in honor of cancer survivors.

The R.A. Bloch Cancer Foundation of Kansas City, MO, which finances parks to honor cancer survivors and encourage cancer sufferers, has offered the city $1 million to fund such a memorial, plus $100,000 for maintenance.

John Malmo, Park Commission chairman, said the city needs the money to improve and maintain the park, which is in the right location for what the Bloch Foundation wants.

Civil War and Southern heritage buffs are less than pleased. ''I don't think we're just going to take it lying down,'' said John T. Wilkinson III, a Memphis lawyer and member of the Tennessee Division, Sons of Confederate Veternas.

The General Nathan Bedford Forrest Camp, Sons of Confederate Veterans and the United Daughters of the Confederacy, have announced a rally at the park on May 19.

The Park Commission has a meeting the following day but is not expected to make a final decision on the proposal until next month.

The park has been part of the Memphis parks system for 170 years. It originally was part of the Public Promenade, 36 acres along the riverfront dedicated in March 1829 as open space for public use.

It was named Confederate Park in 1907 and was placed on the National Register of Historic Places in 1982.

The park sits close to where a Northern armada launched a spirited, but brief, battle on June 6, 1862 that ended with Memphis' surrender.

Ed Williams, Shelby County historian, said the park offered a good vantage point for citizens to watch the Battle of Memphis, and a Union contingent reportedly docked below the bluffs on the way to accept the city's surrender.

In the early 1900s, reunions of Confederate veterans were held on the site, Williams said.

The park includes several plaques honoring Civil War heroes and a statute of Confederate president Jefferson Davis. It also has memorials unrelated to the Confederacy, including a Ten Commandments tablet.

Still, Judith Johnson, executive director of Memphis Heritage Inc., said the park holds an important place in the city's past and changing it should be approached with care.

''I know a lot of people at the end of the 20th Century feel the Confederacy is not someting we can hold up as a value we can embrace, but we can't erase our history,'' Johnson said.

AUTO-PARTS MAKER MAKING PROGRESS AS SPINOFF FROM GM NEARS

(By Brian S. Akre)

TROY, MICH.—Delphi Automotive Systems Corp., the auto-parts manufacturer with locations in Mississippi and soon to be independent from General Motors Corp., has no more money-losing plants, is getting cooperation from its unions to cut costs and is winning more non-GM business, its chairman said Monday.

As the world's largest parts-maker, Delphi also plans to be a major player in the industry's consolidation through an aggressive acquisition drive, J.T. Battenberg III told reporters before departing on a worldwide roadshow to raise his company's profile among investors.

Delphi was once a disparate collection of parts operations that, with parent GM, was near bankruptcy in the early 1990s. Though it lost $93 million last year because of several one-time costs, Delphi earned $284 million in the first quarter this year.

GM is cutting Delphi loose to focus on its core business: building cars and trucks. Delphi executives say they expect their business to grow as other automakers no longer have to fear working with a supplier owned by their biggest competitor.

There's evidence that's already happening, even though the spinoff won't be completed until May 28. In the first quarter, Delphi won $4 billion in new contracts with GM and a surprising $2 billion worth of non-GM contracts. Delphi stock price increased 18 percent in its first three months.

''The stock has performed well,'' said analyst Jonathan Lawrence of Bear, Stearns & Co. ''They're certainly winning business, and that's picked up since their announcement of the spinoff.''

Delphi, based in Troy, Mich., and Battenberg will face their first big test come summer when they will work out details of a new contract with the company's largest union, the United Auto Workers. Talks already are under way with some UAW locals and Battenberg said there has been progress.

UAW it Delphi with two strikes last summer that shut down GM's North American assembly plants and cost Delphi $450 million. Both companies are trying to repair their long-contentious relationship with the union.

Battenberg declined to comment in detail on that relationship but said he was in ''personal touch'' with UAW leaders. Though company insiders say UAW president Stephen P. Yokich has been cooperative, publicly he has criticized the spinoff and urged GM to retain 51 percent of the company.

The Delphi-UAW talks will coincide with the union's triennial contract negotiations with GM, Ford Motor Co. and the Chrysler unit of DaimlerChrysler AG. The UAW is expected to demand that Delphi's hourly workers get virtually the same deal as GM's hourly workers.

Delphi no longer has any plants that are unprofitable, in some cases because its unions agreed to relax restrictive work rules, Battenberg said. In Kokomo, Ind., for example, the UAW agreed to work rule changes to allow the electronics plant to operate 24 hours a day, seven days a week.

Battenberg said Delphi plans to focus on acquiring companies that can supply future technology, especially in the area of high-tech electronics as computers and satellite telecommunications become more integrated into the design of car and truck interiors.

''I look at Delphi becoming an electronics company that makes products for vehicles, which is a lot more attractive than a traditional auto-parts company,'' Lawrence said.

Though Delphi has been trimming its work force through attrition, the company may end up adding workers if it meets its goals to increase new business, Battenberg said.

Later this month, Delphi will debut a $1 million TV-and-print advertising campaign to coincide with the Indianapolis 500 auto race. The campaign and 20-city roadshow are intended to make Delphi a brand known outside the auto industry.

BILOXI NOT SURE WHAT TO DO WITH HISTORIC HOUSE

(By Tom Wilemon)

BILOXI, MS.—The home of Glenn and June Swetman is like a time capsule with a paradox.

Inside the home, uranium glassware glows magically form display cases. Underneath the home, the stark cement walls of a fallout shelter stand dark and dank.

The Swetmans were living the American dream during the early 1960s, but they knew that a nuclear nightmare could destroy everything.

Coping with the Cold War is only one chapter in the history of this house, which is a virtual treasure chest of fascinating objects.

But its new owner and caretaker, the city of Biloxi, does not yet know what to do with it. Biloxi assumed control of the house in January after the death of June Swetman last year.

June Swetman and her husband envisioned their home becoming a city museum or a residence for the mayor when they arranged in 1982 to donate it to the city. Either use is unlikely.

Setting up an official residence for the mayor is not a priority for Mayor A.J. Holloway or the City Council. Nor are city officials planning to open another museum.

The Georgian Revival home sits on a quiet street near the beach, has no public parking and is in an area zoned for residential use.

''Originally, the house was slated to be a historic museum dedicated to telling the story of a day in the life of a country banker,'' said Lolly Barnes, historical administrator for Biloxi.

''That was the original purpose Mr. Glenn Swetman had in mind. Whether or not that will be the purpose I don't know,'' Barnes said.

Glenn Swetman was the owner of The Peoples Bank and one of the Coast's most respected civic leaders. He had a penchant for collecting things.

The collections include valuable antiques, whimsical walking canes, uranium glassware and Japanese woodblock prints. Virtually every piece has an interesting story.

The prints once belonged to the architect Frank Lloyd Wright. A Victorian dining table came from the estate of 19th-century social reformer Dorothea Dix.

The house, which is on the National Register of Historic Places, has been offered as a headquarters for some Coast performing arts organizations.

The Gulf Coast Opera is in process of setting up an office in one of the second-story bedrooms. But that does not mean the public will get to go inside.

''We don't anticipate a lot of foot traffic,'' said David Daniels, president of Gulf Coast Opera ''What we mainly need is a phone line and computer space. It's mainly a place where people can call and make reservations for performances. That space is ideal for that.''

Two of Swetmans children, Chevis Swetman and Nancy Breeland, said they were pleased that the opera will use the house because their parents avidly supported the performing arts.

Their parents established a trust fund that now totals $85,000 to pay for maintenance and repairs at the house. An assessment of the house by the city's risk manager found no major structural damages or problems.

The property has a value of $183,000. ''We are looking at some preventive maintenance and some minor repairs,'' said Vincent Creel, public affairs manager for Biloxi. ''The city is still assessing its long-term options for use of the property. The antique and art collections inside the house belong to the Peoples Heritage Trust, a foundation the Swetmans set up at Peoples Bank to preserve and protect the Coast's historical properties.

''As far as I know, the uranium glass collection is one of the more extensive in the country,'' said Chevis Swetman ''Years ago, people didn't know what it was that made it glow. The opalescent glass, which glows under black lights, was created by adding uranium to a glass mixture with a high arsenic content.''

Outside the home, Chevis Swetman pointed to the fallout shelter and noted that his father was a survivalist as well as a collector of fine things.

''The fallout shelter has four escape hatches in case some of them got blocked by rubble,'' he said. ''They were all built at right angles because radiation travels in a straight line. We were prepared for the big one.''

JUCO CAMPUSES HOLD JOINT GRADUATION

BILOXI, MS.—Sean and Stephanie Harris of Lucedale graduated from separate campuses of Mississippi Gulf Coast Community College, but took part in the same graduation ceremony.

For the first time since 1968, the Jackson County, Jefferson Davis and Perkinston campuses of Mississippi Gulf Coast Community College united Monday night for a joint graduation ceremony.

A few months ago, the Harris couple worried about having to miss each other's graduation.

''I was very relieved to find out it was on the same day in the same place,'' Stephanie Harris, 25, said Monday night as she and her husband prepared for the processional at the Mississippi Coast Coliseum.

''We both wanted to go to each other's graduation,'' said 28-year-old Sean, who completed the paramedic program at the Jefferson Davis campus.

Stephanie Harris finished at the Jackson County campus with an associate of arts degree.

With increasing enrollments and record-high graduating classes, the three campuses of Mississippi Gulf Coast Community College have grown too large to hold separate ceremonies in their gyms. More than 800 students took part in the Monday night ceremony.

NATIONAL HOSPITAL WEEK—1999

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. EHLERS. Mr. Speaker, I rise today to recognize National Hospital Week during the week of May 9–15. This year's theme, ''People Care. Miracles Happen,'' recognizes the health care workers, volunteers and other health professionals who are there 24 hours a day, 365 days a year, curing and caring for their neighbors who need them.

An example of this dedication is the Universal Infant Hearing Screening program of Spectrum Health's Downtown Campus in my hometown of Grand Rapids, Michigan. The program won the American Hospital Association's prestigious Hospital Award for Volunteer Excellence, which highlights special contributions of hospital volunteers.

The Universal Infant Hearing Screen program identifies potential hearing loss in all babies at or transferred to Spectrum Health's Downtown Campus. Early identification and intervention can prevent a hearing problem from being a handicap.

Volunteers undergo extensive training to prepare for this program. After volunteers administer the screening, audiologists review the test results to identify infants with potential problems. Those with abnormal results are referred for re-screening or diagnostic testing. Without the work of volunteers, it would be impossible to provide this vital service to the thousands of babies at Spectrum Health every year.

Mr. Speaker, I ask my colleagues to join me in congratulating the staff at Spectrum Health for their dedication and their award-winning program.

IN MEMORY OF THE LATE LAWRENCE BANKOWSKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Ms. KAPTUR. Mr. Speaker, I rise today to pay tribute to an outstanding craftsman and labor leader in my District. Lawrence Bankowski, retired President of the American Flint Glass Workers Union (AFGWU), left this world on April 10, 1999 at the age of 68 after a long and valiant struggle with cancer.

Born in Mt. Clemens, MI, Larry grew up in North Toledo, graduating from Woodward High School and attending the University of Toledo. He often worked up to three jobs at a time, and joined the AFGWU in 1955 when he went to work as a moldmaker for Ohio Permanent Mold Company, where he remained until 1973 when he was elected international union representative. He rose through the ranks in 25 years of dedicated service to the union, retiring as its International President in 1999. In representing the 121 year old AFGWU and its 18,000 members, Larry traveled to other countries, met with President Clinton, and served on the U.S. Department of Labor's Advisory Committee on Trade Negotiations. He always championed the cause of working people, constantly urging that U.S. companies' production remain in the United States and that trade laws benefit workers everywhere.

A very wise leader, Larry was diligent in his life long efforts and embodied the men and women he represented in the AFGWU. Throughout his years of service in the international union, he kept his focus on the needs of the rank and file, never losing sight that the men and women making up the AFGWU and their futures were what mattered most. He understood that union working men and women can unite to fight for their economic, social and political best interests.

Larry Bankowski was also a dedicated family man, relishing time spent with his wife, children, and grandchildren. In the years I have been privileged to know him, his wife Betty, or one of his children or grandchildren always accompanied him. There is no way to adequately express our heartfelt condolences to Betty, their children Carol, Kathy, and Karen, his sisters and brother and grandchildren. May you find comfort in knowing Larry is at peace, and lives in the light he left shining in each of you, and of us. His kindness, dedication, and gentlemanly demeanor make our community and world finer and more humane.

SPECIAL RECOGNITION AND COMMENDATION FOR PRESIDENT DEBOW FREED OF OHIO NORTHERN UNIVERSITY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. OXLEY. Mr. Speaker, today I rise to spotlight a very special individual who has unselfishly given of his time, energy, and spirit to others in the Fourth Congressional District of Ohio. The month of August will pose many a challenge to Ohio Northern University since it will be losing its President to a well deserved retirement. His shoes will be very difficult to fill.

President Freed has been with ONU in Ada, Ohio since 1979. Before serving as Ohio Northern's President, Dr. Freed was the president of Monmouth College. Dr. Freed has served in all aspects of university life. He has been a teacher, administrator, dean, and president. He knows inside and out how to guide a university to academic and financial success.

Besides being a top notch administrator, Dr. Freed is a great academian. It's not every college which can boast that is has a Doctor of Nuclear Science and Engineering as president. Over the years I have witnessed how DeBow Freed cares very deeply for his university family. Students and faculty have perhaps been a bit spoiled with how good a president he has been. Though he will no longer work as president for ONU, he will never be far from it in mind and body. Moreover, the Freed Center of Fine Arts stands as a lasting tribute to his leadership abilities and the commitment he and his wife have made to the university.

I wish Dr. Freed and his wife, Catherine, all the best as they approach this new adventure of retirement together.

TRIBUTE TO THE VETERANS OF FOREIGN WARS OF THE UNITED STATES 100TH ANNIVERSARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. BONIOR. Mr. Speaker, I am honored to recognize the Centennial Anniversary of a proud organization. Today, the Veterans of Foreign Wars of the United States, Tenth District in the State of Michigan will celebrate the VFW's 100th Anniversary. The members will gather at the Charles Schoor Post 796 in Port Huron Michigan in honor of this historic occasion.

The Veterans of Foreign Wars dates back to the time of the Spanish-American War of the late 1800's. The first local organizations were founded by veterans in 1899 to secure rights and benefits for their service. Three separate groups were founded in Ohio, Colorado, and Pennsylvania, and later banded together to become known as the Veterans of Foreign Wars of the United States.

Today, the organization has over two million members, and includes veterans from World War I through Bosnia. Each new generation of members adds to the strength and focus of the VFW. However, the VFW has remained committed to recognizing military service and remembering those who gave their lives for freedom.

Under the motto, ''Honor the dead by helping the living,'' the VFW has provided assistance to countless veterans across the United States. The VFW has more than 15,000 trained service officers who assist veterans and their families with government services, discharge upgrades, and other much-deserved benefits awarded to Veterans. Through national programs, the Veterans of Foreign Wars is able to provide members with information, scholarship, safety programs, and youth involvement activities.

On the 100th Anniversary of the Veterans of Foreign Wars, we celebrate the people who have made this organization successful. I would like to extend my congratulations on this historic occasion and best wishes for the future.

BANKRUPTCY REFORM ACT OF 1999

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 833) to amend title II of the United States Code, and for further purposes:

Mr. CROWLEY. Mr. Chairman, while I believe that H.R. 833 is an important step towards ending the abuse and restoring responsibility to our nation's bankruptcy system, I believe that the effectiveness of this legislation could be improved by adjusting the homestead exemption for bankruptcy filers to more adequately reflect the current costs of housing in the United States.

Mr. Chairman, in my home State of New York, the homestead exemption for individuals is just $10,000 while couples are limited to only a $20,000 exemption. Clearly this amount is woefully inadequate when compared to the current high costs of housing faced by the residents of New York.

Mr. Chairman, while I think that H.R. 833 sets a reasonable cap on homestead exemptions at $250,000, I believe it is imperative that the homestead exemption for individuals and couples in New York be raised to sufficiently reflect the prevailing costs of housing in New York so that while consumers are working to meet their financial obligations and get back on their feet, they are not burdened with the prospect of losing their homes.

HONORING THE SILAS AND ELLA LEWIS FAMILY REUNION

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. SHOWS. Mr. Speaker, I rise today to honor the Family of Silas and Ella Lewis as they plan to celebrate their first Family Reunion from July 2nd through July 4th, 1999 in Monticello, Mississippi.

Silas Lewis was one of the first African-Americans to own land and a horse-drawn buggy in the early 1900's. Descendants of Silas and Ella Lewis continue to live in the area and have become productive and prominent members of the community.

All Americans come together as a family to honor our national heritage on the Fourth of July. It is a fitting tribute to Silas and Ella Lewis that so many members of their family have made the commitment to come together during the Fourth of July holiday to celebrate their personal heritage. Silas and Ella Lewis are role models for modern Americans. The principles of hard work and determination they instilled in their children and grandchildren continue to represent the strong family values we need to foster as we prepare to begin a new millennium.

Mr. Speaker, I am proud to rise today to honor the memory of Silas and Ella Lewis. I am proud of their family for coming together to celebrate their noble heritage. And I am most proud that I am able to rise before this Congress—the People's House—to share their story and praise Silas and Ella Lewis.

MARKING THE 300TH ANNIVERSARY OF THE TOWN OF PLAINFIELD, CONNECTICUT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. GEJDENSON. Mr. Speaker, I rise today to mark the 300th anniversary of the incorporation of the Town of Plainfield, Connecticut. I join the residents of the community in celebrating this special occasion.

Within only a few decades of landing at Plymouth Rock, citizens of the Massachusetts Bay Colony were migrating into the ''hollowing wilderness'' of eastern Connecticut and settling along the banks of the Quinebaug River. Today, it is hard to believe that Connecticut was once considered ''frontier'' territory, but the families who began to develop towns east of the Connecticut River in the 1640s and 1650s were pioneers well before the first Conestoga wagon set off along the Oregon trail. The Winthrop and Fitch families began to establish settlements on the Quinebaug in the mid-1650s. The Winthrop settlement on the eastern side of the River would ultimately become the Town of Plainfield when its inhabitants were granted the ''powers and privileges of a township'' on May 11, 1699. The name Plainfield—bestowed by Governor Fitz-John Winthrop in 1700—can be directly traced to the topography of the area which is dominated by fertile meadows and fields.

The development of Plainfield over the past three centuries is a microcosm of the history of New England and the nation as a whole. Plainfield was an agrarian community throughout the 1700s dotted by small family farms growing corn, rye, barley and other crops in the fertile lands surrounding the Quinebaug. Men from Plainfield joined colonists from across Connecticut and New England to fight for our independence during the Revolutionary War. The Community hosted 6,000 troops under the command of French General Rochambeau as they traveled from Newport, Rhode Island to Yorktown, Virginia to participate in the decisive campaign of the Revolution.

Beginning in the first decade of the nineteenth century, Plainfield began a fundamental transition which would forever reshape its character, population, economy and culture. In many respects, the history of this community, and many others throughout New England, is defined by the development and expansion of the textile industry. And Plainfield was an ideal place for this industry to grow. The rivers which run through Plainfield, including the Moosup and Quinebaug, offered an ideal source of power for early mills. The Hartford-Providence Turnpike, the major transportation route between the state capitals, ran through town. Moreover, Plainfield benefitted from its close proximity to Rhode Island—the birthplace of the factory-based textile industry in the United States. The early mills received important financial support from Rhode Island investors and utilized technology developed by Samuel Slater.

The first textile mill was established in the community by the Plainfield Union Manufacturing Company in 1809 along the Moosup River. Within a decade, the company employed 74 people who produced shirts, sheets, bedding and other products. In the years following 1809, which author Christopher Bickford describes as ''those frenetic first years of growth of the textile industry,'' several other mills were established along the Moosup and Quinebaug Rivers, including one owned by the Moosup Manufacturing Company. By 1820, the character of Plaifield had changed significantly as the textile industry became more and more widespread.

Over the coming decades, the textile industry would grow exponentially, remaking the

community into an industrial center in Connecticut. The mills built during this period were multiple stories and incorporated the latest technological innovations. By 1840, Plainfield was home to seven cotton and five woolen mills. The cotton mills produced 3.2 million yards of cloth and employed 512 people. The woolen factories produced 110,500 yards of cloth using nearly 300 employees. In 1840, the railroad began to provide service to Plainfield. This linked Plainfield to communities throughout New England and provided another boost to the growing textile sector. Using the railroad, producers could distribute their products to new markets more cheaply than ever before. Moreover, the coming of the railroad helped to encourage the development of larger and larger industrial facilities. The original Wauregan Mill, built in 1853, was 250 feet long by 50 feet wide making it the largest mill in Plainfield by far. By 1860, this mill was the largest in Windham County with 425 employees who produced 3.9 million yards of various cloth products.

The history of Plainfield continued to be defined in large part by the textile industry through the 1920s. New mills continued to be constructed, including facilities built by the Plainfield Woolen Company and another by the Central Worsted Company. The last major mill was built by Harold Lawton between 1906 and 1912. This was the largest facility ever constructed during more than a century dominated by continuous growth in the textile industry. The original structure was three stories, measured more than 250 feet long and had a 150-foot smokestack rising above its steam generators. Over the next six years, the original building was expanded twice and employment grew to 1,200. These developments in the early part of this century prompted the Providence Sunday Journal to write in 1912 that ''Plainfield has been transformed from a quiet farming community into one of the busiest mill villages hereabouts.'' The transformation of Plainfield from a frontier outpost into an industrial center was complete.

The residents of Plainfield have triumphed over a series of challenges throughout the twentieth century. They survived the Great Depression which dramatically reduced employment in the Town's mills. Young men from the Town served their nation bravely in two world wars, Korea, Vietnam and other military actions around the world. The community developed new industries in the 1950s and 1960s during a period in which economic forces beyond its control shifted textile manufacturing to the southern United States and overseas. During this period, new manufacturers, including Kaman Corporation and C&M Wire, moved to old mill buildings and contributed to economic diversification and revitalization.

Mr. Speaker, a yet to be published book documenting Plainfield's long history is appropriately titled: ''Plainfield Transformed: Three Centuries of Life in a Connecticut Town.'' Over the past three hundred years, the community has been transformed from a frontier outpost to a center of textile manufacturing to the town we see today. As the residents celebrate their past, they look to the future with optimism and a strong sense of community. I know that our grandchildren and their children will mark Plainfield's 400th Anniversary with the pride we feel today.

TRIBUTE TO JOSEPH E. DEVOY

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. WEINER. Mr. Speaker, I rise today to invite my colleagues to pay tribute to Joseph E. DeVoy on the occasion of the Forest Hills Community and Civic Association's Testimonial Luncheon in recognition of his thirty-five years of service to the Association and to the Forest Hills community.

Joe DeVoy, a strong believer in community and coalition building, was selected as Community Board Six's first Chairman and continues to serve as a member of the Board. He has served as the President of the Central Queens Allied Council, a forerunner of Civic Alliances in Queens.

Joe DeVoy's strong interest and focus on community service led him to be one of the founding members of the Forest Hills Volunteer Ambulance Corps where he served as an EMT for six years. Through his dedicated efforts, the North Forest Park Branch of the Queens Borough Library was completed and opened to the public providing neighborhood residents with a haven to read and learn about their community and the world. In addition, Joe DeVoy was the driving force behind the designation and development of Remsen Park as a historic landmark and protected area and currently serves as the President of the Remsen Park Coalition.

Joe DeVoy routinely works with neighborhood community groups and local elected officials to ensure the quality of life of his friends and neighbors in Forest Hills. Under Joe DeVoy's leadership, the Forest Hills Community and Civic Association has developed a broad array of services for people of all ages. Today, the members of the Forest Hills Community and Civic Association still enjoy the benefits of Joe's guidance and leadership in finding ways to resolve problems which affect the Forest Hills community.

Joe DeVoy has long been known as an innovator and beacon of good will to all those with whom he has come into contact. Through his dedicated efforts, he has helped improve my constituents' qualify of life. In recognition of his many accomplishments on behalf of my constituents, I offer my congratulations to Joseph E. DeVoy on the occasion of the Forest Hills Community and Civic Association's Testimonial Luncheon in honor of his thirty-five years of service to the Association and to the Forest Hills community.

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. CASTLE. Mr. Speaker, it is with great pride that I rise today to congratulate the young scholars of Woodbridge High School from Bridgeville who represented my home state of Delaware in the We the People . . . The Citizen and the Constitution program. They were part of a group of 1200 students from across the country who were in Washington, D.C. from May first to the third to compete in the national finals of this program. These young scholars worked diligently and persistently to reach the national finals and through this program have gained a deeper knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The names of the students are: Derek Bowman, Mike Clendaniel, Lisa Culver, Joy Diogo, Laura Divver, Shawanda Garrison, Krsitine Haring, Cassie Hartzell, Brooke Hearn, Lina Hertzog, Heather Holmes, Jared Judy, Michele Keough, Matt McCoy, Josh Miller, Blake Moore, Andrew Morozowich, Jessica Parkinson, Willie Savage, Crystal Short and Lefeisha Williamson.

I would also like to extend my congratulations to their teacher, Barbara Hudson, who deserves much of the credit for the success of the team.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young students about the Constitution and the Bill of Rights. The three-day final competition they participated in consisted of hearings modeled after those in the United States Congress. The students made oral presentations before a panel of adult judges and testified as constitutional experts before a ''congressional committee.'' A panel of adult judges representing various regions of the country and a variety of appropriate professional fields served on the congressional committees. These judges followed up the testimonies with a series of questions designed to test the students' depth of understanding and their ability to apply constitutional knowledge to given situations.

The We the People program is administered by the Center for Civic Education, and has provided curricular materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. This program has promoted civic competence and responsibility among young students as well as awareness for contemporary relevance of the Constitution and Bill of Rights.

The team from Woodbridge High School conducted research in preparation for the national competition here in Washington, D.C. I congratulate them for their fine work that enabled them to come so far in this competition and to visit our nation's capital.

THE INTRODUCTION OF THE FEDERAL EMPLOYEES' BENEFITS EQUITY ACT OF 1999

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. CUMMINGS. Mr. Speaker, on behalf of the President of the United States, William Jefferson Clinton, I am pleased to introduce the ''Federal Employees' Benefits Equity Act of 1999.'' This proposal eliminates certain inequities under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS), with respect to computation of benefits for certain employees. The legislation also corrects an inequity created by the court decision. Wassenaar v. OPM, that affects benefits for survivors of law

enforcement officers and fire fighters who die as federal employees.

Under current CSRS and FERS law, certain employees (i.e. air traffic controllers, fire fighters, law enforcement officers, and nuclear materials couriers) qualify for an immediate enhance annuity if separated from service after reaching age 50 and completing 20 years of service. The enhanced annuity, however, requires that they make retirement contributions that are 0.5 percent higher than employees generally.

The legislation addresses an inequity that occurs when an employee in one of these occupations is forced to retire because of a disability, or is involuntarily separated (not for cause), before reaching age 50, the employee only receives a regular annuity (and not the enhanced annuity), even if he or she has had 20 years of service in the occupation.

The bill fixes this problem by providing the enhanced annuity to employees, who after 20 years of qualifying service, regardless of age, are forced to retire due to involuntary separation, or for disability. The measure also provides for a refund of the additional 0.5 percent retirement contribution, with interest, when employees in these occupations retire or die before attaining eligibility for the enhanced annuity.

By supporting this legislation, you support federal firefighters, law enforcement officers, and others, who work in these very demanding occupations.

INTRODUCTION OF THE LIBRARY OF CONGRESS CHILD CARE CENTER ACT OF 1999

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. HOYER. Mr. Speaker, today I have introduced a bill designed to ensure the continued ability of the Library of Congress to provide quality child care services to those who so ably serve that fine institution and other elements of the Legislative Branch, as well as to other federal government employees and private sector employees when space is available.

Similar to the general law applying to other federal child care facilities, this legislation would amend the Library of Congress Child Care Center's authorizing language to specify that the Center must have at least 50 percent of its enrollees from families of federal employees. The legislation also establishes priorities for enrollment in the Center: first priority would go to children (and grandchildren and dependents) of Library employees; second priority would go to children of other employees of the Legislative Branch; and third priority would go to children of employees of other federal agencies. Children of non-federal employees would then be admitted as space allows, subject to the 50 percent limit.

The 1991 law creating the Library's Child Care Center is ambiguous on the point of permitting the Center to admit children whose parents are employed outside of the Legislative Branch. The Library's General Counsel and the independent Library of Congress Child Care Association Board believe the clear authority provided in the bill I introduce today is needed to continue the ability of the Library to provide affordable child care to Capitol Hill staff.

The proportion of Library and other Legislative Branch children enrolled in the Library's Child Care Center has steadily increased since the Center opened its doors in 1993. With nearly 50 percent of the Library's workforce becoming eligible for retirement by the year 2003, Library employees will have an even greater need for quality, convenient child care. Meanwhile, in order to remain self-sustaining, the Library's Center needs the same flexibility provided to other federal centers to admit a small proportion of children from families not employed by the federal government.

TRIBUTE TO ALEX AND SHIRLEY FAHN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. MATSUI. Mr. Speaker, I rise today in honor of Alex and Shirley Fahn, of Sacramento, California.

Mr. Speaker, the Sacramento community, and especially the community of the Kenesset Israel Torah Center understand why Alex and Shirley deserve our recognition and our heartfelt thanks.

These extraordinary individuals display the inspiration of the Talmud and serve as examples to those near them. Alex and Shirley show us by their faith and commitment that this kind of courage is possible and they surround us with their strength.

Perhaps the most remarkable example of Alex and Shirley's commitment to build in our community is their belief in the Kenesset Israel Torah Center. Mr. Speaker, Alex and Shirley's work to take a dream and make it a reality touched so many people that they will be honored with a gala dinner in Sacramento later this week. I know I speak for those back home when I say that one evening of recognition could not possibly repay Alex and Shirley for their constant sacrifice.

The Talmud say, ''Every blade of grass has an angel that bends over it and whispers, 'Grow, Grow.'" Alex and Shirley have been the angels of the Kenesset Israel Torah Center—dedicating their time and enthusiasm to every aspect of creating the Center. Since the initial planning stages, they never hesitated to offer their home to host meetings and events. They served on the Center's Board of Directors and began a tradition of generosity by donating to the building fund and dedicating classrooms. This amazing couple unconsciously grew into a leadership position in the development and life of Kenesset Israel.

We are grateful for Alex and Shirley's involvement as congregational and community leaders in a variety of organizations and capacities. Their leadership experience and personal integrity provide an example for the rest of us trying to navigate a true course.

Over the course of their service in Sacramento, Alex has served as president of both the Jewish Federation and Mosaic Law Congregation. Shirley has been active in the philanthropic sorority Theta Delta Xi.

Mr. Speaker, I am grateful for the constant contributions from Alex and Shirley Fahn and their commitment to truly give all they can. It is with great pleasure that I honor them today and offer my most heartfelt gratitude and best wishes for the future.

TRIBUTE TO STANLEY ''SKEETER'' SHIELDS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. DUNCAN. Mr. Speaker, the citizens of East Tennessee are losing a true statesman. After 32 years of successful service, Stanley ''Skeeter'' Shields is retiring from his post as Mayor of the City of Maryville, Tennessee. Few people in the entire Nation have served one community for so long and with such dedication.

A lifelong member of the Blount County community, Skeeter Shields has spent his career making life better for the citizens of Maryville and indeed all of Blount County. After graduating from Maryville High School, he attended Maryville College and went on to graduate from the University of Tennessee.

Mayor Shields has a beautiful family. He and his wife, Mary Frances, have two wonderful children and three grandchildren. Those who know Skeeter know that he is a true family man.

Skeeter Shields has been a devout member of the First United Methodist Church for many years. In fact, he has taught Sunday school for 44 years and is the past Chairman of the Church Board.

Mayor Shields is a model public servant. He was a member of the Maryville School board for 12 years, helping to improve the lives of young people through the education process. He was elected to the Maryville City Council in 1955, and in 1967 he was elected Mayor. He has served in that position ever since.

During his tenure, Mayor Shields demonstrated the true potential of a public servant. He was instrumental in getting several large industries to establish facilities in the Maryville area. Additionally, he helped develop a regional wastewater treatment plant, three public parks, two fire station facilities, as well as many other things that have greatly benefitted the citizens of Maryville.

Throughout the last 32 years, Mayor Shields has worked tirelessly to improve the quality of life for members of the Maryville and Blount County communities. I know that I join with everyone in East Tennessee in thanking Mayor Stanley ''Skeeter'' Shields for his outstanding service to this Nation.

Mr. Speaker, I have included a copy of a Resolution adopted by the Tennessee General Assembly honoring Mayor Shields that I would like to call to the attention of my fellow Members and other readers of the RECORD.

A RESOLUTION TO HONOR STANLEY SHIELDS, MAYOR OF MARYVILLE, ON THE OCCASION OF HIS RETIREMENT

Whereas, it is fitting that the members of this legislative body should recognize those citizens who in their years of work have performed with extraordinary dedication and unprecedented devotion; and

Whereas, Stanley Shields is one such outstanding person who has served with alacrity and acuity as the Mayor of Maryville, Tennessee for 32 outstanding years; and

Whereas, Mayor Shields exemplifies the spirit and dedication that is characteristic of a great Tennessean; and

Whereas, he is a graduate of Maryville High School, attended Maryville College and graduated from the University of Tennessee in 1938; and

Whereas, Mayor Shields was a member of the Maryville School Board from 1952 to 1964, serving astutely as chairman for four years; and

Whereas, his career in city government began in 1955 when he was elected as a member of the Maryville City Council. He was elected Mayor in 1967 and has served with distinction in that important position ever since; and

Whereas, during Mayor Shields' tenure, the city of Maryville has seen numerous improvements and great progress, including the development of a regional wastewater treatment plant; three public parks; two fire station facilities; a new library facility; an industrial park; Broadway Towers, a high rise elderly housing complex; and Maryville's Foothills Mall; and

Whereas, Mayor Shields' has also been instrumental in securing the location of several large industries in Maryville, including Denso Manufacturing and Ruby Tuesday Inc; and

Whereas, his illustrious service to his fellow citizens was appropriately recognized when he was selected Tennessee Mayor of the Year by the Tennessee Municipal League in 1979; and

Whereas, he has continued to serve adroitly the community in addition to his duties as mayor, as evidenced by his service on the Maryville Planning Commission, Recreation and Parks Commission, East Development District Board, Governor's Board, Maryville Rotary Club and Metropolitan Planning Organization for Knox and Blount counties; and

Whereas, throughout all his endeavors, Mayor Shields has shown his unwavering commitment to improving the quality of life for the citizenry of Maryville and Blount County; and

Whereas, he is most appreciative of the love and support he received from his wife, Mary Frances, their children, Steve and Karen, and grandchildren, Stephanie, Steve and Whitney; and

Whereas, Mayor Shields has evinced his devout faith as a member of the First United Methodist Church, where he has taught Sunday school for 44 years and is the past chairman of the church board; and

Whereas, the good people of Maryville are most grateful for Mayor Shield's devoted service and the sterling legacy he has built from Shields Stadium to the Greenbelt; now, therefore, be it

Resolved by Senate of the One Hundred First General Assembly of the State of Tennessee (the House of Representatives concurring), That we extend to Mayor Stanley Shields of Maryville our best wishes for a happy and fulfilling retirement and continued success in his future endeavors. Be it further

Resolved, That an appropriate copy of this resolution be prepared for presentation with this final clause omitted from such copy.

TRIBUTE TO THE GREATER WOODHAVEN DEVELOPMENT CORPORATION

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. WEINER. Mr. Speaker, I rise today to invite my colleagues to pay tribute to the Greater Woodhaven Development Corporation on the occasion of its 20th Anniversary Celebration.

The members of the Greater Woodhaven Development Corporation have long been known for their commitment to community service and to enhancing the quality of life for all New York City residents.

This event is not only a festive happening, it is a chance for all of us to celebrate and pay tribute to a group of individuals who have dedicated their lives to helping their friends and neighbors. This year's honorees truly represent the best of what our community has to offer.

As a member of the Board of Directors for the American Cancer Society, Queens Division, Douglas A. Gerowski helped raise more than $50,000 in a five-year period through the organization's ''Stepping Out Against Cancer'' fund-raising campaigns. Douglas has served as a Chairman of the Greater Woodhaven Development Corporations Board of Directors and coined the slogan ''Taking Care of BIDness'' as the Woodhaven Business Improvement District's first 3rd Vice President. He currently serves as the President of the Merillon Athletic Association of Hew Hyde Park and is actively involved in coaching his children's baseball, basketball and hockey teams.

Born a few months after Pearl Harbor, Jeffrey Lewis grew up in Woodhaven and attended local public schools. At that time, Jeffrey's family already owned and operated a small store, Lewis' of Woodhaven, on Jamaica Avenue and 85th Street. While in high school, Jeffrey helped his family celebrate the opening of Lewis' of Woodhaven's second store on Jamaica Avenue between 90th and 91st Streets. Following his graduation from the University of Denver in 1963, Jeffrey got married and started working full time at Lewis' of Woodhaven. Within a few short years, Jeffrey and his loving wife Marlin were blessed with two daughters. Even though he moved his family to Westchester, Jeffrey's roots and time were all in Woodhaven. In 1989, Jeffrey became involved with the Woodhaven Business Improvement District Feasibility Committee and became the first President of the Woodhaven Business Improvement District in 1993 upon its creation. While most of Jeffrey Lewis' time is still spent running the family business, he makes sure to enjoy the time he has with each of his children and grandchildren.

Today's honorees have long been known as innovators and beacons of good will to all those with whom they come into contact. Through their dedicated efforts, they have each helped to improve my constituents' quality of life. In recognition of their many accomplishments on behalf of my constituents, I offer my congratulations on their being honored by the Greater Woodhaven Development Corporation.

NATIONAL LABOR RELATIONS BOARD

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. ISTOOK. Mr. Speaker, I rise today to urge my colleagues to cosponsor H.R. 1620, a bill to free the National Labor Relations Board from being overburdened because bracket creep has forced them to accept cases from very small employers in this nation. Here is a copy of my ''Dear Colleague'' and a report from the Labor Policy Association that outlines the problem and why it is important to small businesses in America to correct this problem.

FREE THE NATIONAL LABOR RELATIONS BOARD (NLRB). HELP REDUCE UNNECESSARY BURDEN ON SMALL BUSINESS

DEAR COLLEAGUE: This Congress, Mr. Istook is introducing legislation to help the NLRB manage their huge caseload. Each year the NLRB requests additional funding to help them administer and manage their caseload. This legislative reform simply makes adjustments for inflation in the financial jurisdictional thresholds of the NLRB, most of which were set in 1959. The NLRB can still adjudicate special cases below these thresholds, just as they can do today. It is crucial that we provide the NLRB with this freedom. We urge you to cosponsor this bill. Two former NLRB Chairs support this change.

The National Labor Relations Board (NLRB) is the government agency designed to settle labor disputes between unions and management. In 1959, Congress passed a law to give NLRB jurisdiction over businesses based on gross receipts. Once a business passes that threshold of gross receipts, it is subject to intervention by the NLRB. Businesses below the threshold are subject to actions brought in state courts, instead of the NLRB.

Without an adjustment for inflation, businesses and the NLRB have been caught in ''bracket creep,'' as inflation has increased since 1959, the NLRB has acquired jurisdiction over much smaller businesses than was ever intended, escalating the expense and workload for the NLRB as well as for business. These now include very small businesses, for whom the cost of such intervention is unbearable. Up to 20% of the NLRB's workload now is these very small businesses. For example, NLRB has jurisdiction over non-retail businesses with gross receipts over $50,000, an inflation adjustment would raise that threshold to $275,773. NLRB has jurisdiction over retail businesses and restaurants doing more than $500,000 worth of business, but adjusting for inflation since 1959 would raise this to $2.7 million. Congress never intended to subject smaller businesses to such a heavy regulatory hammer.

The NLRB is powerless to change its jurisdiction without an act of Congress. So this legislation will do exactly that. By indexing the jurisdiction to the rate of inflation, the NLRB could again focus upon the larger businesses for whom the law was originally written. Small businesses have been severely burdened by dealing with the far-off NLRB instead of their local state courts (Examples on Reverse).

This bill's simple adjustment both frees NLRB to deal with significant cases truly affecting interstate commerce, and also removes the problems very small businesses have with NLRB oversight (See Example on the Reverse). If you have any questions, please call Mr. Istook's office and speak with Dr. Bill Duncan at (202) 225–2132.

Tom DeLay, Bill Young, John Boehner, John Porter, Jim Talent, Henry Bonilla, Ernest Istook, Dan Miller, Jay Dickey, Roger Wicker, Anne Northup, Randy ''Duke'' Cunningham, John Hostettler, Chris Cannon.

EXAMPLES OF SMALL BUSINESS NLRB CASES

Larry Burns, of Houston, Texas, (8 employees), had 2 charges filed against his business

by the NLRB. One was thrown out, the other settled for $160 (1 days pay). Larry Burns spent $11,000 in attorneys fees and wasted time fighting the NLRB when these problems could have been solved cheaper and easier in state courts. Also, Mr. Burns, under state law, could have recovered ½ of his attorney's fees under loser pays (which helps eliminate frivolous charges).

Randall Borman, of Evansville, Indiana (4 employees). Three charges were filed with the NLRB. All were dismissed. He could have recovered all of his legal fees under Indiana state law. Instead he lost $7,500 in attorney's fees and lost revenue and had to lay off workers to cover this expense.

EXAMPLES OF DELAYS IN PROCESSING NLRB CASES

Julian Burns, of Charlotte, North Carolina, (23 employees). His case should be heard by the NLRB. However, the NLRB's workload is so overloaded with cases from very small businesses that it took 2½ years to hear his case. Rather than getting his day in court, he settled for $10,000, after paying $35,000 in attorney's fees, and $250,000 for losses in manpower and reduced workforce, for a total cost of $295,000.

ACHIEVING NLRB BUDGET SAVINGS BY UPDATING SMALL BUSINESS THRESHOLDS

The National Labor Relations Board[1] (NLRB or Board) exercises exclusive jurisdiction over all labor disputes that are considered to be of significant national interest. The Board, itself, has set the standards for determining which labor disputes reach this threshold. Unfortunately, most of these standards are based on 1959 dollar figures that have not been adjusted for inflation over time. The result is that the Board's method for asserting jurisdiction has become outdated and should be changed to reflect present economic realities. Such a change could result in substantial savings to the U.S. Government.

The NLRB's jurisdiction, in both representation and unfair labor practice cases, extends to all enterprises that ''affect'' interstate commerce.[2] This expansive statutory grant of authority has been held by the Supreme Court to mean that the Board's jurisdiction extends to ''the fullest . . . breadth constitutionally permissible under the commerce clause.''[3]

Traditionally, however, the Board has never exercised its full authority. Since its establishment, the Board has considered only cases that, in its opinion, ''substantially affect'' interstate commerce. In 1959, Congress endorsed this practice in the Labor-Management Reporting and Disclosure Act. The act specifically allowed the Board to ''decline to assert jurisdiction over any labor dispute . . . where . . . the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction.''[4] Congress did not leave the Board total discretion, however. It instructed that the Board ''shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.''[5]

Thus, although Congress recognized that the board needed to exercise discretion in interpreting the term ''affecting commerce,'' it clearly did not want the Board to establish lower thresholds than were already in place. In 1959, however, the Board's prevailing jurisdictional thresholds were based on raw dollar amounts. The difficulty with this jurisdictional approach is that it fails to take inflation into account.

The problem with not adjusting jurisdictional thresholds is clearly illustrated in the following example. In 1959, the Board exercised jurisdiction over non-retail businesses that sold or purchased goods in interstate commerce totaling $50,000 or more annually. In other words, in 1959, $50,000 of interstate business ''substantially affected commerce.'' Today, the Board continues to exercise jurisdiction using the $50,000 threshold, but the effect on commerce of $50,000 today is not nearly what it was in 1959. The value of $50,000 today is equivalent to $9,065 in 1959. Thus, just as $9,065 did not warrant the Board's jurisdiction in 1959, $50,000 should not warrant the Board's jurisdiction today.

Since 1959, the Board has established separate thresholds for particular types of businesses that did not fall into the 1959 categories. Although these thresholds are more recent, they nonetheless suffer from the same major flaw—they fail to consider inflation.

Figure 1, below, lists the Board's current jurisdictional thresholds for various business sectors along with the year in which those thresholds were established. These sums are then converted into their present value—making it clear that the Board's present procedure for asserting jurisdiction is both unrealistic and outdated. Consequently, 29 U.S.C. §164(c)(1) should be amended to reflect the present value of these jurisdictional thresholds.

A second flaw in basing jurisdiction solely on the volume of the employer's business is that such a method fails to consider the size of the bargaining units involved. As a result, the Board spends scarce federal resources pursuing relatively small benefits. Figure 2 clearly illustrates this position. In 1994, the Board expended nearly 20% of its representation effort on bargaining units of 9 persons or less. Yet, this 20% effort reached less than 2% of the total number of employees involved in representation elections that year (3,393 out of a total of 188,899). In other words, the Board could have reduced its effort by 20% while maintaining 98% effectiveness had it declined to assert jurisdiction over these small units.

What is even more surprising is that the NLRB conducts elections in units as small as two workers. The Board refuses to release statistics on this point to the public, but such statistics would be available to the Appropriations Committee.

Leaving jurisdiction over these small units to the states would be the most efficient use of federal resources and could result in significant savings to the Federal Government.

FOOTNOTES

[1] This analysis was prepared by the staff of the Labor Policy Association.

[2] 29 U.S.C. §160.

[3] NLRB v. Reliance Fuel Oil Corp., 371 U.S. 224 (1963).

[4] 29 U.S.C. §164(c)(1). Parties involved in labor disputes that did not meet the Board's jurisdictional requirements were not left without recourse by Congress. The act specifically provided that agencies or state courts could assert jurisdiction over these claims. 29 U.S.C. §164(c)(2). Of course, state courts would have to be empowered by state law to do so.

[5] 29 U.S.C. §164(c)(1).

FIGURE 1.—PRESENT VALUE OF NLRB JURISDICTIONAL THRESHOLDS BY BUSINESS ACTIVITY

Business activity	Jurisdictional threshold	Present value
Non-retail enterprises; enterprises that combined retail and wholesale; and architectural firms	[1] $50,000 (1959)	$275,773
Retail enterprises; restaurants; automobile dealers; taxicab companies; country clubs; and service establishments	[2] 500,000 (1959)	2,757,732
Instrumentalities, links, and channels of interstate commerce	[3] 50,000 (1959)	275,773
Public utilities; transit companies	[4] 250,000 (1959)	1,378,870
Printing; publishing; radio; television; telephone; and telegraph companies	[5] 200,000 (1959)	1,103,093
Office buildings; shopping centers; and parking lots	[6] 100,000 (1959)	551,546
Day care centers	[7] 250,000 (1976)	705,185
Health care facilities:		
nursing homes	100,000	298,327
hospitals	[8] 250,000 (1975)	745,818
Hotels and motels	[9] 500,000 (1971)	1,981,481
Law firms	[10] 250,000 (1977)	662,129

[1] Figure represents annual interstate sales or purchase. Siemons Mailing Serv., 122 NLRB 81 (1958); Wurster, Bernardi and Emmons, Inc., 192 NLRB 1049 (1965).

[2] Figure represents annual volume of business including sales and taxes. Red and White Airway Cab Co., 123 NLRB 83 (1959); Carolina Supplies and Cement Co., 122 NLRB 723 (1958); Bickford's, Inc., 110 NLRB 1904 (1954); Claffery Beauty Shoppes, 110 NLRB 620 (1954); Wilson Oldsmobile, 110 NLRB 534 (1954); Walnut Hills Country Club, 145 NLRB 81 (1963).

[3] Figure represents annual income derived from furnishing interstate passenger or freight transportation. HPO Serv., Inc., 202 NLRB 394 (1958).

[4] Figure represents total annual volume of business. Public utilities are also subject to the $50,000 non-retail threshold. Charleston Transit Co., 123 NLRB 1296 (1959); Sioux Valley Empire Elec. Ass'n, 122 NLRB 92 (1958).

[5] Figure represents total annual volume of business. Belleville Employing Printers, 122 NLRB 92 (1958); Raritan Valley Broadcasting Co., 122 NLRB 90 (1958).

[6] Figure represents total annual income. Mistletoe Operating Co., 122 NLRB 1534 (1958).

[7] Figure represents gross annual revenues. Salt & Pepper Nursery School, 222 NLRB 1295.

[8] Figure represents gross annual revenues. East Oakland Health Alliance, Inc., 218 NLRB 1270 (1975).

[9] Figure represents total annual volume of business. Penn-Keystone Realty Corp., 191 NLRB 800 (1971).

[10] Figure represents gross annual revenues. Foley, Hoag, & Eliot, 229 NLRB 456 (1977).

RECOGNIZING WASHINGTON REGIONAL MEDICAL CENTER

HON. ASA HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. HUTCHINSON. Mr. Speaker, I rise today in recognition of National Hospital Week and applaud the efforts of our nation's hospitals. In particular, I want to call attention to the Washington Regional Medical Center, and its efforts to serve the community.

Washington Regional—located in Fayetteville, Arkansas—has recently been awarded the 1999 NOVA award by the American Hospital Association. This award recognizes hospitals for their initiatives for and interaction with the local community. This year, Washington Regional is a recipient of the NOVA award for its commitment to the children of Washington County.

Many community ills occur due to circumstances that are beyond an individual's control. Unfortunately, many of these problems result in chronic disease, disability and often death. Washington Regional is working to reverse that trend through the Kids for Health program. Through this program, the medical center partners with the Washington County school system to teach more than 8,000 children about self-esteem, general health, nutrition, fitness, hygiene, and safety.

The Kids for Health program is so successful that it received a five-year grant from the Harvey and Beatrice Jones Charitable Foundation. This critical program is proving that an ounce of prevention is worth a pound of cure. Mr. Speaker, I am very pleased and proud to recognize the Washington Regional Medical Center for its achievements. It is a stellar example of a hospital that makes a difference in its community.

PROVIDING WIC BENEFITS TO OVERSEAS MILITARY PERSONNEL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. GOODLING. Mr. Speaker, today I am introducing legislation that will put an end to unfair treatment of military personnel stationed overseas and their families. These dedicated personnel who are performing invaluable service to the nation, along with their families, are currently ineligible for supplemental nutrition services which we provide for other citizens.

The Department of Defense estimates that 46,658 women, infants, and children are currently denied benefits under the Supplemental Nutrition Program for Women, Infants, and Children (WIC). That means that military personnel and their families, to whom our nation owes substantial gratitude, are being treated as second-class citizens. They are denied basic services which would be available to them had they not volunteered to serve their country.

As a nation, we are better than that. We are already asking men and women who serve in the military to make significant sacrifices. Those sacrifices should not include the health and well being of their families.

Since its inception, we have seen very clear evidence that participation in WIC has reduced the number of low birthweight babies and birth defects caused by poor nutrition during pregnancy. In addition, the nutritional supplements received by infants and young children help prevent health problems related to poor nutrition. This small investment in nutritional assistance for individual participants saves our country a great deal in health care costs and costs related to special education services.

The WIC program also includes an education component which is key to the program's success. These nutrition and education benefits should be available to all U.S. citizens, regardless of where they are residing.

Present law authorizes the Secretary of Defense to carry out a program similar to WIC to provide special supplemental food benefits to military personnel overseas. However, current law relies heavily on the transfer of funds and commodities from the Secretary of Agriculture to operate this program. These funds have never been made available. Therefore, the legislation I am introducing today would call on the Secretary of Defense to use funds available for the Department of Defense to carry out this program. It would also require the Department of Agriculture to provide technical assistance to the Department of Defense to insure program quality.

Mr. Speaker, I believe very strongly that our military personnel overseas should have access to the same nutritional support as families residing in the United States. My legislation would enable the Department of Defense to provide these services. I would encourage my colleagues to cosponsor this legislation, which insures that our overseas military personnel and their families reap the same benefits from program participation.

TRIBUTE TO MARTIN L. VINGER OF DODGEVILLE, WISCONSIN

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Ms. BALDWIN. Mr. Speaker, I rise today to recognize World War I veteran Martin L. Vinger, of Dodgeville, Wisconsin. Mr. Vinger has been recognized by the French government in solemn tribute to his World War I service. He valiantly served on French soil to aid in the liberation of France, and for his service he has been awarded The National Order of the Legion of Honor, the highest military honor that can be bestowed upon non-French soldiers.

With an extraordinary sense of dedication and commitment, Mr. Vinger enlisted in the U.S. Army on April 11, 1918 at the age of sixteen. He then departed for France in July of that year. He returned to the United States in February, 1919 and was discharged the following month.

At the time of his award, Mr. Vinger stated from his own wartime experiences that we Americans today must remember to keep our democracy alive, ''because if we lose it, it will be a long time getting it back.'' One can only imagine what a different world we might be living in today had not Mr. Vinger and other brave young men and women served on the many fronts of the ''war to end all wars.'' It is with sincere gratitude and the utmost respect that I rise today to ask that the Congress of the United States join with me in recognizing the selfless service of Mr. Martin L. Vinger.

A TRIBUTE TO DON KINGSTON

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. PHELPS. Mr. Speaker, I rise today to pay tribute to Don Kingston, who is retiring this year from Eldorado High School in Eldorado, Illinois. Donald J. Kingston was born on October 28, 1931, one of eight childen. His father passed away when he was just four years old leaving his mother with eight children during the Depression. Don felt strongly that President Franklin Delano Roosevelt's New Deal Programs were instrumental in pulling his family through the hard times. He also believes that the sports programs in his local high school were the only reason he completed high school, a very revealing fact when you look at how dedicated he has been to EHS sports over the last forty years.

Back in the fall of 1956, while in his last year of law school, EHS head football coach-Coach Adams, asked Don to be assistant coach for the EHS football team. Instead of going on to practice law, Don accepted the assistant coaching job. A year later when Coach Adams retired, Don became the head coach of the football team. Don Kingston has given the last forty-two years of his life to being both an outstanding educator and coach at Eldorado High School. Mr. Kingston has taught many subjects at Eldorado High School, including physical education, driver's education, English and geography. Mr. Kingston has also coached the football, basketball and track teams. The best teams he has ever coached, according to Don, were the 1968 Eagles Football Team and the 1976 Eagles Basketball Team, of which his son Kevin was a member.

Mr. Speaker, what is most special about my opportunity now to congratulate Don and his wife Wanda, is the fact that I have known them all of my life and truly appreciate their commitment to public service. They raised two wonderful children; Kevin and Valerie, who have served as role models to the community, and I know that if Kevin were still with us today he would be proud to see his father reach this stage in his life. Don has been my teacher, my fellow elected official, my supporter, professional colleague, but most importantly, my friend! Don, we wish you God's speed and congratulations on a fabulous career in shaping the lives of our young people.

FREMONT'S IRVINGTON HIGH SCHOOL NAMED 1999 DISTINGUISHED SCHOOL BY THE CALIFORNIA DEPARTMENT OF EDUCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Fremont's Irvington High School. The

California Department of Education has named Irvington as a 1999 Distinguished School—the most prestigious award they bestow.

Consideration for this award does not come lightly. The California Department of Education uses a rigorous aggressive application model, which requires schools to be exemplary in their field. Irvington is a magnet school for the visual and performing arts, and currently 1,800 students are in attendance.

Irvington High School should also be very proud of its cutting edge requirement that students complete 40 hours of service learning, or community service, in order to graduate. Programs such as these are what make Irvington stand out from the rest.

I commend the faculty and students of Irvington High School for their dedication to excellence, and I congratulate them.

IN MEMORY OF JONATHAN PATRICK BIGONY II

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. MEEK of Florida. Mr. Speaker, I rise today in happy memory of the late Jonathan Patrick Bigony II, on the third anniversary of his birth, which occurred on June 8, 1996. Blue-eyed with black, curly hair and a radiant smile, Jonathan was known as ''J.P.'' to his friends, yet to his four devoted uncles in the DiGregory Family, he was affectionately nicknamed ''Tater.'' He loved to laugh at the kitchen table with his Uncle Billy, to watch his Uncle Jimmy working in the garden, to play with his Uncle Johnny, and to watch his Uncle Dominic prepare detailed meals as a chef. Among J.P's first words were the names of his uncles.

As high spirited and good-natured as he was handsome, J.P. was a delight to those who met him. Whenever carrying him on their shoulders, his friends and family were prepared for J.P. to flip over backwards in laughter. He was the loving son of Jonathan and Marysanta Bigony of Bowie, Maryland, and was the younger brother of J.R. Bigony. J.R. and J.P. dearly loved each other, and the two boys enjoyed laughing together, day and night. Jonathan's loving Godparents were his friend, Patty Lowe, and his Uncle Dominic.

Nothing fascinated J.P. more than when he looked up on a roof one beautiful morning in May, 1997, and saw his uncles doing carpentry together with his friend, Raymond Lowe. From the high rafters, his beloved Uncle Johnny waved to him and his much-loved Uncle Jimmy called out an enthusiastic, ''Tater!'' And Jonathan, only 11 months old, fearlessly tried to climb the ladder to be with them. He knew what it meant to be loved.

Jonathan enjoyed many of his adventures in the company of his totally dedicated grandmother, Mrs. Dorothy McNamara DiGregory, whom he adored and who cleverly fashioned a safety-seat for him on her golf cart, so that he could accompany her during her strenuous work hours around the expansive family property. J.P. loved the outdoors, and he enjoyed helping her to do carpentry, to feed the horses and dog, to work in the garden, to landscape the lawns, and to trim branches along the creek.

Jonathan also enjoyed playing games with his loving grandmother, Mrs. Gertrude Bigony, of York, Pennsylvania, and with his cousins, Leigha and Danielle DiGregory. One of his earliest sentences was, ''Hi, Leigha! How ya doing?''

In honor of the anniversary of Jonathan's birthday, it is a privilege to pay tribute to a wonderful child who brought so much joy. Today, the memories endure of a smiling J.P., enjoying cookies with his grandmother, snuggling on his devoted mother's shoulder, and beaming down happily from his Uncle Johnny's strong arms.

EMERGENCY AMBULANCE SERVICES ACCESS ASSURANCE ACT OF 1999

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. UPTON. Mr. Speaker, I rise today to join my colleagues, Representative ED TOWNS and Representative JO ANN EMERSON, in introducing H.R. 1777, the Emergency Ambulance Services Assurance Act of 1999. This legislation will ensure that health care plans reimburse for emergency ambulance services when individuals had every reason to believe that they were experiencing an extremely serious condition requiring immediate emergency care.

Some may ask why we are introducing this legislation when all of the major managed care reform bills that have been introduced in Congress already include emergency care provisions. But the fact is, these bills cover only what happens when the patient enters the emergency room. None of the bills ensures coverage for emergency ambulance services. It is our hope to use this separate bill to highlight this omission and to build support for including emergency ambulance services coverage in more comprehensive managed care reform proposals that may be moving through the legislative process.

This legislation would ensure that individuals suffering what they had every reason to assume to be a potentially life-threatening condition requiring immediate medical attention or their family or caretakers don't have to phone their insurance plan before they call for an ambulance and don't have to worry about paying for the ambulance services should the condition later prove to be not as serious as the patient thought.

TAX SIMPLIFICATION AND BURDEN REDUCTION ACT

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. HOUGHTON. Mr. Speaker, Congress can take great pride in changes we have made in tax law in recent years for small businesses, families and middle income Americans. Unfortunately, we cannot claim to have reduced the complexity of the tax code. A simple Constitutional amendment ratified in 1913 runs to 32 words: ''The Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.'' The Revenue Act of 1913 which enacted the income tax was 15 pages long.

The copy of the Internal Revenue Code on the bookshelf in my office is printed on the tissue thin paper. It covers over 2300 pages. The regulations springing from the code fill many volumes. The court cases would fill a library.

Is it any wonder that 66 percent of respondents in a recent Associated Press poll said that the federal tax system is too complicated? The same poll showed that over half of those surveyed, 56 percent, pay someone else to complete their returns. When you consider that only 30 percent of taxpayers itemize, that is a good number of people who are paying someone else to fill out 1040s and 1040EZs. Something is wrong when so many taxpayers with relatively straightforward returns lack confidence in their ability to fill out a 1040 or a 1040EZ.

At the beginning of this year, the Ways and Means Subcommittee on Oversight heard from the Taxpayer Advocate in its first hearing of the 106th Congress. The Advocate presented some 39 legislative proposals for improving service or reducing the compliance burden. He told us that his recommendations came from a ''groundswell of casework.''

Later this month, the Oversight Subcommittee will hold a hearing on the need to simplify the tax code and reduce the compliance burden. I look forward to hearing from Treasury and from several professional organizations, also from practitioners who work in the field every day trying to help working men and women comply with our tax laws.

In the meantime, I am in the process of drafting legislation (The Tax Simplification and Burden Reduction Act). It includes several of the Advocate's recommendations, proposals developed by the Tax Section of the American Bar Association and the American Institute of Certified Public Accountants, also suggestions I have received from the people of New York's 31st Congressional District and from people across the United States who have written to the Subcommittee on Oversight.

My bill would include the following provisions:

Eliminate nonrefundable credits as adjustments to regular taxable income in calculating alternative minimum taxable income. No one should have to pay the alternative minimum tax (AMT) simply because he or she claimed a child credit or HOPE scholarship credit.

Exempt taxpayers from the AMT if their modified adjusted gross income is below a middle-income threshold ($85,000 for individuals, $120,000 for married, filing jointly). The AMT was never intended to penalize middle-income taxpayers who aren't using loopholes in the tax code.

Increase the AMT gross receipts exemption for small businesses from $7,500,000 to $10,000,000. By the same token, the AMT is an unnecessary and extraordinary burden for many small businesses.

Replace the current individual capital gains tax regime with a simple 50 percent deduction from gross income. The current form is 54 lines long and according to the Treasury Department takes an average of 6 hours and 41 minutes to complete. Many taxpayers have to

fill out this form simply because they earned a few dollars from a mutual fund. The 50 percent calculation would completely eliminate this burden.

Allow a deduction for all refinancing mortgage points for personal residences in the year paid. It is simply too confusing to require these relatively small amounts to be amortized over the life of a long-term mortgage.

Increase the exclusion for group-term life insurance purchased for employees from $50,000 to $100,000. Taking modest life insurance coverage into income is a needless inconvenience for many taxpayers.

Repeal the percent limitation on contributions to defined contribution retirement plans. The current law restriction is not only confusing, it limits the ability of lower income workers to save for retirement.

Simplify the safe harbor for payment of estimated income taxes. Under current law, the safe harbor changes from year to year. My bill would eliminate the fluctuation.

Allow expensing of off-the-shelf computer software by small businesses. Depreciating such small investments is hardly cost-effective considering the compliance burden for the taxpayer.

Allow expensing of personal property (e.g. carpeting, refrigerators, washers) purchased for use in connection with residential rentals. this would eliminate a common error and result in increased compliance.

Simplify Subchapter S rules. The Subchapter S regime has become a maze of complex requirements and a snare for even the most experienced taxpayers. A major overhaul is needed.

Increase the gross receipts threshold for the cash method of accounting from $5,000,000 to $10,000,000. We are forcing far too many small businesses to use the accrual method of accounting.

Extend the $10,000,000 gross receipts threshold for the uniform capitalization (UNICAP) rules to all small business activity. Compliance with the UNICAP rules is particularly complex if not impossible for small businesses.

Reduce recordkeeping requirements. Under current law taxpayers are required to keep indefinitely all records that may become material. The bill would require taxpayers to keep only primary records after six years if there is no audit in progress.

Increase from $10 to $25 the threshold for dividend and interest payments that must be reported on form 1099. Requiring savings institutions and other payors to report such minimal amounts is an inefficient use of private sector resources.

Treat the postmark date as the filing date on all returns. Under current law, the postmark date is material only when the return is filed on time. Considering the postmark date as the filing date for all returns would eliminate confusion.

Mr. Speaker, several of my colleagues, including the gentleman from Pennsylvania (Mr. COYNE) and the gentleman from Massachusetts (Mr. NEAL), both of whom serve on the Oversight Subcommittee, have introduced simplification bills of their own. My immediate predecessor, the gentlelady from Connecticut (Mrs. JOHNSON), established a compelling hearing record when she chaired the Subcommittee. I applaud their efforts and look forward to working with them on this tremendous important challenge.

In the coming days, I will be approaching my colleagues to ask them to join me as original co-sponsors of the Tax Simplification and Burden Reduction Act.

HONORING VINCENT STANLEY

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. REYNOLDS. Mr. Speaker, I rise today to honor the achievements of Vincent J. Stanley, Jr., who will be honored on May 18th with the Annual Rotary Award of the Rochester Rotary Club.

Mr. Speaker, Rotary International's motto, ''Service Above Self,'' aptly applies to Vince Stanley.

In addition to his success in business as founder and President of V.J. Stanley, Inc., Vince Stanley's leadership and generosity has improved the quality of life of countless people in his community.

Through his work with the Rochester Rotary Club, he has made it possible for hundreds of school children to attend summer camp. As a former President of the Rochester Red Wings baseball team, Vince initiated special handicapped seating within the stadium and continues to provide thousands of underprivileged children with tickets to baseball and hockey games and LPGA events.

Vince's generosity aided in the formation of Hope Hall, a school that serves children with special learning needs.

Through his involvement with the National Federation of Independent Businesses (NFIB), Vince continues to make a difference for small businesses in his community, and throughout our nation.

Mr. Speaker, I ask that this House of Representatives join me in congratulating Vince Stanley, on the occasion of his being honored by the Rochester Rotary Club with its annual award, and for his continued generosity and dedication to community service.

CRISIS IN KOSOVO (ITEM NO. 3) REMARKS BY DAN PLESCH DIRECTOR, BRITISH AMERICAN SECURITY INFORMATION COUNCIL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. KUCINICH. Mr. Speaker, on April 29, 1999, I joined with Representative CYNTHIA A. MCKINNEY and Representative MICHAEL E. CAPUANO to host the second in a series of Congressional Teach-In sessions on the Crisis in Kosovo. If a peaceful resolution to this conflict is to be found in the coming weeks, it is essential that we cultivate a consciousness of peace and actively search for creative solutions. We must construct a foundation for peace through negotiation, mediation, and diplomacy.

Part of the dynamic of peace is a willingness to engage in meaningful dialogue, to listen to one another openly and to share our views in a constructive manner. I hope that these Teach-In sessions will contribute to this process by providing a forum for Members of Congress and the public to explore alternatives to the bombing and options for a peaceful resolution. We will hear from a variety of speakers on different sides of the Kosovo situation. I will be introducing into the CONGRESSIONAL RECORD transcripts of their remarks and essays that shed light on the many dimensions of the crisis.

This presentation is by Dan Plesch, Director of the British American Security Information Council (BASIC). Mr. Plesch discusses a number of options for resolving the crisis, and emphasizes the importance of non-military solutions and looking ahead to the need for massive reconstruction aid for the Balkans. Following his presentation is a Washington Post column by Mr. Plesch and Julianne Smith describing their concept of ''Civilian Intervention Units'' to help avoid tense situations deteriorating into war. I commend these documents to my colleagues.

PRESENTATION BY DAN PLESCH TO CONGRESSIONAL TEACH-IN ON KOSOVO

My organization has been involved in advocating, lobbying, coaxing, and cajoling political leaders and the alliance itself for the best part of a decade now in how to avoid and prevent situations like the one we are in now. These horrors are tragically not the last in this part of the world and certainly we know that these issues are presented to us as immensely complicated problems. I will sketch out a rather simple description, which will lead from that into how NATO leaders were handling these issues at last week's summit.

If you can take leave of imagination with me, and think of the Balkans as some of our own troubled inner cities, and if you think of trying to manage law and order in Washington, DC, or somewhere else, the only tool available to you is the SWAT team of a private security force, which is about equivalent of the NATO military. Not under the town council, if you will, the United Nations, but a private security force that does not come when you call 911 unless you've got a credit card to go with it. In this case, neighborhoods would be burning and all over DC, without neighborhood programs, without community policing, without the whole infrastructure.

We have learned in our cities that relying on the SWAT teams and police cruisers is not the way forward. If you look at models in Boston or other places in this country we can see that it is the complex, much derided social work model that provides security. That helps to dispense with the SWAT team approach and permits other tools in the tool box. The political actions of our leaders in this country in particular speak to the current situation at hand.

What this country does, many others follow. My own country, the United Kingdom and other countries in Europe, has so far followed the U.S. in ensuring that when policy makers, politicians, parliamentarians wish to take action to prevent and manage conflict, virtually the only tool available to us is military force.

In Kosovo today we are using air power, which is largely ineffective. We are told that Serbian military forces are arriving in Kosovo in larger quantities than we are destroying, even with the best efforts of Allied aircraft. The other possibility on the table are ground forces, which are virtually unusable as a political tool. So we have limited our options in the first place to the NATO alliance, a private security organization involved in the international community and then limited our military force options. That

was the position we put ourselves in the Rambouillet talks. And the position that the administration led the Alliance and European security to with all deliberate speed. Kosovo, if you recall, was to be, as Richard Holbrook put it, the prototype within NATO, for military actions outside of NATO's borders without U.N. authority. There was great pride that Russian participation could be dispensed with, and nobody even mentioned the two words, United Nations, for almost six months in public.

Ground war as proposed is a fantasy akin to the air war—the fantasy being that we might be able to be involved without the war spreading. Proponents of a ground war need to answer the question of how we could contain the ground war, how they would limit Milosovic's options to broaden it. Those people who want to drive tanks through Hungary should explain how they would intend to do it without creating a similar situation we have here for the 300,000 Hungarians living in northern Serbia.

If, as in Bosnia, we decide to unleash the Croat army against the Serbs, which is one of the main options, and indeed an arms program for Croatia was one of the less publicized decisions of the summit. If we decide to allow the Croats do our fighting for us, then we risk massive, long-term escalation of the conflict. Privately NATO officials believe that either we take the opportunity over the next few weeks to negotiate our way out of this, and those options have been discussed here in the media and the congressmen who are to take part in some of these peace discussions in Vienna, or the race is on between a peace deal and a ground war driven by pride and machismo. That is why of course we still continue the air war. Nobody wants to fail. That same logic will lead us to start using a wider range of artillery in our actions in a week or so and from that into a ground war, which [I learned from] talking to officials at the margins of the NATO summit meetings. Despite the possible escalation, there has been a deafening silence from NATO about the fate of the remaining Kosovars in Kosovo right now.

Nothing has been said by the Alliance for one or two weeks now about the hundreds of thousands of displaced people. That will change. When that changes, on the propaganda front, I will regard it as a signal for a major escalation of the conflict, because it will be used to escalate the public mood to support an escalation of the conflict. The strategic shift in policy that could have been made at any time in the last eight years away from the SWAT team, heavily armed only approach to international security towards resourcing other aspects of security, is beginning to be supported more strongly from the Europeans.

At the summit there was a welcome endorsement by the United States of the European plan for long-term economic stabilization of the region. (Some of this analysis is on our web site (http://www.basicint.org/). Very broadly we advocate a long overdue economic and security plan. Such a plan was used very successfully in Eastern Europe after the Cold War. States must put aside their longstanding political differences and take the necessary human rights, election law, and other legal measures between themselves. Then the European Union should put a lot of money into subsidizing the building of a modern infrastructure in the countries of the Balkans, including Yugoslavia, including Serbia. This proposal is very seriously put forward by the German government and others and has full European Union backing. And there is enlightened self-interest in this very clearly.

Now those plans of the Europeans got lukewarm support here. But as the legislation that comes before you to support this war, I would urge you to look very seriously at supporting non-military strategies, which are beginning to come out of the Alliance and the Europeans.

I could spend my time talking more negatively about the summit, but let me outline the strategy and some views on the immediate future. I would just like to close with a number of elements that need close attention and support.

The first is that we should support antifascist dissidents, as we supported anticommunist dissidents during the Cold War. Secondly, we should indict Milosovic as a war criminal, and the United States must join the international criminal court. Thirdly, the moment the United States puts in $10 million into support of all operations on regular basis of the Organization for Security and Cooperation in Europe, move the decimal point to $100 million or $1 billion. Believe me, the OSCE could use that money incredibly usefully in the region in a minute to professionalize the sort of functions that we saw in verifying in Kosovo. Very few people realized that the mission that drove around in orange jeeps was temporary help. The reason that monitoring in a permanent capacity in Europe and elsewhere was because policy makers and geostrategists dismiss it as social work that should not be funded. That was inexcusable in 1990 and a tragedy today.

Finally, to ensure that the ideas contained in the concept to open up a whole new range of arms control and reduction measures in Europe are fully fleshed out and the administration is made to bring detailed proposals to the table, we must make sure that the rhetoric of war is not simply used to rearm former communist militaries in countries from Eastern Europe to the Caucuses to the Chinese border and to train militaries underneath the rubric of arming them with the cause of democracy. Programs such as these are carried out with no congressional supervision under the provision that military training programs don't have to be authorized by the Congress. This strategy will bring about a series of problems akin to those we've already seen across the region.

[From the Washington Post, Feb. 7, 1999]

MORE THAN BOMBS AND 'VERIFIERS'

(By Daniel Plesch and Julianne Smith)

The United States is once again considering sending troops abroad, this time as part of a NATO peacekeeping force that would attempt to bring order to Kosovo in the Balkans. The Clinton administration has been reluctant to commit to such an effort, but the recent massacre there has created an impetus for intervention. This crisis might have been averted altogether if either NATO or Europe's primary security organization had a professional ''intervention force'' that could be used to defuse such situations.

As things stand now, the United States and its allies have only two choices when ethnic massacres occur overseas. One is to issue warnings to the warring parties, which are often ignored. The second is to respond with some kind of military force. But that comes with its own problems, including casualties and an ever-expanding and never-ending mission. What we are suggesting is a third option of nonmilitary intervention.

We need to create a new type of unit to intervene before military action is necessary. The requirements for this new formation, which might be called ''Civilian Intervention Units,'' would include both a permanent core of workers and the capability to draw on larger numbers as needed. Operations would vary from election monitoring to disaster relief to peacekeeping.

A permanent unit would be an alternative to the team of ''verifiers'' that the Organization for Security and Cooperation in Europe (OSCE) created and sent to Kosovo in an effort to resolve tensions between warring Serbs and Albanian separatists. The verifiers are not part of any permanent unit and most of them have no prior experience in peacekeeping. Indeed, the ''verifiers'' label was invented for use in Kosovo. The ad hoc nature of the OSCE mission was itself a problem: In the weeks that it took for the participating governments to gather a group of retired military officers and diplomats to send to the region, the deal they were trying to preserve began to erode.

The OSCE ''help wanted'' advertisement for the verifiers is telling: It had such minimal requirements—essentially, a knowledge of English and computers and a drivers' license—that it could be mistaken for an attempt to hire unskilled office help. But the 700 verifiers are now involved in complex, difficult work—mediating disputes, building democracy, investigating war crimes and preparing elections. These tasks should be carried out by a highly skilled unit with several thousand members to draw upon. The need is not just in Kosovo, but in other parts of the world, too.

A permanent unit of trained monitors is needed to observe elections, oversee the control and destruction of armaments, conduct forensic investigations of war crimes, mediate and arbitrate. These requirements are too frequent and too specialized to continue to rely on temporary missions—which once over, are essentially cast aside. The administration did not even debrief the monitors it sent to recent elections in Bosnia.

Tough security backup would be essential, but that could consist of a police force accustomed to interacting with civilians. Paramilitary police units with light armored vehicles—such as the German border guards and Italian carabinieri—exist in several European states and could serve as prototypes.

Coordination of humanitarian relief is also needed. Governments and nonprofits are comparatively well prepared to supply food, medicine, clothing and shelter, but its management is often poor and should be overseen by these new units.

Creating a permanent unit would not be easy. There is no precedent and the bureaucracies in Washington and Europe seem to lack imagination as they wrestle with the crises that dominate the modern age. The corporate cultures of Foggy Bottom, the Pentagon and Capitol Hill dismiss nonmilitary intervention as ''social work.'' The United States has opposed proposals from Sweden and Argentina in the United Nations for a standby civil intervention unit. Those who follow the U.S. lead get the message. As a result, military spending is increasing, while the budget for nonmilitary intervention is relatively meager: The OSCE's entire budget is less than $100 million, compared with NATO's $400 billion for military spending. The OSCE cannot be blamed for recruiting ''temps'' when the United States and other nations have denied it the resources it needs.

With only military means available to tackle security issues, is no surprise that crises deteriorate until the military is needed. It should also be no surprise that NATO's ''SWAT'' team is of limited use in complex situations. In domestic law-and-order policy, the value of investing in cops in the beat, youth employment programs, mediation, counseling and gun control is understood. But international security policy is overwhelmingly military.

Secretary of State Madeleine K. Albright should both encourage the Europeans to develop this new force and ask Congress to support its creation. Nonmilitary tasks are not

NATO's job, but the alliance should favor any policy shift that would reduce the calls on its military might.

Europe, and the world, needs something more than SWAT teams and untrained verifiers.

Daniel Plesch is director of the British American Security Information Council an independent research organization. Juliane Smith is BASIC's senior analyst.

SOME QUALIFICATIONS

Here is the OSCE's job posting for the Kosovo Verification Mission. Words in bold are as they appeared in the ad, along with the phrase, ''POSTS ARE OPEN UNTIL FILLED''.

ESSENTIAL: Several years experience in the area of work; knowledge of written and spoken English; computer literacy (Microsoft applications); excellent physical condition with no chronic health problems that limit physical activity; possession of a valid driver's license and capability to drive standard transmission vehicles; ability to establish contact and develop confident relations with local population as well as the ability to work with government officials and institutions; flexibility and adaptability to difficult living conditions; willingness to be deployed in different Field Offices; ability to perform in a crisis environment.

DESIRABLE: Knowledge of local languages; prior experience in peacekeeping, international operations, or another international organization.

VETERANS' COMPENSATION EQUITY ACT OF 1999

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. EVANS. Mr. Speaker, today, I am introducing H.R. 1764, the ''Veteran's Compensation Equity Act of 1999''. This legislation will provide more equitable treatment to approximately 100,000 older veterans who receive service-connected disability compensation and who are also eligible to receive retirement pay based upon their military service.

Under current law, the amount of military retirement pay received by a military retiree is reduced on a dollar-for-dollar basis by the amount of service-connected disability compensation the military retiree receives. This reduction in military retirement pay when the military retiree is in receipt of service-connected disability compensation is intended to prevent dual compensation. The notion of dual compensation is erroneous. Service-connected disability benefits are paid to compensate a veteran for an injury or illness incurred or aggravated during military service. Retirement benefits are paid to provide an income to military retirees who have spent at least 20 years of their lives working for and serving our country as members of the Armed Forces. These two programs are completely different and payments made by these programs should not be considered duplicative.

This treatment of military retirees is simply inequitable. A veteran receiving service-connected disability compensation could become eligible for civil service retirement pay based on his or her subsequent work as a civilian employee of the federal government. This individual, unlike the military retiree, can receive the full amount of both of the retirement benefit which has been earned and the service-connected disability compensation for which he or she may be eligible.

The ''Veteran's Compensation Equity Act of 1999'' will reduce and then eliminate the reduction in military retirement benefits for veterans who are entitled to both military retirement pay and service-connected compensation benefits. This bill will limit the reduction in military retirement pay to 50 percent when the military retiree attains age 65. The reduction in military retirement pay would be completely eliminated when the retiree reaches age 70.

Retired military personnel who were fortunate enough to have emerged from military service unscathed receive military retirement pay, but do not qualify for service-connected disability benefits. In many cases, these retirees are able to earn additional income through non-military employment and thereby accrue Social Security or other retirement income benefits. These retirement benefits are not reduced by receipt of service-connected disability benefits.

Military retirees who were not so fortunate, are required to forfeit all or a portion of their military retirement pay in order to receive service-connected compensation benefits due to illnesses or injuries that were incurred or aggravated during their military careers. These veterans, as a result of their service-connected medical conditions, face diminished employment possibilities and, therefore, a diminished ability to earn additional income through non-military employment. They therefore lose the opportunity to accrue Social Security or other retirement income benefits.

In general, Social Security disability benefits received by retirees are offset by monies received under state Worker's Compensation laws. However, the Social Security statute provides that this offset ends when the worker attains 65 years of age. Furthermore, while recipients of Social Security benefits who earn income have their Social Security benefits reduced as a result of their earnings, this offset is reduced at age 65 and eliminated entirely at age 70.

While all veterans who are subject to the concurrent receipt offset are unfairly penalized, my bill would begin to rectify the injustice which falls most heavily on our older veterans. This bill will promote fairness and equity between military retirees and Social Security retirees by reducing the amount of this offset by 50 percent at age 65 and eliminating it entirely at age 70.

Military retirees who have given so much to the service of our country and suffered disease or disabilities as a direct result of their military service do not deserve to be impoverished in their older years by the concurrent receipt penalty.

I commend Mr. BILIRAKIS, an original cosponsor of this bill, for his efforts to address the problems caused to our military retirees by the statutory prohibition on concurrent receipt of military retirement pay and benefits from the Department of Veterans Affairs. I urge my other colleagues to support this bipartisan effort to promote fairness for our Nation's older military retirees.

SELMA GOMEZ—WHITE HOUSE FELLOW FOR 1998–1999

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to congratulate my constituent, Ms. Selma Gomez of Miami, Florida for her service as a prestigious White House Fellow for 1998–1999.

The daughter of Cuban refugees in Miami, Ms. Gomez has an outstanding record of academic achievement, business leadership and community service which made her well qualified for this high honor. She earned four degrees from Harvard University including a PhD in decision sciences and has taught at the University of Miami's engineering department. In addition to extensive community service, Dr. Gomez also excelled in the business world as the president and founder of Applied Consulting Services Corp. after serving as a senior manager at KPMP Peat Marwick LLP.

Assigned to the State Department, Dr. Gomez specialized in the critical Y2K issue. She has traveled around the world on fact-finding missions regarding the Y2K problem, as well as representing our nation at the G–8 Year 2000 Working Group and the Year 2000 meeting of international Y2K coordinators at the United Nations. A leading highlight of her fellowship was briefing Secretary of State Madeleine Albright and other top State Department officials on Year 2000 Challenges and Responses.

I am honored to recognize Selma Gomez for her outstanding work as a White House Fellow. Her service in this position makes all of us in South Florida very proud.

INTRODUCING LEGISLATION TO STOP FINANCIAL HEMORRHAGE OF NATION'S PREMIER TEACHING HOSPITALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. RANGEL. Mr. Speaker, I am today introducing legislation to stop the cuts in Medicare's indirect medical education (IME) program. Identical legislation is being introduced in the Senate today by Senator MOYNIHAN of the Senate Finance Committee.

IME payments are extra payments made to teaching hospitals for the fact that they are training the next generation of doctors, and that the cost of training a young doctor—like any apprenticeship or new person on the job—is more expensive than just dealing with experienced, older workers. The young person requires mentoring, orders more tests, and makes mistakes unless closely supervised. It is natural that a group of young residents in a hospital will reduce a hospital's efficiency and increase its costs. Medicare should help pay for these extra ''indirect'' costs, if we want—as we surely do—future generations of competent, highly skilled doctors.

The Balanced Budget Act took the position that the extra adjustment we pay a hospital per resident should be reduced from 7.7 percent in FY 1997 to 5.5 percent in FY 2001.

This provision was estimated to save about $6 billion over 5 years and $16 billion over ten—in addition to about another $50 billion in hospital cuts in other portions of the BBA.

Mr. Speaker, these cuts are too much. The nation's teaching hospitals, which do so much to serve the uninsured and poor, and which are the cradle of new clinical research and technical innovation, are hemorrhaging red ink.

Our bill stops further scheduled cuts in the IME, freezing the adjustment factor at 6.5 percent rather then letting it fall to 5.5 percent, and saving teaching hospitals about $8 billion over ten years that would otherwise be taken from them.

I hope this legislation will receive early consideration. The situation is, as a hospital ER would say, STAT.

Mr. Speaker, I would also note that we should pass other legislation to help our Nation's hospitals: HR 1103 is a bill I introduced to 'carve out' disproportionate share hospital payments from the amount we pay HMOs and give that money directly to the DSH hospitals when an HMO uses those hospitals. Today, Medicare HMOs are paid as if they use DSH hospitals, but they frequently avoid the hospitals that serve the uninsured because they are more expensive hospitals—thus pocketing the DSH payment and leaving the DSH hospital with empty beds.

We must also correct a technical error in the BBA which capped the amount we pay psychiatric and rehabilitation hospitals (so-called TEFRA hospitals) but failed to adjust the cap for higher wage costs in urban areas. The result is severe hardship for such hospitals in urban areas. At the first opportunity, I will try to amend the BBA to correct this drafting error.

COMMENDING WHITE HOUSE FELLOW, DR. STEPHEN ENGLAND OF ST. PAUL, MINNESOTA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. VENTO. Mr. Speaker, I rise to pay tribute to Dr. Stephen England of St. Paul, Minnesota. Dr. England has served this year as a distinguished White House Fellow.

The White House Fellowship Program was created in 1965 to employ the talents of outstanding individuals in various areas of public service. White House Fellows explore issues of both global and nationwide significance while working closely with influential leaders in government. The nearly 500 alumni of the program have gone on to become leaders in all fields of endeavor, fulfilling the fellowship's mission to encourage active citizenship and service to the nation. This program is extremely competitive, choosing individuals who have demonstrated excellence in community service, leadership, academic and professional achievement. It is the nation's most prestigious fellowship for public service and leadership development.

As a White House Fellow for the U.S. Department of Education, Dr. England assists in the Safe and Drug-Free School program. This program provides support to governors for a variety of drug and violence prevention activities focused primarily on school-age children. He also oversees the creation and implementation of Project SERV, a federal program designed to assist states and local education agencies in managing school crises attributable to violence. In addition, Dr. England assists in a new federal coordinated grants program that distributes community-wide grants for safer schools and communities.

Dr. England is a pediatric orthopedic surgeon at Gillette Children's Specialty Health Care and the Shriners' Hospital in St. Paul, where he focuses on children with special health care needs. He is also an assistant professor of orthopedic surgery at the University of Minnesota. Dr. England lectured nationally and internationally on pediatric and adolescent health topics. He serves on numerous state commissions addressing the health issues of children with disabilities. As part of a medical mission in Ecuador, Dr. England has made a lasting impact on many lives by operating on children with cerebral palsy. He has also demonstrated his commitment to public service by founding the Children's Health Enrichment Program in St. Paul, which teaches African-American teenagers about health topics and provides mentoring and academic guidance. Dr. England received a BA in biology from the University of Minnesota, an MD from Cornell University Medical College and an MA in public health from Johns Hopkins University.

Mr. Speaker, I urge my colleagues to join me today in commending Dr. Stephen England for his distinguished leadership in community endeavors and for his service as a White House Fellow. His accomplishments and civic contributions have earned him recognition as an outstanding member of the St. Paul community.

RECOGNIZING MAY AS TEXAS MOHAIR MONTH

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. BONILLA. Mr. Speaker, May has been recognized by the Governor of Texas as Mohair Industry Month. More than one million Angora goats are raised in Texas and the lion's share of them are raised in the 23d Congressional District, that I represent.

The mohair industry in Texas traces its roots back to 1849 with the arrival of a small flock of seven does and two bucks. The goats were originally from Turkey, near the city of Nakara. Angora goats were highly regarded and jealously protected from exportation by Turkey until the 16th century when they were exported to Spain and France.

Today the United States is the second-leading mohair producer in the world and more than 90 percent of that production is in Texas. In 1998 Texas produced more than 4.654 million pounds of mohair. This hair was shipped to more than 10 countries around the world and provided a $12 million infusion into the state's economy.

Mohair is said to be the fabric of kings. The rich luster and soft texture of the fiber, in combination with the durability, make it a highly valued textile. Because of its durability Mohair is used to decorate many public places such as symphony halls and theaters.

I encourage all of my colleagues to seek out and wear clothes made of mohair. Biblical wise men once wore robes made of this special fabric. It has endured over time and fashion trends. I am proud to honor Texas mohair producers.

HONORING THE AMERICAN FUJIAN ASSOCIATION OF COMMERCE AND INDUSTRY

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in honor of the American Fujian Association of Commerce and Industry, an organization that has become an integral part of our diverse community in New York. It is an organization that understands the importance of diversity, and seeks to tap into the vast spectrum of talent and initiative of the Chinese-American community. The association has always worked to strengthen families and businesses throughout our city.

Started in 1992, the American Fujian Association of Commerce and Industry has been dedicated to helping Chinese-American business owners who immigrated to this country. The Association's 1,000 members truly epitomize the American Dream. They came to America from poverty. Once in the land of opportunity, they seized their chance and worked to make their dreams a reality. Through hard work, discipline, and sacrifice, they have become successful and productive American citizens.

Their efforts have helped build strong families and strong communities. The association takes a dynamic approach to their mission. Though they focus on business and economic development, they do a great deal of work in other key areas. The American Fujian Association understands that economic development must be accompanied by many important attributes.

For this reason, the American Fujian Association is active in the community in humanitarian efforts, immigration support, job training, and health services for families. By ensuring that these services are available, the association gives back to their communities and America.

I would urge my colleagues to join me in congratulating the American Fujian Association for Commerce and Industry for their contribution and the efforts they make on behalf of Chinese-Americans and all Americans in the New York community.

RECOGNIZING THE FOREIGN SERVICE OF THE UNITED STATES ON OCCASION OF ITS 75TH ANNIVERSARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. GILMAN. Mr. Speaker, today I am pleased to introduce House Resolution 168, recognizing the Foreign Service of the United States on the occasion of its 75th anniversary.

I am joined by Representative SAM GEJDENSON, the Ranking Democrat on the Committee on International Relations and Representative CHRIS SMITH, Chairman of the Subcommittee on International Operations and Human Rights.

Mr. Speaker, only when unrest or tragedy strike abroad do some Americans become aware of the work of the thousands of men and women who serve in the Foreign Service of the United States. The members of the Foreign Service take responsibility for helping Americans in danger. As we saw this past summer in Kenya and Tanzania, Foreign Service members and their families sometimes also become the victims of violence, along with other Americans stationed abroad and their families. We need to do more, and we will do more, to protect all the Americans we ask to work for us overseas.

Indeed, more American Ambassadors than American Generals have been killed abroad since the end of the Second World War, and many in the rank-and-file of the Foreign Service—and their families—have, tragically, fallen victim to terror or to the more mundane hazards of life abroad in the service of their country.

But every day, these dedicated individuals stand ready to promote the interests of the United States. They do this by carrying out tasks such as protecting the property of an American who dies overseas, reporting on political developments, screening potential entrants to the United States, promoting the sale of American goods, or securing American personnel and facilities overseas. They and their families often live in dangerous circumstances and are separated from their extended families and friends.

At home, the men and women of the foreign service perform essential functions in the Departments of State, Commerce, and Agriculture, in the United States Information Agency and in the Agency for International Development.

The modern Foreign Service was established by the Rogers Act of 1924. We are quickly approaching the 75th anniversary of its enactment, on May 24. It is fitting at this time to congratulate the men and women of the Foreign Service and commemorate the sacrifices they have made in the service of their Nation.

Mr. Speaker, I submit the text of the Resolution to be printed in the RECORD at this point.

H. RES. 168

Whereas the modern Foreign Service of the United States was established 75 years ago on May 24, 1924, with the enactment of the Rogers Act, Public Law 135 of the 68th Congress;

Whereas today some 10,300 men and women serve in the Foreign Service at home and abroad;

Whereas the diplomatic, consular, communications, trade, development, administrative, security, and other functions the men and women of the Foreign Service of the United States perform are crucial to the United States national interest;

Whereas the men and women of the Foreign Service of the United States, as well as their families, are constantly exposed to danger, even in times of peace, and many have died in the service of their country; and

Whereas it is appropriate to recognize the dedication of the men and women of the Foreign Service of the United States and, in particular, to honor those who made the ultimate sacrifice while protecting the interests of the United States: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the Foreign Service of the United States and its achievements and contributions of the past 75 years;

(2) honors those members of the Foreign Service of the United States who have given their lives in the line of duty; and

(3) commends the generations of men and women who have served or are presently serving in the Foreign Service for their vital service to the Nation.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President of the United States.

A TRIBUTE TO MR. BRYAN SWILLEY, OF PORTAGEVILLE, MISSOURI, WWI VETERAN AND CENTENARIAN

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mrs. EMERSON. Mr. Speaker, on Saturday, May 15, 1999, the American Legion Post 595 in New Madrid, Missouri, will be honoring Mr. Bryan Swilley at their annual Armed Forces Day Ceremony. At the age of 102, Mr. Swilley is the sole World War I veteran in Missouri's Eighth Congressional District, and his name will be added to the World War I veterans wall being constructed in Poplar Bluff, MO.

Mr. Swilley was born on December 27, 1897, to Tib and Louise Swilley in Portageville, New Madrid County, MO. During the over 100 years of his life, Mr. Swilley lived within a five mile radius of his current home in Portageville. He attended the local schools where he competed on the Country Track team and learned to play the violin.

After graduating high school, Mr. Swilley spent a few months in St. Louis with a high school friend. Mr. Swilley then returned home to New Madrid County to pick cotton. He usually picked 400 pounds of cotton in a day—placing it in a nine foot sack on which he had written his name with pencil in Old English. Through this experience, Mr. Swilley became so skilled in identifying the grades of cottons that in 1927 he won a $10 gold piece for his high rank in cotton classing contests held in New Madrid, Caruthersville, and Kennett. Mr. Swilley also worked as a night watchman for Swift and Co. Oil Mill and taught at two local schools where he was beloved and respected by his students. During World War I, Mr. Swilley served at the Student Army Training Corps military camp located on the campus of Washington University in St. Louis.

Perhaps Mr. Swilley's greatest achievement was his 76 year marriage to Lena Frizzell. Mr. Swilley and Ms. Frizzell were married on September 8, 1920, and the couple had six children, Mozart, Neva, Bryan ''Bo,'' J.K., B.W., and Donald. The Swilleys observed their 75th wedding anniversary the year before Lena's passing on February 20, 1996.

Mr. Swilley is truly a wonderful example of an American dedicated to family, country, and the rural way of life. I want to thank Mr. Swilley for the contributions he selflessly made to our country during the Great War. May he be in our thoughts and in our prayers on this Armed Forces Day.

A DANGEROUS TIME FOR AMERICA

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Mr. SCHAFFER. Mr. Speaker, this is a dangerous time for America. Our nation has absolutely no defense against ballistic missile attack and our enemies are well-aware of this vulnerability. North Korea, Iran, Iraq, Libya and other rogue nations are currently developing long-range ballistic missiles to deliver chemical, biological, and nuclear warheads to our shores.

Communist China already has this capability. Just last year, the Central Intelligence Agency (CIA) confirmed 13 of China's 18 long-range nuclear-tipped missiles were targeted at U.S. cities, In 1996, China threatened to launch those missiles on American targets, including Los Angeles, if our country intervened on behalf of Taiwan during China's threatening missile ''tests'' over that country. China's Lt. General Xiong Guang Kai remarked that Americans ''care more about Los Angeles than they do Tai Pei.'' Communist China still has over 100 CSS–6 missiles pointed at Taiwan and the number is expected to grow to 600 in the coming years.

Revelations China has been actively stealing U.S. nuclear warhead secrets from Los Alamos is no comfort either. The information China acquired concerns advanced, miniaturized nuclear warheads which will allow China to place multiple warheads on new intercontinental ballistic missiles (ICBMs). If China launches these missiles at the United States, Los Angeles could be but a fly-over mark on the way to Washington, Chicago, New York, and other ''target-rich'' cities.

China is aware the United States cannot defend against ballistic missile attack and actively exploits this weakness. Rather than investing resources in modern aircraft and warships, China is instead fully funding its missile programs. Over the next several years, China can be expected to field a new mobile intercontinental ballistic missile. China is also developing an impressive and advanced reconnaissance-strike complex utilizing satellite technology to provide precise targeting data to its highly accurate ballistic missiles.

While temporarily less aggressive, Russia remains a serious ballistic missile threat as well. Russia still maintains over 20,000 nuclear weapons and in 1993 issued a national security policy placing even greater reliance upon nuclear deterrence do to economic crisis and a sharp decline in conventional military capabilities. Not only do such economic and political difficulties enhance the threat of an intentional launch, but they heighten the prospects for an unintentional launch. The United States remains helpless and defenseless against any launch.

In response to the confirmed and escalating threats to our nation, both the House and Senate in March 1999 overwhelmingly passed legislation establishing U.S. policy to deploy a National Missile Defense. At the same time, the Clinton administration has taken every conceivable stop to oppose such a defense, to the point of championing an Anti-Ballistic Missile (ABM) treaty the U.S. signed in 1972 with a country that no longer exists—the Soviet Union. Mr. Speaker, President Clinton has decided, as a matter of affirmative policy, not to

field a defense against long-range ballistic missiles.

Despite the stark differences between the Congress and the president in commitment and accomplishment relating to missile defense, however, President Clinton's National Security Council Advisor on April 12, 1999 was quoted in Aviation Week & Space Technology as remarking that lawmakers have been less productive than the president in advancing an effective missile defense. In the article, Robert G. Bell ''assail[ed] [Congress'] focus on rhetoric, deadlines and parochial interests, while avoiding the hard work of helping guide the architecture of a National Missile Defense system.''

Mr. Speaker, President Clinton's National Security Council Advisor is dead wrong on the record of National Missile Defense. Therefore, I hereby submit for the RECORD, the full text of the letter I have today posted to Mr. Bell in response to his comments.

APRIL 30, 1999.

MR. ROBERT G. BELL,
National Security Council Advisor, The White House, Washington House, DC.

DEAR MR. BELL: Aviation Week & Space Technology (April 12, 1999, page 21) reported your admission the Clinton administration was late to recognize the threat posed by long-range ballistic missiles, and inaccurately downgraded in definition our previous ballistic missile defense program to a technology demonstration program. The article also indicated you graded lawnmakers ever worse than the Clinton administration, ''assailing their focus on rhetoric, deadlines and parochial interests, while avoiding the hard work of helping guide the architecture of a National Missile Defense system.''

THREAT

Your admission the Clinton administration was late to recognize the threat of ballistic missiles is a positive development. Recent events have reinforced to Congress the knowledge that long-range ballistic missiles are indeed a clear and present threat to the national security of the United States. The high visibility of long-range ballistic missile threats, highlighted by North Korea's recent test of a missile capable of striking the United States, the warnings from Chairman Donald Rumsfeld and the Commission To Assess the Ballistic Missile Threat to the United States, and the transfer of critical ballistic missile and nuclear warhead technology to China, argue persuasively for the deployment of a comprehensive National Missile Defense (NMD) system.

In response to the growing threat from long-range ballistic missiles, both the House and Senate in March 1999 overwhelmingly passed legislation making it the policy of the United States to deploy a National Missile Defense. This legislation establishes definitive policy for deployment and sets the stage for follow-on legislation providing for a specific NMD architecture. Clearly, the Congress is actively working to ensure our country is protected from threat of ballistic missile attack.

Yet the Clinton administration, including Secretary of Defense William Cohen, has failed to acknowledge the United States has a need to deploy a National Missile Defense, even while recognizing the growing threat from long-range ballistic missiles. When the Clinton administration cannot even acknowledge the need to deploy a National Missile Defense, how can it credibly assail Congress for ''avoiding the hard work of helping guide the architecture of a National Missile Defense System?''

The Clinton administration, hinging the very security of our nation on a single National Missile Defense ''readiness deployment program,'' refuses to acknowledge the existence of a threat warranting deployment and our technological capability to proceed with deployment. It appears the Clinton administraton is waiting until nuclear-tipped ballistic missiles are aimed and inbound to the United States before it will concede the need for an effective missile defense system. The Clinton administration is negligent in its duty to protect the citizens of the United States.

RHETORIC

Defense Secretary William Cohen's January 20, 1999 comments regarding ballistic missile defense were highly suggestive of a new willingness of the Clinton administration to amend or abrogate the outdated and non-binding Anti-Ballistic Missile (ABM) Treaty. Yet, the Clinton administration's position has been refuted in practice by the Ballistic Missile Defense Organization's position of using the ABM Treaty as a reason to block development of effective ballistic missile defenses, particularly space-based ballistic missile defenses.

Why does the Clinton administration, publicly willing on the one hand to amend or abrogate the ABM Treaty, find itself on the other hand unwilling to develop ballistic missile defenses which may exceed ABM Treaty limits?

It has been documented Russia constructed a national missile defense system which violated the ABM Treaty. Furthermore, in April 1991, the author of the ABM Treaty, Henry Kissinger, recognized a changed atmosphere following the end of the Cold War, writing: ''Limitations on strategic defenses will have to be reconsidered in light of the Gulf War experience. No responsible leader can henceforth leave his civilian population vulnerable.''

It would appear President Clinton is indeed irresponsible by intentionally leaving our civilian population vulnerable to ballistic missile attack.

ARCHITECTURE

In 1993, the Clinton administration inherited a sophisticated ballistic missile defense providing global coverage utilizing Space Based Interceptors known as Brilliant Pebbles (which would have been ready for near-term deployment in roughly 4–5 years), Space Based Lasers, Space Based Infrared Sensors (SBIRS), and theater ballistic missile defenses, including Navy Upper Tier (Navy Theater Wide). Shortly after taking office in 1993, the Clinton administration canceled our space-based ballistic missile defense programs, including Brilliant Pebbles, and cut the Space Based Laser program to a token, not even equal to a technology readiness demonstration. These cuts have yet to be reversed by the administration, despite an acknowledgement of the inherent advantages of space-based ballistic missile defenses.

You clearly recognize the inherent advantages of such a defense, as quoted in Aviation Week & Space Technology (December 4, 1995, page 110): ''At the other end of the scale is the Defense Dominance Model. It is central to High Frontier and the original vision that president Ronald Reagan had in articulating the Strategic Defense Initiative. Under this approach, if both sides build very tall defensive walls, including maximum use of the technical advantages that accrue from deployments in space [emphasis added], you achieve stability through counterpoised defenses, with requirements for offensive arms quite minimal.''

Today, however, rather than seeking the ''maximum use of the technical advantages that accrue from deployments in space,'' the Clinton administration instead proposes a National Missile Defense architecture devoid of space-based deployments. The National Missile Defense system proposed by this administration will be inherently less effective and decidedly more costly than a National Missile Defense utilizing space-based deployments.

There is no reason for, nor intention of, the Congress to agree with a proposal for a National Missile Defense architecture of inferior design, particularly when the administration is aware it is deliberately compromising the defense of the American people.

SUMMARY

The Clinton administration is mistakenly attacking Congress for ''avoiding the hard work of helping guide the architecture of a National Missile Defense system'' at the same time it fails to even acknowledge the need for our nation to deploy a National Missile Defense. Furthermore, the administration's only proposed system architecture is of a notably inferior design.

It is the responsibility of the Executive Branch and Commander in Chief of he Armed Forces of the United States to present a coherent and effective National Missile Defense architecture. The Executive Branch is led by a single individual capable of providing guidance for a National Missile Defense designed by a single architect, rather than by 535 architects in Congress.

Rather than providing for the common defense, rather than being vigilant in protecting the American people, rather than preparing the United States to counter the growing global threat of long-range ballistic missiles, President Clinton is willfully and deliberately leaving the United States defenseless, helpless, and vulnerable to long-range ballistic missiles. I take vehement exception to your remarks as quoted in Aviation Week & Space Technology.

We must defend our freedom. The United States must deploy a National Missile Defense which includes ''the maximum use of the technical advantages that accrue from deployments in space.''

Very truly yours,

BOB SCHAFFER,
Member of Congress.

A TRIBUTE TO MRS. MATRICE ELLIS-KIRK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to acknowledge the accomplishments and work of Mrs. Matrice Ellis-Kirk of Dallas.

Mrs. Kirk is of course known as our city's first lady, wife of Dallas Mayor Ron Kirk. However, it is an understatement when I say that she is a respected individual in her own right. Dallasites hold her in high esteem and regard because while being the Mayor's closest and strongest political ally, she is an Executive Search Consultant for an international executive search firm in Dallas and the mother of two beautiful children.

I join many men and women in Dallas in being particularly impressed by her commitment to serving the greater Dallas area community. She is focused in strengthening our city as she is in strengthening opportunities in her field and for her family.

Amid her great accomplishments as an executive, mother and first lady, Mrs. Kirk's personality is as such that she would not like us

to focus on her contributions and service to Dallas. This attitude was instilled in her by her family growing up in Cleveland, Ohio and to this day, she continues to adhere to the qualities of humility, style and class. In this case, she is truly a good example of this city which is inherent of style and class.

Mr. Speaker, in addition to those qualities, she took the lessons of achievement and excellence with her to the University of Pennsylvania, double majoring in Economics and Finance. Keenly focused on success as a woman in our society, she moved to a city that is a blueprint of success in Dallas. Before coming to Dallas, she spent time in New York until she learned where the real ''first-class'' city was in America.

Mr. Speaker, since that move, she has been a vigorous advocate of many community and social causes. Not only has Mrs. Kirk made her mark in her career, she has given back to a city that has yielded her opportunities. She recently chaired the 15th Annual African-American Museum Gala, which was a successful event under her stewardship.

She is also Chair Elect of the Texas Business Hall of Fame, an organization that awards scholarships to MBA's. As a model to young women in our area, she is a member of the Advisory Board of Girls, Inc. and recently completed service on the YWCA Board.

Mr. Speaker, Mrs. Kirk was recently the cover story of an area magazine that focused on her three-pronged approach to life: Family, service and career excellence. In the article, Mrs. Kirk mentioned that she is blessed and has a lot to give. It is clear through seeing her great children, community involvement and strong support of her husband and this city, that Mrs. Kirk has truly given back to us and blessed us with a great example for all women.

HONORING AND RECOGNIZING SLAIN LAW ENFORCEMENT OFFICERS

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1999

Mr. MOORE. Mr. Speaker, I rise today in support of H. Res. 165, and to recognize and honor Sergeant Richard Asten, a fourteen year veteran of the Kansas City, Kansas, police department, who on June 11, 1998, was struck down in the line of duty.

On that fateful morning, just after 8 a.m., Sergeant Asten was filling in for a colleague who had taken sick when he was called to help stop a stolen vehicle. When Sergeant Asten placed a stop stick in the path of the vehicle, according to eyewitness accounts, the driver intentionally swerved to run him over. Sergeant Asten left behind his family: his wife, Margie Asten; and their three children, Lief Ray, Theresa Ray, and Scott Ray, who currently is serving our country in the U.S. Marine Corps.

Mr. Speaker, supporting this resolution affirms the invaluable service provided to our communities by police officers and their families. Sergeant Asten and his fellow peace officers form the thin blue line that stands between us and those would do us harm. Passage of H. Res. 165 is the least we can do to honor and recognize police officers and families who have made the ultimate sacrifice so that we may enjoy freedom, safety and security.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 13, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 14

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2000 for the Department of Defense.
SD–192

MAY 18

9:30 a.m.
Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold hearings on the Environmental Protection Agency's proposed sulfur standard for gasoline as contained in the proposed Tier Two standards for automobiles.
SD–406

Commerce, Science, and Transportation
To hold hearings on television violence and safe harbor legislation.
SR–253

10 a.m.
Finance
To resume oversight hearings on United States Customs, focusing on commercial operations.
SD–215

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To resume hearings on the policies between the United States and China, focusing on the human rights component.
SD–562

Health, Education, Labor, and Pensions
To resume hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act.
SD–628

2:30 p.m.
Energy and Natural Resources
Energy Research, Development, Production and Regulation Subcommittee
To hold hearings on S.924, entitled the ''Federal Royalty Certainty Act''.
SD–366

MAY 19

9:30 a.m.
Indian Affairs
To hold hearings on S. 614, to provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands; and S. 613, to encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes, and for other purposes.
SR–485

Health, Education, Labor, and Pensions
To resume hearings to examine medical records privacy issues.
SD–628

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the status of Youth Conservation Corps and other job programs conducted by the National Park Service, Bureau of Land Management, Forest Service, and the U.S. Fish and Wildlife Service.
SD–366

Intelligence
To hold closed hearings on pending intelligence matters.
SH–219

MAY 20

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 97, to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance.
SR–253

Health, Education, Labor, and Pensions
Employment, Safety and Training Subcommittee
To hold hearings to examine mine safety and health issues.
SD–628

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To resume hearings on the Environmental Protection Agency's proposed sulfur standard for gasoline as contained in the proposed Tier Two standards for automobiles.
SD–406

10 a.m.
Governmental Affairs
Business meeting to consider S. 746, to provide for analysis of major rules, to promote the public's right to know the costs and benefits of major rules, and to increase the accountability of quality of Government; S. 59, to provide Government-wide accounting of regulatory costs and benefits; S. 468, to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; the nomination of Eric T. Washington, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals; the nomination of Stephen H. Glickman, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals; the nomination of Hiram E. Puig-Lugo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; and the nomination of John T. Spotila, of New Jersey, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.
SD–342

2 p.m.
Energy and Natural Resources
Energy Research, Development, Production and Regulation Subcommittee
To hold hearings on S. 348, to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public.
SD–366

2:30 p.m.
Energy and Natural Resources
Energy Research, Development, Production and Regulation Subcommittee
To hold joint oversight hearings with the House Committee on Government Reform's Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, on the Administration's fiscal year 2000 budget request for climate change programs and compliance with various statutory provisions in fiscal year 1999 appropriations acts requiring detailed accounting of climate change spending and performance measures for each requested increase in funding.
SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on issues relating to commercial space.
SR–253

MAY 25

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on state progress in retail electricity competition.
SD–366

10 a.m.
Finance
To resume oversight hearings on United States Customs, focusing on commercial operations.
SD–215

2:15 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 140, to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System; S. 734, entitled the ''National Discovery Trails Act of 1999''; S. 762, to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park; S. 938, to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; S. 939, to correct spelling errors in the statutory designations of Hawaiian National Parks; S. 946, to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; and S. 955, to allow the National Park Service to acquire

certain land for addition to the Wilderness Battlefied in Virginia, as previously authorized by law, by purchase or exchange as well as by donation.

SD–366

MAY 26

9:30 a.m.

Indian Affairs

To hold oversight hearings on Native American Youth Activities and Initiatives.

SR–485

MAY 27

2 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 244, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system; S. 623, to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat; and S. 769, to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam.

SD–366

JUNE 9

9:30 a.m.

Environment and Public Works

Transportation and Infrastructure Subcommittee

To resume hearings on the implementation of the Transportation Equity Act for the 21st century.

SD–406

JUNE 17

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on mergers and consolidations in the communications industry.

SR–253

SEPTEMBER 28

9:30 a.m.

Veterans Affairs

To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Legion.

345 Cannon Building

Wednesday, May 12, 1999

Daily Digest
Senate

Chamber Action

Routine Proceedings, pages S5105–S5191

Measures Introduced: Thirteen bills and one resolution were introduced, as follows: S. 1015–1027, and S. Res. 100. **Page S5155**

Measures Reported: Reports were made as follows:

S. 559, to designate the Federal building located at 33 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building''.

S. 858, to designate the Federal building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the ''Lewis R. Morgan Federal Building and United States Courthouse''.

Page S5155

Measures Passed:

Peace Corps Act Authorization: Senate passed H.R. 669, to amend the Peace Corps Act to authorize appropriations for fiscal years 2000 through 2003 to carry out that Act, clearing the measure for the President. **Page S5186**

Juvenile Justice: Senate continued consideration of S. 254, to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, and punish and deter violent gang crime, taking action on the following amendments proposed thereto:

Pages S5105–51, S5187–89

Adopted:

Boxer Amendment No. 330, to provide for a study of the marketing practices of the firearms industry with respect to children. **Pages S5105–06**

By a unanimous vote of 98 yeas (Vote No. 110), Brownback Amendment No. 329, to provide for a study of the effects of television programming, movies, video games, Internet content, and music lyrics on child development.

Pages S5115–23, S5124–26, S5143–44

By 53 yeas to 45 nays (Vote No. 112), Craig Amendment No. 332, to preserve privacy and property rights, prohibit the collection of fees, and the retention of information in connection with background checks of law abiding citizens acquiring firearms. **Pages S5127–46**

Rejected:

Leahy Amendment No. 327, to promote effective law enforcement. (By 54 yeas to 44 nays (Vote No. 109), Senate tabled the amendment.) **Pages S5105–12**

Lautenberg Amendment No. 331, to regulate the sale of firearms at gun shows. (By 51 yeas to 47 nays (Vote No. 111), Senate tabled the amendment.)

Pages S5126–45

Withdrawn:

McCain Amendment No. 333, to prohibit the receipt, transfer, transportation, or possession of a firearm or ammunition by certain violent juvenile offenders. **Pages S5136–37**

Pending:

Hatch/Leahy Amendment No. 335, relating to the availability of Internet filtering and screening software. **Page S5141**

Hollings Amendment No. 328, to amend the Communications Act of 1934 to require that the broadcast of violent video programming be limited to hours when children are not reasonably likely to comprise a substantial portion of the audience.

Pages S5146–51, S5187–89

A unanimous-consent agreement was reached providing for further consideration of the bill, with a vote to occur on Amendment No. 335 at 9:40 a.m., on Thursday, May 13, 1999. **Pages S5142, S5186**

Appointments:

Advisory Committee on the Records of Congress: The Chair announced, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, the appointment of James B. Lloyd, of Tennessee, to the Advisory Committee on the Records of Congress.

Page S5186

Messages From the President: Senate received the following messages from the President of the United States:

A message from the President of United States transmitting, a report on a request for funds for operations of U.S. forces in Bosnia and Herzegovina; referred to the Committee on Armed Services. (PM–27). **Page S5153**

Nominations Received: Senate received the following nominations:

Joseph Limprecht, of Virginia, to be Ambassador to the Republic of Albania.

Routine lists in the Air Force, Army, Coast Guard, Navy, and Marine Corps. **Pages S5189–91**

Messages From the President: **Page S5153**

Messages From the House: **Page S5153**

Measures Referred: **Page S5153**

Measures Placed on Calendar: **Page S5153**

Communications: **Pages S5153–54**

Petitions: **Pages S5154–55**

Executive Reports of Committees: **Page S5155**

Statements on Introduced Bills: **Pages S5155–69**

Additional Cosponsors: **Pages S5169–71**

Amendments Submitted: **Pages S5171–80**

Authority for Committees: **Pages S5180–81**

Additional Statements: **Pages S5181–86**

Record Votes: Four record votes were taken today. (Total–112) **Pages S5111–12, S5144–46**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:42 p.m., until 9:30 a.m., on Thursday, May 13, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on pages S5186–87.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee met in closed session and began markup of S. 974, to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal years 2000 and 2001, but did not complete action thereon, and will meet again tomorrow.

LOW-INCOME HOUSING TAX CREDIT

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded hearings to examine the effectiveness of the low income housing tax credit provisions of Section 42 of the Internal Revenue Code in producing affordable housing and revitalizing neighborhoods, after receiving testimony from Senators Graham and Mack; David W. Herlinger, Colorado Housing and Finance Authority, Denver; Richard K. Barnhart, Pennrose Properties, Inc., and Rita Alice Brown, both of Philadelphia, Pennsylvania; Patrick A. Barbolla, Fountainhead Companies, Fort Worth, Texas, on behalf of the Rural Rental Housing Association of Texas, Inc.; Richard J. Ferrara, Housing Opportunities Commission of Montgomery County, Kensington, Maryland; and Howard Earl Cohen, Beacon Residential Properties Limited Partnership, Boston, Massachusetts.

WIRELESS COMMUNICATION AND PUBLIC SAFETY

Committee on Commerce, Science, and Transportation: Subcommittee on Communications concluded hearings on S. 800, to promote and enhance public safety through the use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, after receiving testimony from George Heinrichs, SCC Communications Corporation, Boulder, Colorado; Thomas E. Wheeler, Cellular Telecommunications Industry Association, Washington, D.C.; and Mark Wildey, West Metro Fire Protection District, Lakewood, Colorado.

EMERGING TECHNOLOGIES

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine incentives and barriers created by the federal government in bringing new technologies to the marketplace, after receiving testimony from Terry Douglass, Knoxville, Tennessee, and Don Jenkins, Columbia, South Carolina, both of Conversion Technologies Industries, Inc.; Ralph Hutcheson, Scientific Materials Corporation, Bozeman, Montana; Timothy Hammond, Tulane University Medical Center Environmental Astrobiology Center, New Orleans, Louisiana; Richard E. Smalley, Rice University, Houston, Texas; and Helena Wisniewski, ANSER, Arlington, Virginia.

ALLEGED CHINESE ESPIONAGE

Committee on Energy and Natural Resources: Committee held open and closed hearings to examine damage to the national security from alleged Chinese espionage at the Department of Energy nuclear weapons laboratories, receiving testimony from Mary Anne Sullivan, General Counsel, Department of Energy; and Neil Gallagher, Assistant Director, National Security Division, Federal Bureau of Investigation, and James Baker, Deputy Counsel for Intelligence Operations, Office of Intelligence Policy and Review, both of the Department of Justice.

Hearings recessed subject to call.

MEDICARE REFORM

Committee on Finance: Committee resumed hearings on Medicare reform issues, focusing on the key differences between Medicare and other group health

insurance programs, receiving testimony from Harry P. Cain II, Blue Cross and Blue Shield Association, Chicago, Illinois; P. Anthony Hammond, Institute for Health Policy Solutions, Paul B. Ginsburg, Center for Studying Health System Change, and Murray N. Ross, Medicare Payment Advisory Commission, all of Washington, D.C.; Christine C. Ferguson, Rhode Island Department of Human Services, Providence; Keith J. Mueller, University of Nebraska Center for Rural Health Research, Omaha; John W. Rowe, Mount Sinai-New York University Medical Center and Health System, New York; and David Blumenthal, Massachusetts General Hospital/Partners HealthCare System, Boston, on behalf of the Commonwealth Fund Task Force on Academic Health Centers.

Hearings recessed subject to call.

DEMOCRACY/RULE OF LAW IN THE AMERICAS

Committee on Foreign Relations: Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism concluded hearings on the state of democracy and the rule of law in the Americas, focusing on Latin America and the Caribbean, after receiving testimony from Elliott Abrams, Ethics and Public Policy Center, former Assistant Secretary of State of Inter-American Affairs, Luigi R. Aeneid, Inter-American Dialogue, former U.S. Ambassador to the Organization of American States, and John P. Sweeney, Heritage Foundation, all of Washington, D.C.

BUSINESS MEETING

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information approved for full committee consideration S.692, to prohibit Internet gambling, with an amendment in the nature of a substitute.

FARM WORKER PROGRAMS

Committee on the Judiciary: Subcommittee on Immigration concluded hearings to examine workforce needs of American agriculture, farm workers, and the United States economy, focusing on illegal migrant farm workers, H–2A reform, AgJOBS, collective bargaining agreements, sanitation, and farm worker unemployment and wages, after receiving testimony from Senators Graham, McConnell, Gorton, and Gordon Smith; Representatives Berman and Bishop; Joshua Wunsch, Michigan Farm Bureau, Traverse City, on behalf of the American Farm Bureau; James S. Holt, McGuiness and Williams, on behalf of the National Council of Agricultural Employers, Demetri Papademetriou, Carnegie Endowment for International Peace, and Cecilia Munoz, National Council of La Raza, all of Washington, D.C.; Dolores C. Huerta, United Farm Workers of America, AFL-CIO, Keene, California; and Manuel Cunha, Jr., Nisei Farmers League, Fresno, California.

AUTHORIZATION: ELEMENTARY AND SECONDARY EDUCATION

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act, focusing on the Title 1 program, Helping Disadvantaged Children Meet High Standards, including issues as accountability, targeting assistance to low-income students, allocating resources for early childhood initiatives, and making Title One a portable entitlement, after receiving testimony from Christopher T. Cross, Independent Review Panel/Council for Basic Education, Washington, D.C.; Lisa Graham Keegan, Arizona Department of Education, Phoenix; and Iris T. Metts, Delaware Department of Education, Dover.

HUBZONES

Committee on Indian Affairs: Committee concluded oversight hearings on the implementation of the Small Business Administration's HUBZone Empowerment Contracting Program, SBA's initiatives to promote economic development opportunities for Native Americans and within Indian reservation communities, and other SBA programs that support economic development on Indian reservations, after receiving testimony from Richard L. Hayes, Associate Deputy Administrator, Office of Government Contracting and Minority Enterprise Development, Small Business Administration; Stanley Pino, All Indian Pueblo Council, Albuquerque, New Mexico; Sophie Minich, Cook Inlet Regional, Inc., Anchorage, Alaska; and Pete Homer, National Indian Business Association, Washington, D.C.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again Wednesday, May 19.

House of Representatives

Chamber Action

Bills Introduced: 25 public bills, H.R. 1763–1787; and 6 resolutions, H.J. Res. 53–54, H. Con. Res. 105–107, and H. Res. 168, were introduced.

Pages H3085–86

Reports Filed: One report was filed today as follows:

H. Res. 167, providing for consideration of H.R. 1555, to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (H. Rept. 106–136). **Page H3085**

Year 2000 Readiness and Responsibility Act: By a recorded vote of 236 ayes to 190 noes, Roll No. 128, the House passed H.R. 775, to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000. **Pages H3013–54**

By a recorded vote of 184 ayes to 246 noes, Roll No. 127, rejected the Conyers motion that sought to recommit the bill to the Committee on the Judiciary with instructions to report it back forthwith with an amendment to establish U.S. Federal court jurisdiction, service of process, and discovery in Year 2000 actions involving corporate defendants outside of the United States. **Pages H3051–53**

Agreed to the Committee amendment in the nature of a substitute, made in order by the rule.

Page H3051

Agreed To:

The Davis amendment that changes the effective date to January 1, 1999 and defines damage to mean punitive, compensatory, and restitutionary relief;

Page H3030

The Moran amendment that exempts all claims that arise out of an underlying action for personal injury; and **Pages H3030–32**

The Jackson-Lee amendment that allows Year 2000 notifications to be drafted using layman's terms. **Pages H3032–33**

Rejected:

The Scott amendment that sought to strike section 304 that caps the punitive damages awarded (rejected by a recorded vote of 192 ayes to 235 noes, Roll No. 124); **Pages H3033–35, H3038**

The Nadler amendment that sought to strike title IV that limits class action lawsuits (rejected by a recorded vote of 180 ayes to 244 noes, Roll No. 125); and **Pages H3035–39**

The Conyers amendment in the nature of a substitute that sought to strike provisions that limit punitive damages; provide a cooling off period and alternative dispute resolution procedures; prohibit frivolous class action lawsuits; and impose a duty on plaintiffs to mitigate damages (rejected by a recorded vote of 190 ayes to 236 noes, Roll No. 126).

Pages H3039–51

H. Res. 166, the rule that provided for consideration of the bill was agreed to earlier by a yea and nay vote of 236 yeas to 188 nays, Roll No. 123. The amendments printed in Part 1 of H. Rept. 106–134, the report accompanying the rule, were considered as adopted. **Pages H3006–13**

Motion to Instruct Conferees—Emergency Supplemental Appropriations: Representative Upton notified the House of his intention to offer a motion to instruct conferees on the Senate amendment to H.R. 1141, Emergency Supplemental Appropriations Act, to insist that no provision (1) not in H.R. 1141 when passed by the House; (2) not in H.R. 1664 when passed by the House, or directly related to H.R. 1664; and (3) not in the Senate amendment to H.R. 1141, as passed by the Senate, be agreed to by the managers on the part of the House. **Page H3054**

Motion to Instruct Conferees—Emergency Supplemental Appropriations: Agreed to the Deutsch motion instruct conferees on the Senate amendment to H.R. 1141, Emergency Supplemental Appropriations Act, to insist on the funding level of $621 million contained under the heading ''Central America and the Caribbean Emergency, Disaster Recovery Fund'' of the House bill for necessary expenses to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia.

Pages H3054–60

Presidential Message—Funding for Armed Forces in Bosnia and Herzegovina: Message wherein he transmitted his report concerning his funding request for continued operations of U.S. forces in Bosnia and Herzegovina—referred to the Committees on International Relations and Armed Forces and ordered printed (H. Doc. 106–62).

Page H3060

Senate Messages: Message received from the Senate appears on page H3001.

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H3087–90.

Quorum Calls—Votes: One yea and nay vote and five recorded votes developed during the proceedings of the House today and appear on pages H3013, H3038, H3039, H3050–51, H3052–53, and H3053. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 9:03 p.m.

Committee Meetings

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative approved for full Committee action the Legislative appropriations for fiscal year 2000.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Special Oversight Panel on Merchant Marine approved for full Committee consideration recommendations on H.R. 1401, National Defense Authorization Act for Fiscal Years 2000 and 2001.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Special Oversight Panel on Morale, Welfare and Recreation approved for full Committee consideration recommendations on H.R. 1401, National Defense Authorization Act for Fiscal Years 2000 and 2001.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Subcommittee on Military Installations and Facilities approved for full Committee action H.R. 1401, National Defense Authorization Act for Fiscal Years 2000 and 2001.

OFHEO'S PROPOSED RISK-BASED CAPITAL RULE

Committee on Banking and Financial Services: Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises held a hearing on the Office of Federal Housing Enterprise Oversight's proposed Risk-Based Capital Rule. Testimony was heard from Mark A. Kinsey, Acting Director, Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.

REGULATORY BURDEN RELIEF

Committee on Banking and Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing on Regulatory Burden Relief. Testimony was heard from Laurence H. Meyer, member, Board of Governors, Federal Reserve System; the following officials of the Department of the Treasury: John D. Hawke, Jr., Comptroller of the Currency; and Carolyn J. Buck, Chief Counsel, Office of Thrift Supervision; Andrew Hove, Vice Chairman, FDIC; Robert Fenner, General Counsel, National Credit Union Administration; and public witnesses.

EVEN START AND FAMILY LITERACY PROGRAMS

Committee on Education and the Workforce: Held a hearing on Even Start and Family Literacy Programs Under the Elementary and Secondary Education Act. Testimony was heard from Andy Hartman, Director, National Institute for Literacy, Department of Education; Cheryl Keenan, Director, Bureau of Adult Basic and Literacy Education, Department of Education, State of Pennsylvania; Mary Brown, Program Supervisor, Even State Family Education Program, Public Schools, Oklahoma City, Oklahoma; and public witnesses.

DEPARTMENTS OF LABOR AND EDUCATION—MANAGEMENT—Y2K COMPUTER PROBLEM

Committee on Education and the Workforce: Subcommittee on Oversight and Investigations held a hearing on Review of the Management of the Year 2000 Computer Problem by the Department of Labor and the Department of Education. Testimony was heard from Marshall Smith, Acting Deputy Secretary, Department of Education; the following officials of the Department of Labor: Patricia W. Lattimore, Assistant Secretary, Administration and Management; and Patricia A. Dalton, Assistant Inspector General; Joel Willemssen, Director, Civil Agencies Information Systems Issues, GAO; and a public witness.

RUSSIA'S FOREIGN POLICY OBJECTIVES: WHAT ARE THEY?

Committee on International Relations: Held a hearing on Russia's Foreign Policy Objectives: What are They? Testimony was heard from Steven R. Sestanovich, Ambassador at Large and Special Adviser to the Secretary for Independent States, Department of State; Lt. Gen. Brent Scowcroft, USAF (Ret.), former Assistant to the President for National Security Affairs; and a public witness.

DEMOCRACY IN INDONESIA

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on Democracy in Indonesia: Preparations for the National Election. Testimony was heard from Stanley Roth, Assistant Secretary, East Asian and Pacific Affairs, Department of State; Robert C. Randolph, Assistant Administrator, Bureau for Asia and the Near East, AID, U.S.

International Development Cooperation Agency; and public witnesses.

NATIONAL POLICE TRAINING COMMISSION ACT

Committee on the Judiciary: Held a hearing on H.R. 1659, National Police Training Commission Act of 1999. Testimony was heard from Representatives Serrano, Meeks of New York, and Walsh; Julius Davis, Deputy Chief of Police, Los Angeles, California; the following officials of the Department of Police, Chicago, Illinois: Callie L. Baird, Administrator in Charge, Office of Professional Standards; and Charles B. Roberts, Assistant Deputy Superintendent; Terrence W. Gainer, Assistant Chief of Police, Metropolitan Police Department, District of Columbia; and public witnesses.

RELIGIOUS LIBERTY PROTECTION ACT

Committee on the Judiciary: Subcommittee on the Constitution held a hearing on H.R. 1691, Religious Liberty Protection Act of 1999. Testimony was heard from public witnesses.

OVERSIGHT—IMPLEMENTATION—NET ACT AND ENFORCEMENT AGAINST INTERNET PIRACY

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held an oversight hearing on the Implementation of the Net Act and Enforcement Against Internet Piracy. Testimony was heard from Kevin V. DiGregory, Deputy Assistant Attorney General, Computers Crime Division, Department of Justice; Timothy B. McGrath, Interim Staff Director, U.S. Sentencing Commission; and public witnesses.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

Committee on the Judiciary: Subcommittee on Crime held a hearing on H.R. 764, Child Abuse Prevention and Enforcement Act. Testimony was heard from the following officials of the Department of Justice: Cathryn Turman, Acting Director, Office for Victims of Crime; and Patrick Coleman, Deputy Director, Policy and Management, Bureau of Justice Assistance; and public witnesses.

INTELLIGENCE AUTHORIZATION ACT

Committee on Rules: Granted, by voice vote, a modified open rule providing 1 hour of debate on H.R. 1555, Intelligence Authorization Act for Fiscal Year 2000.

The rule makes in order the amendment in the nature of a substitute recommended by the Select Committee on Intelligence as an original bill for the purpose of amendment. The rule provides that the amendment in the nature of a substitute shall be considered by title and that each title shall be considered as read. The rule waives points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI (prohibiting nongermane amendments).

The rule makes in order only those amendments printed in the CONGRESSIONAL RECORD. The rule provides that each amendment printed in the CONGRESSIONAL RECORD may be offered only by the Member who caused it to be printed or his designee, and each amendment shall be considered as read.

The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Goss.

COMPREHENSIVE BUDGET PROCESS REFORM ACT

Committee on Rules: Held a hearing on H.R. 853, Comprehensive Budget Process Reform Act of 1999. Testimony was heard from Representatives Nussle, Cardin and Minge; Dan L. Crippen, Director, CBO; Susan J. Irving, Associate Director, Federal Budget Issues, GAO; and public witnesses.

Hearings continue tomorrow.

METHANE HYDRATE RESEARCH AND DEVELOPMENT ACT

Committee on Science: Subcommittee on Energy and Environment approved for full Committee action amended H.R. 1753, Methane Hydrate Research and Development Act of 1999.

Prior to this action, the Subcommittee held a hearing on H.R. 1753 (and S. 330). Testimony was heard from Robert S. Kripowicz, Principal Deputy Assistant Secretary, Fossil Energy, Department of Energy; William Dillon, Geologist, U.S. Geological Survey, Department of the Interior; and a public witness.

Y2K IN ORBIT: IMPACT ON SATELLITES AND GLOBAL POSITIONING SYSTEM

Committee on Science: Subcommittee on Technology, the Subcommittee on Space and Aeronautics and the Subcommittee on Government Management, Information and Technology of the Committee on Government Reform held a joint hearing on Y2K in Orbit: Impact on Satellites and the Global Positioning System. Testimony was heard from Lee B. Holcomb, Chief Information Officer, Department of Defense; Marvin Langston, Deputy Chief Information Officer, Department of Defense; Keith Rhodes,

Technical Director, Computers and Telecommunications, GAO; and a public witness.

RECYCLE AMERICA'S LAND ACT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on H.R. 1300, Recycle America's Land Act of 1999. Testimony was heard from Carol M. Browner, Administrator, EPA; and public witnesses.

Joint Meetings

SUPPLEMENTAL APPROPRIATIONS

Conferees continued in evening session to resolve the differences between the Senate and House passed versions of H.R. 1141, making emergency supplemental appropriations for the fiscal year ending September 30, 1999.

COMMITTEE MEETINGS FOR THURSDAY, MAY 13, 1999

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: closed business meeting to mark up S. 974, to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 2000 and 2001, and related measures, 9:30 a.m., SR–222.

Full Committee, closed business meeting to mark up S. 974, to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 2000 and 2001, and related measures, 2 p.m., SR–222.

Committee on Energy and Natural Resources: to hold hearings on S. 698, to review the suitability and feasibility of recovering costs of high altitude rescues at Denali National Park and Preserve in the state of Alaska; S. 711, to allow for the investment of joint Federal and State funds from the civil settlement of damages from the Exxon Valdez oil spill; and S. 748, to improve Native hiring and contracting by the Federal Government within the State of Alaska, 9:30 a.m., SD–366.

Committee on Environment and Public Works: to hold hearings on issues relating to the Clean Water Action Plan, 10 a.m., SD–406.

Committee on Finance: to hold oversight hearings on United States Customs, focusing on commercial operations, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings on issues relating to the ABM Treaty, focusing on Start II and missile defense, 10 a.m., SD–562.

Committee on Health, Education, Labor, and Pensions: to hold hearings on the nomination of Richard M. McGahey, of the District of Columbia, to be an Assistant Secretary of Labor, 10 a.m., SD–628.

Committee on the Judiciary: Subcommittee on Criminal Justice Oversight, to hold hearings to examine the Department of Justice's refusal to enforce the Law on Voluntary Confessions, 2 p.m., SD–226.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, to mark up fiscal year 2000 appropriations, 10 a.m., 2362 Rayburn.

Subcommittee on Treasury, Postal Service, and General Government, to mark up fiscal year 2000 appropriations, 2 p.m., 2358 Rayburn.

Committee on Armed Services, Subcommittee on Military Personnel, to mark up H.R. 1401, National Defense Authorization Act for Fiscal Years 2000 and 2001, 11 a.m., 2118 Rayburn.

Subcommittee on Military Readiness, to mark up H.R. 1401, National Defense Authorization Act for Fiscal Years 2000 and 2001, 1:30 p.m., 2212 Rayburn.

Committee on Commerce, Subcommittee on Energy and Power, to continue hearings on Electricity Competition, focusing on the Role of the Federal Electric Utilities, 10 a.m., 2123 Rayburn.

Subcommittee on Telecommunications, Trade, and Consumer Protection, hearing on Access to Buildings and Facilities by Telecommunications Providers, 10 a.m., 2322 Rayburn.

Committee on Education and the Workforce, Subcommittee on Postsecondary Education, Training, and Life-Long Learning, hearing on Developing and Maintaining a High-Quality Teacher Force, 9:30 a.m., 2175 Rayburn.

Subcommittee on Workforce Protections, hearing on H.R. 1434, to amend the Occupational Safety and Health Act of 1970, 1:30 p.m., 2175 Rayburn.

Committee on Government Reform, Subcommittee on Civil Service, hearing on FEHBP: OPM's Policy Guidance for Fiscal Year 2000; and to mark up H.R. 457, Organ Donor Leave Act, 10 a.m., 2154 Rayburn.

Subcommittee on Criminal Justice, Drug Policy, and Human Resources, hearing on International Law: The Importance of Extradition, 2 p.m., 2203 Rayburn.

Subcommittee on Government Management, Information, and Technology, oversight hearing on Single Audit Act Amendments of 1996; and to mark up the following bills: H.R. 28, Quality Child Care for Federal Employees Act; H.R. 1219, Construction Industry Payment Protection Act of 1999; and H.R. 1442, Law Enforcement and Public Safety Enhancement Act of 1999, 10 a.m., 2247 Rayburn,

Committee on International Relations, hearing on Diplomatic Initiatives for Kosovo, including H. Con. Res. 99, expressing the sense of the Congress that the congressional leadership and the Administration should support the efforts and recommendations of the United States Congress-Russian Duma meeting in Vienna, Austria, held April 30 to May 1, 1999, in order to bring about a fair, equitable, and peaceful settlement between warring factions in Yugoslavia, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, oversight hearing to examine youth culture and violence, 10 a.m., 2141 Rayburn.

Committee on Rules, to continue hearings on H.R. 853, Comprehensive Budget Process Reform Act of 1999, 9:30 a.m., H–313 Capitol.

Committee on Science, to mark up the following bills: H.R. 1654, National Aeronautics and Space Administration Authorization Act of 1999; H.R. 1655, Department of Energy Research, Development, and Demonstration Authorization Act of 1999; H.R. 1656, Department of Energy Commercial Application of Energy Technology Authorization Act of 1999; H.R. 1742, Environmental Protection Agency Office of Research and Development and Science Advisory Board Authorization Act of 1999; H.R. 1743, Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999; and H.R. 1744, National Institute of Standards and Technology Authorization Act of 1999, 9:30 a.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Tax, Finance, and Exports and the Subcommittee on Rural Enterprises, Business Opportunities and Special Small Business Problems, joint hearing on ''What Would Repealing The 'Death' Tax Mean For Small Business?'' 10 a.m., 311 Cannon.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on Future Needs of the U.S. Marine Transportation System, 10 a.m., 2167 Rayburn.

Subcommittee on Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation, to mark up the following: resolutions authorizing the GSA's Fiscal Year 2000 Capital Investment Program; two construction resolutions; H. Con. Res. 91, authorizing the use of the Capitol Grounds for a clinic to be conducted by the United States Luge Association; and a resolution authorizing the use of the Capitol Grounds for a Special Olympics Torch Run, 11 a.m., 2253 Rayburn.

Committee on Ways and Means, Subcommittee on Health, hearing on Medicare Self-Referral laws, 1 p.m., 1100 Longworth.

Subcommittee on Human Resources, hearing on Foster Care Independent Living, 10 a.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, executive, hearing on Kosovo, 4:30 p.m., H–405 Capitol.

Next Meeting of the SENATE

9:30 a.m. Thursday, May 13

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 254, to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, with a vote to occur on Hatch/Leahy Amendment No. 335.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Thursday, May 13

House Chamber

Program for Thursday: The House will meet at 9:00 a.m. and recess immediately for the Former Members' Association Annual Meeting; and

Consideration of H.R. 1555, Intelligence Reauthorization (modified open rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

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