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House of Representatives

The House met at 9:00 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited not to exceed 25 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

WAIVER FOR VIETNAM

Mr. BLUMENAUER. Mr. Speaker, it is not often that on the floor of this Chamber we can deal with several major issues simultaneously, but such is the case today as we deal with House Resolution 58, which would deny the waiver of the Jackson-Vanik for the nation of Vietnam. This issue is not just of trade and international commerce. It truly is an opportunity for the United States to help get our story straight regarding one of the great tragedies of our time.

The war in Vietnam was truly a tragedy for that nation. Great damage was inflicted upon the people, on a country that had been at war for over a third of the century, from World War II to the conclusion of that effort, but it had serious implications for our country. It divided generations, divided families, polarized our society.

I have great respect for the men who served in Vietnam. It has been a privilege for me to become acquainted with our colleague, the gentleman from Texas (Mr. SAM JOHNSON), and the suffering that he and his family went through. I have been touched by that extraordinary sacrifice.

Yet, at the same time it is clear to me that it is important for us to acknowledge the problems that we faced as a Nation dealing with the war in Vietnam. We were on the wrong side of history. Just this week, we had before the John Quincy Adams Society, Robert McNamara acknowledging that he was well aware, during his tenure, that the war was not winnable and acknowledged the problems with the rationale that was advanced. These were items that were known, frankly, on college campuses around the country at this time but denied at the highest levels of our government.

Last year, on the eve of the Jackson-Vanik waiver vote, I received a call from Vietnam from my daughter who was visiting. She was struck by the kindness of the Vietnamese people, the beauty of the landscape and as a college student she was not really aware, until her experience in Vietnam, of the tragedy of that conflict.

I have in mind today that conversation and her experience as we come forward. We are going to talk about trade and economic opportunity, and that is important. We are on the verge of signing a major trade agreement with Vietnam that will accelerate the economic prospects of that country. We have in the capitol today, Ambassador Pete Peterson, who has performed a tremendous service over the last few years in his work in Vietnam. He is arguably the best qualified person in America to bring about the reconciliation. His political and military experience, his passion and his compassion set him apart and make him uniquely qualified. I continue to be amazed at his efforts.

We have the opportunity to build on his efforts with the rejection of the disallowal, to make progress on human rights, transparency of economic activities. We have the opportunity to help in Southeast Asia, the world's 12th most populous country, hasten their economic progress, but it goes far beyond that. The defeat of House Resolution 58 will help accelerate the integration of Vietnam into the world economy. It will help open up their society, but more important it will be an opportunity for us here on this floor to acknowledge the United States needs to get beyond this terrible legacy.

It is more than economics. It is an opportunity for America to get things right.

I strongly urge my colleagues to join with us this morning in the Capitol, room H–137. Pete Peterson will be meeting with us individually to talk about his experience, to talk about this opportunity, to give us a chance to not only move Vietnam forward economically but to do what is right by the American people in this conflict.

GAO REPORT CLAIMS VETERANS ADMINISTRATION WASTES MILLIONS

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced policy of January 19, 1999, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, all of us know that here on the Republican side we are trying to fight to increase the amount of money we give to the Veterans Administration because the President's budget was a flat line budget which did not provide enough money and particularly the fact that there are many more cases of hepatitis C. And we hope to increase cost of living for a lot of the employees, but I wanted to call my colleagues' attention to a GAO audit that was performed on the Veterans Affairs on July 22 that found over the next 5 years as much as $20 billion could be wasted. And I think that is a concern for all of us here in Congress.

The Veterans Health Administration is spending one of every four medical care dollars just caring for buildings

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

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that are old and obsolete. They spend it to operate and maintain these major delivery locations, but these locations have very low occupancy and a lot of unused space. So as I mentioned earlier, there is $20 billion that could be saved over the next 5 years.

I think many of my colleagues know that the Veterans Health Administration hospital utilization plan has been dropping because the number of patients has gone down. That is right, it has gone from 49,000 patients a day in 1989 to 21,000 in 1998. Almost half of this decline has occurred over the past 3 years. Not only has the hospital utilization dropped but the number of hospital admissions has decreased from over 1 million in 1989 to about 400,000 in 1998. So that is about a 40 percent drop, Mr. Speaker.

By the VA's own estimates, the veteran population is now 25 million and will drop to about 16 million in the year 2020. So I am concerned, I think all of us should be concerned, about those facilities that cost so much to operate. More than 40 percent of the VA health care facilities are over 50 years old and we are just not getting a good bang for the buck for the taxpayers. It cost as much as $1 million a day to run these underutilized and unused facilities, according to the GAO; and I do not think we should continue to do that. That is why myself and my colleague, the gentleman from Alabama (Mr. EVERETT), who is chairman of the Subcommittee on Oversight and Investigations, have held hearings to discuss this and try to correct this egregious use of taxpayers' money.

Let us not forget, of course, that veterans pay taxes themselves, so we want to make sure that the taxes they pay are effectively used also.

The GAO found that the Veterans Health Administration has made limited progress over the past 4 months in implementing a realignment process. They also found that the VA contains a diverse group of competing stakeholders who oppose plan changes in the areas I have just talked about. The GAO has made suggestions. They suggested more independent planning by those with no vested interest in geographic locations. They also recommend that the VA consider consolidating services, developing partnerships with other health care providers, and replacing obsolete assets with modern ones that address the health needs of today's and future veterans.

I have a bill, Mr. Speaker, that addresses part of these concerns. It is H.R. 2116. I am hoping that this bill will come to the floor. One of the major components of my bill, called the Veterans Millennium Health Care Act, contains elements targeted at capital asset management issues, in fact, what I like to call enhanced stakeholder involvement for all of the veterans.

My bill offers a blueprint to help position the VA for the future. The point is that VA has the closure authority. The administration can take those facilities that are obsolete and not being used and close them, but it does not seem to want to. I think what we need to do is allow a new process to get this started. So my bill calls for a process to be sure that decisions on closing hospitals can only be made based upon comprehensive planning with veterans' participation, and that is very important and very appropriate.

The bill sets numerous safeguards in place and would specifically provide that VA cannot simply stop operating a hospital and walk away from its responsibilities to veterans. It must, quote, reinvest savings in a new, improved treatment facility or improve services in the area.

I think the bill responds to the pressing veterans' needs. It opens the door to an expansion of long-term care, to greater access to outpatient care and to improved benefits, including emergency care coverage.

So in turn, Mr. Speaker, I think it provides the reforms we need for the next millennium that could advance the goals of the GAO, and I think it is another important feature towards getting better efficient use of the money.

OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 1999

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Maine (Mr. ALLEN) is recognized during morning hour debates for 5 minutes.

Mr. ALLEN. Mr. Speaker, yesterday I introduced the Omnibus Mercury Emissions Reduction Act of 1999, a bill to reduce mercury emissions by 95 percent nationwide. I am pleased to be joined by 27 of my colleagues who have agreed to be original cosponsors of this important bipartisan legislation.

Although mercury is a naturally occurring element, it has built up to dangerous levels in the environment. Mercury pollution impairs the reproductive and nervous systems of freshwater fish and wildlife, especially loons. It can be extremely harmful when ingested by humans. It is especially dangerous to pregnant women, children, and developing fetuses. Ingesting mercury can severely damage the central nervous system, causing numbness in extremities, impaired vision, kidney disease, and in some cases even death.

According to EPA's mercury study report to Congress, exposure to mercury poses a significant threat to human health, and concentrations of mercury in the environment are increasing.

The report concludes that mercury pollution in the U.S. comes primarily from a few categories of combustion units and incinerators. Together, these sources emit more than 155 tons of mercury into our environment each year. These emissions can be suspended in the air for up to a year and travel hundreds of miles before settling in bodies of water and soil.

Nearly every State confronts the health risks posed by mercury pollution and the problem is growing. Just 6 years ago, 27 States had issued mercury advisories warning the public about consuming freshwater fish contaminated with mercury. Today, the number of States issuing advisories has risen to 40, and the number of water bodies covered by the warnings has nearly doubled.

In some States, including my home State of Maine, every single river, lake, and stream is under a mercury advisory, and that applies to the States shown in black on this chart.

The growing problem has already prompted action at the State and regional level. Last year, the New England governors and Eastern Canadians premiers enacted a plan to reduce emissions, educate the public, and label products that contain mercury. Maine and Vermont have passed legislation to cut mercury pollution, and Massachusetts and New Jersey have enacted strict mercury emission standards on waste incinerators.

Although there is a clear consensus that mercury pollution poses a significant threat, State and regional initiatives alone are not sufficient to deal with this problem. As Congress recognized when it passed the Clean Air Act nearly 30 years ago, Federal legislation is the only effective way to deal with airborne pollutants that know no State boundaries. That is why I am introducing legislation to reduce the amount of mercury emitted from the largest polluters. This bill sets mercury emission standards for coal-fired utilities, waste combustors, commercial and industrial boilers, chlor-alkali plants, and Portland cement plants. According to the EPA's report to Congress, these sources are responsible for more than 87 percent of all mercury emissions in the U.S.

My bill also phases out the use of mercury in products and ensures that municipalities work with waste incinerators that keep products that contain mercury out of the waste stream. It would also require a recycling program for products that contain mercury as an essential component and increases research into the effects of mercury pollution.

With mercury levels in the environment growing every year, it is long past time to enact a comprehensive strategy for controlling mercury pollution. We have the technology for companies to meet these standards, and this bill will allow them to choose the best approach for their facility.

We have reduced or eliminated other toxins without the catastrophic effects that some industries predicted. Now we should eliminate dangerous levels of mercury. I urge my colleagues to support this legislation and stop mercury from polluting our waters, infecting our fish and wildlife, and threatening the health of our children.

A SOURING DEBATE OVER MILK PRICES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized during morning hour debates for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, very soon the Congress will be engaged in a very vicious debate about milk. And that may surprise some people; but when we start talking about milk marketing order reforms, it is amazing how aggressive some Members can become.

Mr. Speaker, in the last couple of days our colleague, the gentleman from Wisconsin (Mr. GREEN) and myself have sent to all of our other colleagues a copy of an editorial which appeared recently in the Kansas City Star.

Mr. Speaker, I would like to read some excerpts of that editorial because as far as I am concerned they got the debate exactly right. I read and I quote, in 1996, Congress ordered the administration to simplify the pricing of milk. That is easy enough. Stop regulating it. But this is the farm sector and a free market in milk is somehow inconceivable. Instead, milk prices are calculated from rules and equations filling several volumes of the Code of Federal Regulations.

The administration's proposed reform would reduce the number of regions for which the price of wholesale milk is regulated from 33 to 11. Fine, but it would also perpetuate the loopy Depression-era notion that the price of milk should in some respects be based in part on its distance from Eau Claire, Wisconsin. Under current policy, producers farther away from this supposed heart of the dairy region generally receive higher premiums or differentials.

The administration called for slightly lower differentials for beverage milk in many regions, but in Congress even this minuscule step towards rationality is being swept aside. The Committee on Agriculture has substituted a measure that essentially maintains a status quo. Similar moves are afoot in the Senate. Worse, some dairy supporters are working to reauthorize and expand the Northeast Interstate Dairy Compact, a regional milk cartel, and allow similar grouping for southern States. Missouri's legislature, by the way, has already voted to join the Southern Compact, even though it would result in higher prices for consumers. The Consumer Federation of America reports that the Northeast Dairy Compact raised retail milk prices by an average of 15 cents a gallon over 2 years.

Dairy producers concerned about the long view should be worried. Critics point out that the higher milk differentials endorsed by the House Committee on Agriculture may well lead to lower revenue for many producers. This is because the higher prices will encourage more production, driving down the base milk price and negating the higher differential.

The worst idea in this developing stew is the prospect for dairy-compact proliferation. A compact works like an internal tariff, because the cartel prohibits sales above an agreed-upon floor price. Producers within the region are protected from would-be outside competitors.

Opponents point out that more regional compacts, and the higher prices they support, will breed excessive production, creating dairy surpluses that will be dumped into markets of other regions. This will prompt other States to demand similar protection, promoting the spread of dairy compacts.

Ultimately, as in the 1980s, political pressure will build to liquidate the dairy surplus in a huge multibillion dollar buyout of cheese, milk powder, and even entire herds.

Congress should permit the Northeast Compact to sunset or expire, which will occur if the lawmakers simply do nothing. In fact, doing nothing to the administration's proposal seems to be the best choice in this case, or more properly the least bad. Perhaps some day Washington will debate real price simplification as in ditching dairy socialism and letting prices fluctuate according to the law of supply and demand, closed quote.

Mr. Speaker, the Kansas City Star is right. We should allow Secretary Glickman's modest reforms to go forward. We should sunset the Dairy Compact. Mr. Speaker, markets are more powerful than armies. They allow the market to set the price of milk in Moscow. Maybe we should try it right here in Washington, D.C.

TWO OF THE MANY PROBLEMS WITH THE PROPOSED TAX CUT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Massachusetts (Mr. OLVER) is recognized during morning hour debates for 5 minutes.

Mr. OLVER. Mr. Speaker, for this week the high profile, main business of the Republican leadership in Congress is to reach a final version of the $800 billion tax cut that has been proposed.

Now, the Republican leadership says that their tax cut is for the middle class, but that is clearly not true.

The House-passed version of the bill passed here, passed this branch 2 weeks ago, and in that version the 6 million highest income taxpayers, which represent about 5 percent of all taxpayers in this country, with incomes of over $125,000 a year, would get 61 percent, more than three-fifths of the total tax reduction, while the other 120 million taxpayers in this country, 95 percent of all the taxpayers, they would get only 39 percent of the total tax reduction that is involved.

Now, I do not think that many people would consider that a middle class tax cut. In fact, it is designed to make the already rich a very great deal richer, while the broad middle class of people in this country, the families that are living on an income of between $20,000 to, say, $80,000 a year, are only going to see a tax cut that is worth one or two cups of coffee a day for those families.

But that is only a small part of the story. The rest of the story is what cannot be done if the Republican leadership's tax cut bill were to become law. For that, I would like to just indicate a couple of areas of what cannot be done. Look at and consider the question of the national debt. On this chart, this chart shows what the publicly-held national debt of $3.7 trillion is made up of.

These pie chart sections, 38 presidents from 1789 until 1977 produced this blue piece. This is President Carter's portion of the debt. This is President Reagan's. This is President Bush's. This is President Clinton's. The interest on that $3.7 trillion of debt now is about as large, it is about $230 billion a year, is about as large as the whole debt that was created during the Carter administration, that was built up during the Carter administration.

What happens? The tax cut makes certain that we will not be able to pay off that debt, and we will have to continue paying $200 billion or more per year for years into the future. That means higher interest rates for every American family that wants to buy a home, higher interest rates for every business person who wants to create a business that is going to provide more jobs.

So, the debt problem.

Let me take a different issue. If you take a look at the Social Security situation, the tax cut, if it were to become law in its present form, would make it very much more difficult to extend the Social Security system beyond the year 2030. We know the demographics. We know how many people are going to be retiring between now and then. We know how many are going to enter the workforce between now and then, and we know that the reserve funds in the Social Security system will run out in 2030. And we will only be able to operate on the basis of whatever is paid into the Social Security trust fund year by year, which means the benefits for the ever-growing number of senior citizens will have to be reduced or the retirement age for people will have to go up.

At the same time, at the same time, we know that for those people who are businesspeople who are wealthy Americans, the retirement age is going down. People are retiring, if they are wealthy enough, at 50, 55, some even younger than that. Some of them never have worked so they never have to retire.

So the Social Security system is in serious jeopardy of not having any additional revenue to put into the protection and preservation of the Social Security system.

Now, my mother, who is 92 years old, is living now on Social Security that is under $500 per month. She also has a couple hundred dollars of income from

other sources but she certainly could not live on a reduced benefit as would happen if this tax cut were to become law.

So those are two reasons. There are many others but those are two of what the problems are with the tax cut that is being proposed.

WE MUST TAKE ACTION TO ENSURE THE SAFETY AND SECURITY OF ALL AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from North Carolina (Mr. JONES) is recognized during morning hour debates for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, 3 weeks ago I first learned the story of a lieutenant colonel working for the Department of Energy whose job had been threatened. Colonel Ed McCallum was the director of the Office of Safeguards and Security for the Department of Energy. He and his staff were responsible for the policy that governs the protection of the Energy Department's national security assets. This includes nuclear weapons, nuclear materials, highly classified information, and personnel clearances.

In his position within the Department, Colonel McCallum was responsible for evaluating and working to prevent security challenges with regard to our Nation's most sensitive technology. In his 9 years as director, Colonel McCallum worked under Clinton appointee Secretary Hazel O'Leary and then under current Energy Secretary Bill Richardson. Under both, he worked to highlight security lapses within the Department. Unfortunately, he faced a steep uphill battle getting anyone in the department to listen to his concerns.

Instead, his reports and memos were ultimately carelessly set aside. Even after gaining the attention of the Secretary, little or no action was taken. Time after time, his efforts were stonewalled.

Now Colonel McCallum is speaking out about the Department's efforts to ignore the great breaches of national security at our weapons laboratories. Since coming forward with the truth, Colonel McCallum was placed on administrative leave and his career was threatened. Now with the help of Bill O'Reilly and Fox News, I have been working to draw attention to the subject of China and other nations' efforts to steal American military secrets, as well as the administration's treatment of the men and women who are coming forward with the truth.

Colonel McCallum and members of his staff are working to protect the security of each and every American citizen. Rather than being rewarded for their patriotism, they are being punished by this administration.

After appearing on the O'Reilly Factor last month, my office has received numerous calls and letters from concerned citizens asking that we continue working to address this issue.

Mr. Speaker, the American people care that our national security has been compromised. The American people care about what other sensitive U.S. information China and rogue nations have been able to access. Our potential adversaries may have been able to steal information on our most advanced stealth technology. Our military space research or information on our most advanced communications equipment.

Each of these technologies by themselves pose real risks to the security of the American people. For that reason, I am concerned not only for the safety of our generation but also that of the future generations. My friend and colleague, the gentleman from Pennsylvania (Mr. WELDON), and I have asked the Committee on Armed Services chairman, the gentleman from South Carolina (Mr. SPENCE), to hold a hearing allowing members of Colonel McCallum's staff to testify. The information they can provide will be critical in assessing Congress' effort to halt the leakage of sensitive military secrets.

Mr. Speaker, we must take action to protect those individuals who are willing to come forward with the information that will keep our sensitive national security information protected and secret. We must take actions to ensure the safety and security of all Americans.

EILEEN COLLINS, A TESTAMENT OF THE POSSIBILITIES THAT DREAMS PRESENT TO US

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentlewoman from Maryland (Mrs. MORELLA) is recognized during morning hour debates for 5 minutes.

Mrs. MORELLA. Mr. Speaker, as a testament of the possibilities that dreams present to us, I rise this morning to speak on a resolution that I introduced which passed the House yesterday honoring a true American hero.

After two frustrating but necessary delays, STS–93 finally launched early in the morning on July 23, and last Tuesday the Space Shuttle Columbia landed safely at the Kennedy Space Center after the successful completion of its mission. On its 26th voyage to Earth's orbit, Columbia launched the Chandra X-Ray Observatory. This marvel of technology promises to unlock many secrets of the origins of the universe and the formation of galaxies, stars and planets. As promising and as exciting as this latest enterprise of exploration is to scientists and students everywhere, there is still a greater significance to this mission.

The commander of this mission, U.S. Air Force Lieutenant Colonel Eileen Marie Collins, was born in 1956, just one year before the space race began with the Soviet launch of Sputnik 1. She grew up in the tense climate of the Cold War, fully aware that as demonstrated by Sputnik the Soviet Union could launch a missile with enough force to threaten her home. No doubt, she shared the apprehension that would spark the space race and see the United States play catch-up to the apparent dominance of the world's other superpower.

She just turned 12 when Apollo 8 made its 10 historic orbits of the Moon on Christmas day 1968, and I have no doubt she was among the millions who watched Neil Armstrong, Michael Collins, and Buzz Aldrin make their voyage in Apollo 11 in July of 1969.

She dreamed of being a test pilot and an astronaut but it did not come easy for her. Though women were early pioneers of flight, since the 1930s fewer opportunities were open to women. It was not until the mid-1970s that women became eligible for positions as military aviators, the traditional route to the astronaut program.

Collins was working her way through community college during this time and earned a scholarship to Syracuse. She studied mathematics and economics, going on to later earn a Master of Science degree in operations research from Stanford University and a Master of Arts in space systems management from Webster University.

In 1979, the same year Skylab fell out of Earth's orbit, she completed her pilot training for the Air Force. She became a flight instructor, and in 1983 when Sally Ride became the first American woman in space, she was a C–141 commander and instructor. As a test pilot, she eventually logged over 5,000 hours in 30 different aircraft.

She was selected as an astronaut in 1990, became the first woman pilot of the Space Shuttle aboard the Discovery on STS–63 in February of 1995. Going into this most recent mission, she had already logged over 419 hours of time in space.

With her latest mission, however, she embarked on an adventure that marks another moment in history. She became the first woman commander of a mission to space.

As chair of the Subcommittee on Technology, I introduced the legislation that created the Commission on the Advancement of Women and Minorities in Science, Engineering and Technology Development, working to reverse the underrepresentation of these groups in the sciences through better education and encouragement at all levels of learning. Through my work on the Committee on Science, I have had the pleasure of meeting Colonel Collins. I have been impressed by her down-to-earth personality and sense of self in such a historic context.

Commenting on the low number of women astronauts, she said, ''If you do not have large numbers of women apply, it will be hard to select large numbers of women.''

Mr. Speaker, H. Res. 267 seeks to recognize the wider possibilities demonstrated by this flight. This latest

mission is a signal to little girls who dream. Space is there for them, too. And the next time humankind endeavors to take another joint leap, it could well be a woman to make it.

NAIVETE OR CRASS PARTISAN, POLITICAL ADVANTAGE THROUGH SCANDALOUS FUND-RAISING?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Arizona (Mr. HAYWORTH) is recognized during morning hour debates for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, my colleague from Maryland spoke eloquently of the dreams of all Americans, and it is with a sense of profound anxiety that I come to the floor today to talk about those elements in our world that could defer those dreams.

The lead story, Mr. Speaker, in today's Washington Times reads as follows: ''China Tests New Long Range Missile.'' Bill Gertz, the byline, he writes and I quote, ''China successfully test-fired its newest long-range missile yesterday amid heightened tensions with Taiwan over pro-independence remarks by the island's President. The CIA believes the DF–31 test launched from a base in central China will be the first new Chinese intercontinental ballistic missile to incorporate stolen U.S. warhead design and missile technology, according to U.S. officials.''

Mr. Speaker, when I read those words this morning, I could not help but reflect on the revelations that have rocked our Nation's capital and our entire country in the past several months. The fund-raising scandals, the apparent absence of concern at our Nation's nuclear laboratories, the wholesale theft of our nuclear secrets and the apparent cooperation of some in the private sector, and some in alleged government service to make it so.

Mr. Speaker, what perverse pride can anyone derive from these revelations? Is there actually pride on the part of the Clinton-Gore gang and their fundraisers this morning? Is there actually pride in the heart of Bernard Schwartz, the leading giver to the Democratic National Committee, whose firm, Loral, gave technology to the Communist Chinese? C. Michael Armstrong, the one-time CEO of Hughes, another company that gave technology to the Communist Chinese, can he feel pride at these revelations this morning?

Is our national security advisor, Sandy Berger, who sat on this information and apparently withheld it from the highest levels of government, does he feel pride this morning that our Nation is at risk?

How proud former Energy Secretary Hazel O'Leary must be this morning, with her socialist utopian vision of sharing our nuclear technology with those who oppose us in the world. And finally and sadly, how proud the President and Vice President of the United States must be.

Mr. Speaker, our constitutional republic has survived scores of scoundrels and scalawags, but to have those at the highest level of government speak of a strategic partnership with Communist China and then have it revealed in the fullness of time just what that strategic partnership meant, crass partisan, political advantage through scandalous fund-raising that has led us to this sorry state of affairs. If it is not by design then at least by naivete, and that leads us to another item in this morning's paper.

William F. Buckley writes in his column and I quote, ''With reference to North Korea, specifically American intelligence has said that as things are now going the North Koreans plan to test the Taepodong II, an advanced version of the T–1 missile that rocked the world when last August it soared right over the island of Japan. T–2 is designed to do better than T–1, and better means that it could land a nuclear payload in Alaska or in Hawaii.''

I recall the words and the intent of this administration by former Defense Secretary William Perry who lectured new Members of Congress on the necessity of giving, giving nuclear reactors to the outlaw nation, that is North Korea, and worse it has been reported in our press that the State Department kept from Congress information that the core of one of those reactors is now missing.

Mr. Speaker, when will we awaken to the threat that has been created by naivete or crass political advantage that some have sought in direct contravention and dereliction of the oath of office which we all take as constitutional officials to provide for the common defense, to defend the people and the Constitution of the United States?

Mr. Speaker, when will the partisan press awaken to these revelations?

COOPERATION BETWEEN THE UNITED STATES AND INDIA REGARDING ENERGY ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, I wanted to take the opportunity this morning to comment on the fact that Secretary of Energy, Bill Richardson, recently announced at the Energy Department that he will be visiting India this fall after the parliamentary elections that are supposed to take place next month, and basically indicated very strongly that the purpose of his visit is to encourage even more cooperation between the United States and India with regard to energy issues.

Yesterday, Mr. Speaker, last night actually on the floor, we initially had a debate on the Burton amendment, which was seeking to cut development assistance to India, and wisely the gentleman from Indiana (Mr. BURTON) decided at the last minute to withdraw his amendment because the votes fortunately were not there; but during that debate many of us who opposed the Burton amendment pointed to increased trade and opportunities between the United States and India in various areas, and the support of the U.S. business community for more investment and trade with India.

I have to say that as Secretary Richardson and many of the Clinton Cabinet members have really taken the lead the last few years in trying to promote more opportunities for cooperation in various areas between the United States and India, some of us remember when Ron Brown, who when he was the Commerce Secretary, went to India a few times and did a trade mission to India. After that, Secretary Daley took a mission to India to talk about the opportunities for trade and investment, and certainly Bill Richardson, when he was the U.N. ambassador and on other occasions, was there in India trying to promote more opportunities between our two countries.

Secretary Shalala did the same thing when she made a trip and talked about health issues. So I think that it is particularly opportune that after the parliamentary elections, which are likely to set a new course for India not only in terms of its diplomacy in politics but also in terms of its economic policy, would be followed by a trip to India by Bill Richardson this fall.

My understanding is that the Secretary plans to visit New Delhi to expand energy cooperation. During his visit, he will be discussing ways of reducing emission from thermal power plants through better technology and also explore possibilities for cooperation between the two countries in solar energy and related technologies.

So it is renewable resources, in particular, something that I am very concerned about and I think is very important for the future. We know that in the northeastern part of the United States recently we had blackouts. We know how important it is to try and use renewable resources and to find ways not only in developing countries like India but also in the United States, in developed countries, to try to conserve and find new ways of dealing with the scarce energy resources.

My understanding is that the Energy Secretary would also visit China for a similar exercise and discuss with Beijing ways to reduce pollution from thermal power generating units.

One other thing that happened relating to the Energy Department, again announced by the Secretary, is that because of his responsibility not only for peaceful uses of energy but also for America's nuclear weapons laboratories, Richardson announced that his senior advisor for national security, Joan Rohlfing, would work at the U.S. embassy in New Delhi to deal with nonproliferation issues. Essentially, Ms. Rohlfing's position is effective from September 1 for a specific period of

about 6 months, and she obviously will be dealing with the whole issue of nonproliferation, ways of trying to deal with the fact that India is now a nuclear power; and we certainly recognize the fact that India is a nuclear power, but obviously we need to have better cooperation between the United States and India with regard to the nuclear issue in terms of security as well, and so I would encourage that.

I am very pleased to see that Secretary Richardson is taking this initiative both with regard to the peaceful uses of energy as well as on the nuclear power issue and what might happen in terms of our national security interests. I think this is a strong indication of further U.S. India cooperation in an area that is very crucial to all of us, and that is our energy resources.

RECESS

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

Accordingly (at 9 o'clock and 45 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. WILSON) at 10 a.m.

PRAYER

The Reverend Dr. Donald Carter, Pastor, Baptist Temple of Alamance County, Burlington, North Carolina, offered the following prayer:

May we pray.

Heavenly Father, thank You for our forefathers who carved out of the wilderness a great Nation, a Nation that has enjoyed the blessings of Almighty God. We acknowledge Your protective and guiding hand upon our Nation during these 223 years.

I request that You give the men and women who are servants of our trust and who represent us understanding of the problems and needs of our country. Give them wisdom to address them. We have sinned as a people and as a Nation. Forgive us of our sins. May these who represent us do what is right, not what is popular, as John Adams said.

May that being who is supreme overall, the Patron of Order, the Fountain of Justice and the Protector of all ages of the world of virtuous liberty, continue His blessings upon this, our Nation.

In Jesus' name I pray.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT 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.

WELCOME TO REVEREND DR. DONALD CARTER, BAPTIST TEMPLE OF ALAMANCE COUNTY, BURLINGTON, NORTH CAROLINA

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

Mr. COBLE. Madam Speaker, the gentleman who opened the House today, Reverend Carter, I came to know him, his wife, Betty, his son David, and the Baptist Temple Church family when I initially was a candidate for Congress in 1984.

Don and his church family and the entire Alamance County Ministerial Association serve their county well, and we are honored to have Don to open our service today.

The bad news is I no longer represent him. As a result of redistricting, Alamance County was assigned to another Congressional District, and they are now ably represented by the gentleman to whom I yield.

I am pleased to yield, Madam Speaker, to the gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I also welcome Pastor Carter and his wife Betty. In fact, in every community, we find families that we represent. Pastor Carter represents a family in Burlington of several hundred of his parishioners that every week turn to him for their spiritual guidance and for the leadership that they need, both personally and professionally. Dr. Carter, we are glad to have you today and your lovely wife.

I also pledge to my dear colleague, the gentleman from North Carolina (Mr. COBLE) that I will carry on the good tradition that he has established, not only with the Baptist Temple, but with Alamance County.

TAX CUTS TO BENEFIT ALL TAXPAYERS

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

Mr. ROGAN. Madam Speaker, we Republicans across the country campaigned last year on the issue of tax relief for working families. We said that Americans are overtaxed, and America agreed. That is why last year more Americans voted for Republicans than voted Democrat in the Congressional elections.

By now it is no surprise that Republicans actually meant what they said. The House of Representatives under the Republicans have passed tax relief for working families. This is upsetting to many on the left, still locked in the 1960s mentality that demonizes those that save, invest, create jobs, and pay the lion's share of taxes.

Our relief package is fair and balanced. It puts aside $2 for Social Security and Medicare for every $1 in tax relief for working families.

It does something foreign to the left that controlled this chamber for 40 years before us. It pays down the national debt by some $1 trillion, and it cuts taxes so that all taxpaying families will benefit.

The Republican Party is the party of tax relief for working families.

ADDRESSING THE PROBLEMS OF HEPATITIS C

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

Mr. WEINER. Madam Speaker, the Queens Courier, a distinguished local newspaper in New York, recently concluded in an exclusive study that they did in this edition that hepatitis C has reached near epidemic proportions in New York City and, in fact, in the Nation as a whole.

The Queens Courier study actually does a great national service to bring our attention to what is an often and unrecognized epidemic: Nearly 4 million Americans have been affected by hepatitis C. As a result, there are almost 10,000 deaths every year in this country, and it causes over $600 million in medical bills in our country. This is indeed an epidemic, albeit a quiet one. This is particularly poignant to New York City, where there are so many immigrant communities.

Now is the time for not only authorities in New York State, but the Center for Disease Control here in Washington, to finally recognize that hepatitis C has reached a crisis proportion. The Queens Courier has done a very important job by calling this to our attention. Now we in Congress have to take up this call and address the problems of hepatitis C.

NETWORKS NOT COVERING GREENSPAN STATEMENTS PROPERLY

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

Mr. HEFLEY. Madam Speaker, today is the first installment of our Media Watch. Media Watch is an effort to cover the stories the networks will not cover, the stories which are distorted by liberals, and the stories which are buried in the back pages for political reasons.

As always, there is a lot to choose from, but I think most people would agree that the way the major networks covered Federal Reserve Chairman Alan Greenspan's comments on the Republican tax proposal deserves a second look.

Anybody watching ABC, NBC, CBS or CNN would come away thinking that the Federal Reserve Chairman opposed the Republican tax cuts and felt them unwise.

Well, Alan Greenspan's comments were not exactly as they were portrayed. In fact, the Chairman warned against more spending. Those comments were ignored. In fact, the Chairman said that if the choice were between more spending and tax cuts, he thought tax cuts made sense, and that more spending would be the worst of all outcomes.

Surprise, surprise. We get spin from the networks.

STRENGTHENING AND MODERNIZING MEDICARE

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

Mr. ALLEN. Madam Speaker, anyone who has been paying attention in this country in the last year would think, would know, that we have got some problems with Medicare. The program becomes insolvent in the year 2015.

So let us look at this Republican tax cut proposal. It devotes $792 billion for tax cuts and does absolutely nothing to strengthen and modernize Medicare. The GOP plan does not extend the solvency of Medicare by one day.

By contrast, the Democratic plan invests $325 billion of the on-budget surplus over the next 10 years in the Medicare Trust Fund and extends it out to 2027.

The GOP plan contains absolutely nothing for prescription drug benefits. The Democratic plan contains $45 billion over 10 years to help provide our seniors with help in buying their prescription drugs.

There is no question, this tax cut and helping Medicare, improving Medicare, providing the prescription drug benefit, they cannot both be done. Moreover, the surplus, frankly, is not there.

WESTERN SAHARA PRISONERS OF WAR NEED TO GO HOME

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

Mr. PITTS. Madam Speaker, the country of Morocco has been in the news a lot the last couple of weeks. This morning, I rise on behalf of 83 freed Moroccan POWs in the midst of the Sahara Desert. These men were originally imprisoned due to the conflict between Western Saraha and Morocco.

These prisoners were released in 1997 by Western Sahara as a goodwill gesture when former Secretary of State George Baker, who was the emissary of the UN Secretary General, visited the Sahrawi people in their refugee camps. Eighty-five prisoners were released and filled with anticipation of going home. Unfortunately, two of the men have died while waiting for permission from their government to visit Morocco.

Last year I visited these released POWs in their camp. You can see these men in the photo around me.

Madam Speaker, some of these men have languished, along with the Sahrawi refugees, in the desert for 20 years. Yet, even though they are free, Morocco has not allowed them to return home to Morocco to their families.

Why? No one knows.

Madam Speaker, I urge the new King of Morocco as a gesture of good will to accept the freed Moroccan citizens so they can return home to their families.

ENACT PATIENTS' BILL OF RIGHTS NOW

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

Mr. STUPAK. Madam Speaker, I rose just about a year ago to join my colleagues in offering a one minute on a proposed patients' bill of rights. We were discussing this topic in the House because the leadership of the majority, both in the House and the other body, had finally entered into the public discussion on adoption of a Patients' Bill of Rights.

I regret to say that my optimism was misplaced. I am sorry to say 1 year and 2 weeks later, we still have not passed the Patients' Bill of Rights.

Since that time, public clamor for a real, genuine Patients' Bill of Rights has only grown. The public recognizes that, like the first ten amendments to the Constitution, there are real people and real rights that need to be protected. Medical decisions which affect the very livelihood of people and their quality of life must be made by doctors, in consultation with patients, not insurance accountants. Patients must be able to hold HMOs liable, accountable, for decisions that affect their lives and the quality of life, not some travesty of an internal review process.

REPUBLICAN BUDGET PROPOSAL BEING MISREPRESENTED AND MISCHARACTERIZED

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

Mr. BALLENGER. Madam Speaker, if you take a look at this chart here, you will notice that the Republican budget proposal will reduce the debt held by the public by approximately $2 trillion. You will also notice that the Republican debt reduction proposal bears absolutely no relation whatsoever to the rhetoric we are hearing on the other side of the aisle.

Democrat after Democrat, over the past several weeks, has come down to the House floor and railed against the Republican tax cut proposal, claiming that it would do nothing for debt reduction, do nothing for Social Security, blah, blah, blah. But our proposal reduces the debt by $2 trillion. The Congressional Budget Office confirms this. Not only that, but the Congressional Budget Office scores our budget proposal as $200 billion better on debt reduction than the Democrat plan. In other words, our plan reduces the debt more than the Democrats do.

How are we to take their rhetoric seriously? How can we possibly have an honest debate, when our budget proposal is routinely mischaracterized and misrepresented beyond any recognition?

All I can say is thank God for C–SPAN.

INTENSIFY WAR ON DRUGS

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

Mr. TRAFICANT. Madam Speaker, the Drug Czar said only 38 percent of teenagers in America have tried drugs, and he is all excited.

Now, look, I like the Czar. I think he is doing a good job. But 38 percent is not exactly a number we should be celebrating, folks.

Let us tell it like it is: Drugs account for 80 percent of all crime, 70 percent of all murder, 50 percent of all healthcare costs, and heroin and cocaine is as easy to get as aspirin in every city in America, and it all comes across the border. Our borders are wide open and our eyes are wide shut.

Beam me up. We do not have a war on drugs going on; we have a propaganda game going on in America.

THE LAKE TAHOE ENVIRONMENTAL SUMMIT

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

Mr. GIBBONS. Madam Speaker, today I rise to pay tribute to Lake Tahoe. Mark Twain once said, as he described Lake Tahoe, it was ''the fairest picture the whole Earth afforded.''

With an estimated 30 percent of the trees and forests surrounding Lake Tahoe dead or dying, and the lake losing almost a foot of clarity a year, many environmental changes must be made to ensure that we pass on to our children the same wonderful gift of nature in the same pristine condition in which we found it.

A very important first step in this battle was taken when we hosted the Lake Tahoe Environmental Summit in July of 1997. As a result of these meetings $48 million in Federal funds were

committed to the Lake Tahoe Basin for clean-up and conservation efforts. But most importantly, the majority of these dollars were available to State and local agencies of Lake Tahoe, and not a Federal bureaucracy.

The agreement reached at Lake Tahoe is a shining example of concerns of environmentalists, conservationists, and even private property owners are not mutually exclusive. I commend all those involved, and look forward to the second annual Tahoe Summit to report on the positive and cooperative efforts that would truly benefit this gem in the sky.

SUPPORT THE PATIENTS' BILL OF RIGHTS

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

Mr. SANDLIN. Madam Speaker, insurance companies, there they go again, attempting to mislead and deceive the American public. Television ads that they are placing all across this country incorrectly state that a Patients' Bill of Rights will make insurance premiums skyrocket.

Nothing could be further from the truth. Madam Speaker, the State of Texas enacted these protections that the insurance companies claim will increase premiums. The Texas experience proves that the insurance companies are dead wrong. One of those protections that is most often cited is the right to sue an HMO if treatment is denied.

Texas enacted a similar provision in 1997. There have been 516 complaints filed, half in favor of the patient, half in favor of the plan. Only three lawsuits have been filed, three lawsuits. That is hardly an explosion in a population of 20 million people.

Texas has some of the lowest premium rates in the entire country, and a study from the Kaiser Family Foundation found that liability accounted for only 3 to 13 cents per person per month in premiums, 3 to 13 cents. Mr. Speaker, the Democrats are working to put the needs of patients first. Let us enact a real Patients' Bill of Rights, not a bill of goods.

THE TAX RELIEF BILL

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

Mr. SAM JOHNSON of Texas. Madam Speaker, Americans do not want, need, or deserve the highest taxes since World War II. For too long, our tax system has punished the very virtues Americans live by: hard work, marriage, savings, entrepreneurship, and freedom.

Look what happens when we play by the rules. If we get married, the government punishes us with taxes. If we save and invest for our family's future, we pay taxes on the earnings. If we work hard to earn more, we end up paying what is called an alternative minimum tax, and lose all our family tax credits.

Finally, if we build a successful business and try to leave it to our kids, they will probably have to sell it in order to pay taxes when we die.

We want to end the assault on American values of family, savings, hard work, entrepreneurship, and freedom. It is our money, and we deserve to get it back. Americans do not want or need the President to spend our money on big government.

CONGRESS MUST PASS A MEANINGFUL PATIENTS' BILL OF RIGHTS

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

Ms. DELAURO. Madam Speaker, for the past 2 years the American people have consistently asked for reasonable health care reforms that put those decisions back in the hands of doctors and patients and out of the hands of insurance company bureaucrats. People want to be able to choose their own doctor, to have access to the nearest emergency room, to see a specialist when necessary, to be free from HMO gag rules that prevent doctors from discussing treatment options for them, and to have the right to hold HMOs accountable for their decisions.

This Congress can and should pass these reforms now. The Members of this body who are doctors, whether Democrats or Republicans, almost all agree that these measures will benefit patients, make our health system stronger.

In the past year, thousands of Medicare recipients have been dropped by their HMOs. Millions of Americans have health care without basic coverage protections. We must pass a meaningful Patients' Bill of Rights. It must reflect our values for quality health care in this country. If we do, we can once again make the doctor's office a place for medical decisions.

TAXPAYERS KNOW WHICH PARTY IS CAREFUL WITH THEIR MONEY

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

Mr. BARTLETT of Maryland. Madam Speaker, for 40 years Democrats controlled Congress. For 40 years Democrats expanded government, spent beyond our needs, and called Republicans extremists or mean-spirited any time they tried to limit spending, cut wasteful government programs, and return power back to the State and local level. They have a 40-year track record of being the party for which fiscal discipline was the last thing on their minds.

So please, with all due respect, Democrat allegations that Republicans are being fiscally irresponsible for proposing tax relief in the face of increasing surpluses do not pass the credibility test. As C–Span junkies know, on virtually every amendment, on virtually every bill, Democrats attempt to increase spending and Republicans try to reduce spending.

How is it that increased spending is not a threat to fiscal discipline, but tax cuts are? Just how liberal am I to conclude the Democrat party has become if tax cuts are viewed as dangerous to the economy? One has to wonder just where they learned economics. Taxpayers know which party is careful with their money and which party is not.

WE NEED A TRUE PATIENTS' BILL OF RIGHTS

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

Mr. WEYGAND. Madam Speaker, how many times have we heard about a woman being denied to designate her OB–GYN doctor as her primary care physician? How many times have we heard about patients being denied emergency room care because an HMO bureaucrat has said no to the billing? How many times have we heard doctors say, we need more time to stay for this patient, but the HMO has said no?

Sometimes these decisions cause harm, sometimes even death. The Declaration of Independence states that we are endowed with certainly unalienable rights, including life, liberty, and the pursuit of happiness. Serving as the foundation for our Bill of Rights, it is now time to call for a true Patients' Bill of Rights, a Patients' Bill of Rights that will provide real access to emergency room care, will strengthen the doctor-patient relationship, and most importantly, most importantly, provide patients with the right to hold insurance companies for wrongdoing, to be able to sue them when they are wrong.

Let us provide a true Patients' Bill of Rights, and declare a Declaration of Independence from the gag rules of HMOs. Please support a true Patients' Bill of Rights.

THE REPUBLICAN AGENDA IS THE BEST AGENDA

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

Mr. SHIMKUS. Madam Speaker, what is the Republican agenda? The Republican agenda is the best agenda for all Americans. B is for bolstering our national security, E is for education excellence, S is for strengthening retirement security, and T is for tax relief for working Americans.

Republicans have the BEST agenda. It is a positive, forward-looking agenda

that recognizes that our military needs must be given a higher priority in a dangerous world, that our schools need to be improved if our kids are going to enjoy a bright future, that our seniors need to be protected against a looming social security and Medicare crisis, and that Americans who pay the taxes should be given tax relief, not more rhetoric about why Washington needs more money.

Bolstering national security, education excellence, strengthening retirement security, tax relief for working Americans, Republicans have the BEST agenda.

THE PATIENTS' BILL OF RIGHTS

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

Ms. SLAUGHTER. Madam Speaker, I am continually amazed by the misinformation spread about the Patients' Bill of Rights. I know the businesses in my district believe this Patients' Bill of Rights would allow enrollees to sue their employers for denied benefits, but nothing could be further from the truth. In fact, the Patients' Bill of Rights contains explicit provisions stating that employers cannot be sued for decisions made by health insurers.

I hope that the American people this time will see through the smokescreen being thrown up by too many groups who have too much interest in killing this legislation. The more time goes by, we risk losing this opportunity altogether. The powerful forces lined up against this legislation will accept another delay to give them the chance to marshall their forces.

We have plenty of time to pass an irresponsible tax cut, time to prevent the Department of Labor from protecting people against workplace injuries, time to name buildings and courthouses, but evidently we do not have the time to protect the very lives and limbs of our constituents.

After this Friday, this Chamber is out of session for 36 days. How many of those days will we fritter away on sound bites and legislation designed for special groups?

POLITICS AS USUAL WHEN IT COMES TO SPENDING THE MONEY OF THE PEOPLE OF AMERICA

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

Mr. KINGSTON. Madam Speaker, it is politics as usual when it comes to spending our money, the money of the people of America.

The Republican approach is threefold. Number one, the Republican party wants to preserve 100 percent of the social security surplus as compared to 62 percent that the President wants to protect.

Now, we do this, we put aside $1.9 trillion for social security and Medicare, and the second thing we do is we pay down the debt, $2 trillion, as seen on this chart. The third thing we do, and only after social security, Medicare, and debt reduction, we return to American people their money for overpayment on taxes.

The President's attitude is somewhat epitomized in this statement: ''We could give the surplus all back to you and hope you spend it right.'' Gee, whiz, people of America, Bill Clinton can spend your money better than you can spend it. Does that not make us feel good?

All I can say is, the people in America must not know how to spend money at all, judging by the responsibility exhibited over at the White House the past 2 years.

Let me say this, this is Americans' money. It ought to go back to them.

UNDER THE REPUBLICAN TAX CUT, WORKING AMERICANS GET THE SHAFT

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

Mr. SHERMAN. Madam Speaker, I ran down to this floor when I heard my colleague, the gentleman from California, refer to the Republican tax cut as fair and balanced. I thought, how could such a huge tax cut, aimed almost exclusively at the super wealthy and the giant corporations, be called balanced? And then I understood what he must have meant.

See, under this tax cut, the top 1 percent wealthiest Americans get ten times the tax relief as 100 million Americans, constituting the lower 40 percent of income earners. At the same time, this tax cut provides more tax relief to job-exporting corporations than it provides to over 50 million Americans.

Madam Speaker, that is the balance. Compared to the super wealthy, working Americans get the shaft. Compared to giant corporations, working families get the shaft. That is the only sense in which the Republican tax cut is balanced.

CONGRESS MUST PASS THE PATIENTS' BILL OF RIGHTS

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

Mr. HOEFFEL. Madam Speaker, we must pass the Patients' Bill of Rights. Our system of HMOs has run amok.

As evidence, I offer a survey of doctors conducted by one of the newspapers in my district, the Reporter, in Lansdale, Pennsylvania. Most of the doctors responding were not against the original idea of HMOs, they have just said the rules have gone haywire.

Eighty-seven percent of the doctors responding have had conflicts with HMOs. Fifty-eight percent of those say the conflicts have been serious, and happen frequently. Seventy percent of the doctors say they do not have sufficient control over treatment.

As damning as the numbers are, the doctor's comments say even more. Dr. Ruth Schiller, a Harleysville, Pennsylvania, pediatrician, says that ''HMOs are worse in the sense that I cannot make all of the decisions for appropriate care.''

Another doctor said, ''The American people need to wake up. Their lives are in danger with HMO control. Doctors have to put away their medical books and do what the HMO manual says for their patients.''

A third doctor was afraid to sign his survey for fear of HMO retaliation. Something has gone wrong. ''HMO'' stands for How Much Outrage must the American people put up with? Pass the Patients' Bill of Rights.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000

The SPEAKER pro tempore (Mrs. WILSON). Pursuant to House Resolution 263 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2606.

□ 1030

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes, with Mr. THORNBERRY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, August 2, 1999, the demand for a recorded vote on the amendment offered by the gentleman from Texas (MR. PAUL) had been postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 263, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from Colorado (Mr. TANCREDO), amendment No. 9 offered by the gentleman from Texas (Mr. PAUL), and a further amendment offered by the gentleman from Texas (Mr. PAUL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the

gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 116, after line 5, insert the following:

SEC. . None of the funds appropriated or otherwise made available by this Act may be provided for the United Nations Man and the Biosphere (MAB) Program or the United Nations World Heritage Fund.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask unanimous consent to withdraw my request for a recorded vote.

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

There was no objection.

So the amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. PAUL

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 9 offered by the gentleman from Texas (Mr. Paul) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. PAUL:

At the end of the bill, insert after the last section (preceding the short title) the following:

LIMITATION ON FUNDS FOR ABORTION, FAMILY PLANNING, OR POPULATION CONTROL EFFORTS

SEC. . None of the funds appropriated or otherwise made available by this Act may be made available for—

(1) population control or population planning programs;

(2) family planning activities; or

(3) abortion procedures.

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 145, noes 272, not voting 16, as follows:

[Roll No. 360]

AYES—145

Aderholt
Archer
Armey
Bachus
Baker
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Bryant
Burr
Burton
Buyer
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Costello
Crane
Cubin
Danner
Deal
DeLay
DeMint
Dickey
Doolittle
Duncan
Emerson
English
Everett
Fletcher
Forbes
Fossella
Goode
Goodlatte
Goodling
Graham
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Hostettler
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson, Sam
Jones (NC)
Kasich
King (NY)
Kingston
LaHood
Largent
Latham
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McInnis
McIntosh
Metcalf
Mica
Miller, Gary
Moran (KS)
Myrick
Ney
Norwood
Nussle
Packard
Paul
Pease
Peterson (MN)
Petri
Phelps
Pitts
Pombo
Portman
Quinn
Radanovich
Rahall
Reynolds
Riley
Rogan
Rogers
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Souder
Spence
Stearns
Stump
Talent
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thune
Tiahrt
Vitter
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker

NOES—272

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Callahan
Campbell
Capps
Capuano
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crowley
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Foley
Ford
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Larson
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, George
Minge
Mink
Moakley
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Northup
Oberstar
Obey
Olver
Ortiz
Ose
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shaw
Shays
Sherman
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Thomas
Thompson (CA)
Thornberry
Thurman
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Walden
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Wilson
Wise
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—16

Bilbray
Cunningham
Frank (MA)
Hinchey
Johnson (CT)
Lantos
McDermott
Mollohan
Owens
Peterson (PA)
Pickering
Pryce (OH)
Smith (NJ)
Thompson (MS)
Wolf
Young (AK)

□ 1056

Messrs. PASCRELL, SMITH of Washington, CUMMINGS, PORTER, ACKERMAN, BARCIA, LAFALCE, STUPAK, SKELTON, KUCINICH, and Ms. SLAUGHTER changed their vote from ''aye'' to ''no.''

Messrs. COMBEST, REYNOLDS, MCCOLLUM, CHAMBLISS, DOOLITTLE, ARCHER, EVERETT, CALVERT, GOODLING, LIPINSKI, HYDE, TERRY, ROGAN, BARRETT of Nebraska, METCALF, SAM JOHNSON of Texas, SHERWOOD, COSTELLO, PHELPS, Mrs. BONO, and Mrs. CUBIN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mrs. NORTHUP. Mr. Chairman, on rollcall No. 360, I inadvertantly voted incorrectly. I intended to vote ''aye.''

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 263, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. PAUL

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. PAUL) on which further proceedings were postponed and on which the noes prevailed by voice voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PAUL:

Page 116, after line 5, insert the following:

LIMITATION ON FUNDS FOR EXPORT-IMPORT BANK OF THE UNITED STATES, OVERSEAS PRIVATE INVESTMENT CORPORATION, AND THE TRADE AND DEVELOPMENT AGENCY

SEC. . None of the funds made available pursuant to this At for the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency, may be used to enter into any new obligation, guarantee, or agreement on or after the date of the enactment of this Act.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 58, noes 360, not voting 15, as follows:

[Roll No. 361]

AYES—58

Armey
Barr
Bartlett
Bono
Burton
Campbell
Cannon
Chabot
Chenoweth
Coble
Coburn
Collins
Condit
Cox
DeFazio
DeMint
Doolittle
Duncan
Goode
Hayes
Hayworth
Hefley
Hilleary
Hoekstra
Hostettler
Hunter
Istook
Jones (NC)
Kasich
Kingston
Linder
McInnis
McIntosh
McIntyre
McKinney
Miller (FL)
Myrick
Paul
Pease
Pombo
Radanovich
Rogan
Rohrabacher
Royce
Ryun (KS)
Sanders
Sanford
Scarborough
Schaffer
Sessions
Shadegg
Smith (MI)
Stupak
Tancredo
Terry
Thune
Visclosky
Wamp

NOES—360

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Canady
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Herger
Hill (IN)
Hill (MT)
Hilliard
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E.B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller, Gary
Miller, George
Minge
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Sensenbrenner
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thornberry
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Vitter
Walden
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—15

Bilbray
Frank (MA)
Hinchey
Johnson (CT)
Klink
Lantos
McDermott
Mollohan
Owens
Peterson (PA)
Pickering
Pryce (OH)
Serrano
Thompson (MS)
Young (AK)

□ 1103

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take a moment to briefly address the final passage of the Foreign Operations bill. The President has issued a veto threat on the bill both for its low funding level and the inclusion of the objectionable Mexico City language.

Members when they cast their vote today should do so with the thought that at some future date, they may be asked to sustain a presidential veto. At the present time, I plan to vote ''aye'' to move the bill along, but again advising Members that at a future date if the funding level is not increased and the objectionable language is not removed and the President vetoes the bill that we may be called upon it.

The allocation of discretionary resources available in this bill is insufficient to make the investments that our citizens need and expect in implementing our foreign policy. With that thought in mind, I say to Members, it is a free vote, I will be voting ''yes,'' but we may be calling upon you at a future date to sustain a presidential veto.

Mr. Chairman, I want to commend the distinguished chairman of the committee. He had too little money to work with, but he allocated it well. I also commend staff: Mark Murray and Carolyn Bartholamew on the Democratic side; and Charlie Flickner, John Shank, Chris Walker, Lori Maes and Nancy Tippins on the Republican side.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from New York, chairman of the authorizing committee.

Mr. GILMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I rise to commend both the gentlewoman and the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs for an outstanding bill and for their hard work and to their staffs for bringing this to the floor in a very expeditious manner. They worked long and late last night to wind up this measure. I urge our colleagues to fully support this measure.

Ms. PELOSI. Reclaiming my time, Mr. Chairman, many people who follow this bill have heard me say this over and over again, but I want to make the point another time. Every person in America is familiar with President Kennedy's inaugural address when he said, ''My fellow Americans, ask not what your country can do for you but what you can do for your country.'' The very next line in that speech, Mr. Chairman, says, ''To the citizens of the world, ask not what America can do for you but what we can do working together for the freedom of mankind.'' That is a responsibility that we have in this bill. That is why we are disappointed the funding level is so low, but we want to move it forward in the hope that the funding level will be raised so that we can work together with the people of the world for the freedom of mankind.

The CHAIRMAN. There being no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. THORNBERRY, 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. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes, pursuant to House Resolution 263, he reported the bill back to the House with sundry amendments 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? If not, the Chair will put them en gros.

The amendments were 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.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 35, not voting 14, as follows:

[Roll No. 362]

YEAS—385

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E.B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaHood
Lampson
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Phelps
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Quinn
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogan
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Strickland
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—35

Barr
Chabot
Chenoweth
Coburn
Combest
Condit
Doolittle
Duncan
Goode
Goodling
Hall (TX)
Hansen
Hefley
Herger
Jones (NC)
LaFalce
Largent
Lucas (OK)
McInnis
Paul
Petri
Pombo
Rahall
Roemer
Rogers
Rohrabacher
Sanford
Sensenbrenner
Stark
Stearns
Stenholm
Stump
Tanner
Taylor (MS)
Traficant

NOT VOTING—14

Bilbray
Buyer
Frank (MA)
Gilchrest
Johnson (CT)
Lantos
McDermott
Mollohan
Owens
Peterson (PA)
Pickering
Pryce (OH)
Radanovich
Thompson (MS)

□ 1128

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

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

H.R. 2587. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2587) ''An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. HUTCHISON, Mr. KYL, Mr. STEVENS, Mr. DURBIN, and Mr. INOUYE, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 335. An act to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 880) ''An Act to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program.''

□ 1130

TWENTY-FIRST AMENDMENT ENFORCEMENT ACT

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 272 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 272

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. 2031) to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor. 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 for a period not to exceed two hours. 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. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment,

the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 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 committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Florida (Mr. GOSS) is recognized for one hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from the Commonwealth of Massachusetts (Mr. MOAKLEY), my friend and colleague, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, this is a fair rule. It provides for adequate and appropriate consideration of H.R. 2031, the Twenty-First Amendment Enforcement Act. It is a modified open rule that will accommodate Member interests in the amendment process while keeping us on track to meet our Friday deadline for August recess, a deadline that many Members, including the minority leader, have urged the Speaker, in writing, to keep.

While the lack of time may argue for a more closed structure, the Committee on Rules has erred on the side of openness and provided an open rule with a 2-hour limit on amendments. Of course, the rule also provides for a motion to recommit, with or without instructions.

Introduced by my colleague, the gentleman from Florida (Mr. SCARBOROUGH), H.R. 2031 was reported favorably by the Committee on the Judiciary on July 20 by voice vote. I understand that while hearings were not held in this Congress, the Subcommittee on Courts and Intellectual Property did convene hearings in the 105th Congress on nearly an identical bill.

I would like to commend the gentleman from Florida (Mr. SCARBOROUGH) for his continued efforts on behalf of American children, particularly when it comes to the tricky business of alcohol access. It is clearly a difficult question to resolve. However, it is encouraging to see the major players, the beer and wine distributors, as well as the vintners, the growers, fully engaged in the deliberative process.

Mr. Speaker, while the underlying legislation may engender some debate, this rule should receive unanimous support. It is certainly an open and fair rule.

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

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

Mr. Speaker, I thank my dear friend, the gentleman from Florida (Mr. GOSS), for yielding me the customary half-hour.

Mr. Speaker, as most people know, the Twenty-First Amendment to the Constitution ended prohibition. It also bestowed upon the States the authority to write their own liquor laws. The problem, Mr. Speaker, is there is no interstate enforcement mechanism. The way the law is written, States have virtually no way to enforce the liquor laws when they are violated by distributors in other States, especially now that there are so many ways to buy alcohol.

People can call a 1–800 number, they can order over the Internet, they can do all sorts of things to buy alcohol, and with the limited judicial options available to them now, State attorneys general are having a very hard time making sure that people abide by the law.

This bill will give the State attorneys general another option. If they believe someone is in violation of their State's liquor laws, this bill will enable them to file suit in Federal Court to get them to stop. It says you cannot ship alcohol into a State in violation of that State's liquor laws. It is that simple.

It is not a new Federal law, it is not a new State law, it is not a threat to anyone who sells alcohol legally. It is just a way for State attorneys general to get people who sell alcohol illegally to stop.

Mr. Speaker, in my home State of Massachusetts, Massachusetts is considered a limited personal importation State. We allow Massachusetts residents to buy alcohol from outside of Massachusetts but only for their own consumption and only in limited quantities.

The Commonwealth of Massachusetts determined how alcohol could cross its borders. If a liquor distributor outside of Massachusetts breaks that law, our attorney general should be able to get them to stop.

This bill will help stop the illegal interstate shipments of alcohol by giving State attorneys general the power to enforce State laws. In particular, Mr. Speaker, it takes us a step closer to stopping the sale of alcohol to minors over the Internet. But I still believe we can do more to stop underage drinking, especially underage drinking and driving.

This is a good bill, and I urge my colleagues to support it.

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

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

Mr. Speaker, we have no requests for time, and I do not anticipate any. Again, the purpose of this hour of debate is to discuss the rule, which is an open and fair rule. I would prefer that we not engage in the debate on the substance of the bill until we get to the time carefully set aside. I have not encouraged any speakers to come forward.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GOSS). Pursuant to House Resolution 272 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. 2031.

□ 1139

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. 2031) to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor, with Mr. HANSEN 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 Florida (Mr. SCARBOROUGH) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. SCARBOROUGH).

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

Mr. Chairman, I would like to begin my testimony by reading Section 2 of the Twenty-First Amendment to the Constitution: ''The transportation or importation into any State, Territory or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.''

Mr. Chairman, the Twenty-First Amendment's import is clear. States have been given the right to stop interstate bootlegging. This right was reaffirmed by Congress in the Webb-Kenyon Act 65 years ago, by 6 decades of Supreme Court case law, and by subsequent Congressional acts. Yet, today, some modern-day bootleggers still seek refuge from the Twenty-First Amendment.

They seek to avoid State laws and constitutional amendments so they can sell their liquor more profitably than small businesses who dare to play by the rules. Bootleggers sell liquors to minors over the Internet, again avoiding State laws given preeminence by the Twenty-First Amendment.

Shamed by the countless media stories detailing how young children are buying liquor from these modern-day bootleggers over the Internet, they have shrugged off such media stories, calling them nothing more than stings by their economic enemies. But the only sting here comes from the harsh reality that too many young children can buy alcohol over the Internet.

Selling liquor to minors, or anyone, illegally, is simply wrong. It is bootlegging, and bootlegging is not protected by the commerce clause. Bootlegging is not cleansed by full page ads or media campaigns or by hiring public relations firms. You can dress it stylistically, but, in the end, just like Fitzgerald's Jay Gatsby, a bootlegger is a bootlegger.

Mr. Speaker, our bill allows States simply to protect themselves from illegal alcohol sales. It also allows States to protect children, like my 11- and 8-year-old boys, from interstate bootleggers over the Internet, and it allows States to enforce the laws that they passed because of direction given them by the Twenty-First Amendment.

With that in mind, this bill allows State attorneys general to seek injunctive relief in Federal court to stop illegal direct shipments of alcohol into their respective States. Nothing more, nothing less. This bill only affects those people who break liquor laws.

Now, you will have people coming up here today, saying some of these laws are not fair and saying some of these laws do not allow wineries to sell to this State or that State.

The bottom line is if you do not break the law, then this bill will not apply to you. If you play by the rules, you have nothing to worry about. Yet we are going to have red herrings piled high on this floor today, like we had in the Committee on the Judiciary. Opponents will distract. They will talk about fairness. They will talk about the commerce clause. They will talk about the Internet, trying to claim that this bill will destroy E-commerce in the 21st Century.

And get, the only E-commerce this will destroy in the 21st Century is illegal E-commerce. You can make the same arguments if you want to import pot from Amsterdam and say nobody can stop me from importing pot from Amsterdam, because doing so will compromise the future of E-commerce.

□ 1145

That is laughable. If someone imports wine or alcohol legally, our bill is inapplicable. If they do it illegally, then all this does is allow States Attorneys General to bring the person to court, to get injunctive relief to stop illegal shipments.

Some people do not like that. They say it will destroy some wineries in California. We are going to have a lot of people from California talking today on the floor, talking about how small wineries are going to be destroyed.

Let me tell the Members something, small wineries will only be destroyed if small wineries' existence depends on the illegal sale of alcohol to minors and adults.

What needs to be understood is that this narrowly focused bill assures States that they have a course of action against bootleggers. They need to enforce their own alcohol laws to control out-of-State companies, many of whom have shown no interest in preventing the sales of alcohol to minors.

It would make clear that States have the right once again, under Webb-Kenyon that was passed 60 years ago, under the 21st amendment that was passed 56 years ago, under existing Supreme Court case law that has been ruled on over the past six decades, it will simply allow them to enforce these laws in the Constitution, and to use Federal courts to enforce their laws against individuals, against modern-day bootleggers who are illegally shipping alcohol products into States from other jurisdictions.

These direct shipments bypass a key part of the States' control method, the face-to-face transaction, in order to sell their products at the highest possible profit margin.

This new black market in alcohol is dangerous. It is dangerous because, if left unchecked, it will ultimately frustrate the ability of States to regulate and control the shipment of alcoholic products, a responsibility mandated under the 21st amendment to the Constitution. It will also cut off their regulation, it will cut off any fees they collect, it will cut off tax revenue that States depend on to regulate alcohol inside their own border. That is the way we have set this up. That is the way we have set it up.

Mr. Speaker, it is very important today to ask those coming to the floor and opposing this bill, to ask the simple question: How does the bill affect people that play by the rules, that abide by the law, and that understand the Constitution and the constitutional amendments?

I think if we ask those direct questions, we will understand that this is something that needs to be passed to stop illegal interstate bootlegging, and to protect not only minors but to protect everybody from the scourge of illegal alcohol shipping across State lines.

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

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

Mr. Chairman, I rise in support of the bill. As my friend, the gentleman from Florida (Mr. SCARBOROUGH) indicated, this bill is very simple, Mr. Chairman. It does nothing more than to confer upon a State the right to go to Federal court to stop someone from outside the State from violating its liquor laws. It is nothing more, it is nothing less. It in no way changes substantive law at the State or Federal level.

The bill is necessary not only to prevent illegal shipments to minors, but to enable States to police licensing standards, track sales, and collect taxes on those sales.

Last year, illegal alcohol shipments cost States some $600 million in lost revenues. State taxes on alcohol are an important source of support for State programs, and protecting that funding stream is a legitimate State objective.

Some who are opposed to this legislation argue that it would impede the development of electronic commerce by taxing the Internet, or chilling direct sales of wine and spirits over the Internet. Well, whatever the merits of chilled wine are, Mr. Chairman, there is no merit whatsoever to these arguments.

As my friend, the gentleman from Florida, pointed out, lawful sales of alcohol over the Internet are thriving. Such online enterprises as wineshopper.com, sendwine.com, and virtualvineyard.com, generated hundreds of millions of dollars in lawful online sales last year alone.

Just last month, Geerlings & Wade of Massachusetts, which has endorsed this bill and is the Nation's largest direct marketer of wines, announced another new website called winebins.com, which will sell thousands of labels in the 27 States in which the company is operating, is licensed to operate. No doubt it will continue to add new labels.

Let us be clear, the bill would impose no new taxes on any of these electronic transactions, nor would it make them illegal. The State laws we seek to defend were put into place to regulate alcohol sales after the failure of Prohibition. In effect, they were the instrument by which an illegal enterprise, bootlegging, was turned into a lawful and regulated activity.

Some will argue that now these laws are an anachronism. Well, maybe they are correct. Maybe there is a better way for States to protect minors, track sales, ensure quality control, and to raise taxes. But that is an argument better addressed by State legislatures, which have the power to rewrite those laws. Until they do so, they have a right to expect that the laws on the books will be enforced.

That is really what the legislation is all about. If we permit States to pass laws but deny them a remedy when those laws are broken, we encourage disrespect for the law. It is really that simple. That is why attorneys general from across the country support this legislation.

I include for the RECORD, Mr. Chairman, letters of support from the chief law enforcement officers of Alabama, Alaska, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Michigan, Montana, Nebraska, Nevada, New

Hampshire, North Carolina, North Dakota, Oregon, Utah, Virginia, West Virginia, Wyoming, and my own Commonwealth of Massachusetts.

The letters referred to are as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE ATTORNEY GENERAL,
Richmond, VA, July 29, 1999.

Hon. LEE TERRY,
House of Representatives,
Washington, DC.

DEAR MR. TERRY: As the chief law enforcement officers of our respective states, we are pleased that on July 20 the Judiciary Committee voted overwhelmingly in favor H.R. 2031, the 21st Amendment Enforcement Act, and understand that the House is expected to vote on this important legislation soon.

We are very concerned by media reports that opponents of this common sense, law and order legislation are raising superfluous issues and misrepresenting the facts in an effort to defeat it, and would like to underscore the following points:

This is not anti-Internet legislation. There is no language or intent in the bill that could even be remotely construed to impede lawful Internet commerce in wine or any other consumer product. This bill does not even mention online sales. H.R. 2031 merely seeks to stop illegal alcohol distribution, regardless of how the order was placed—by computer, toll-free number, or by mail.

We strongly support online commerce for all legal products and want to encourage its growth to improve consumer choice and convenience. This goal is actually harmed, however, by those who distribute their products illegally. H.R. 2031 would not impose a burden on any manufacturer, wholesaler or retailer of alcohol beverages that is operating lawfully. In fact, it would still be possible to purchase alcohol over the Internet and have it shipped to a licensed distributor, where it could then be obtained.

This is a states' rights issue. The 21st Amendment recognizes the right of each state to structure its laws accordingly, and as law enforcement officials we have an obligation to stand in strong opposition to businesses that ignore them. We are not asking for any new federal laws regarding the transportation or distribution of alcohol; we are merely asking for the power to enforce our own state laws already on the books.

None of us has a vested interest in the alcohol beverage industry beyond making sure that our alcohol-related laws are obeyed and that we have adequate enforcement authority. H.R. 2031 will give us access to federal courts, thereby simplifying the legal process for prosecuting those who are distributing in our states illegally.

Sincerely,

MARK L. EARLEY,
Attorney General of Virginia.
BILL PRYOR,
Attorney General of Alabama
BRUCE M. BOTELHO,
Attorney General of Alaska.
MARK PRYOR,
Attorney General of Arkansas.
KEN SALAZAR,
Attorney General of Colorado.
THURBERT E. BAKER,
Attorney General of Georgia.
JIM RYAN,
Attorney General of Illinois.
JEFFREY A. MODISETT,
Attorney General of Indiana,
TOM MILLER,
Attorney General of Iowa.
CARLA J. STOVALL,
Attorney General of Kansas.
JENNIFER GRANHOLM,
Attorney General of Michigan.
JOSEPH P. MAZUREK,
Attorney General of Montana.
DON STENBERG,
Attorney General of Nebraska.
FRANKIE SUE DEL PAPA,
Attorney General of Nevada.
PHILIP T. MCLAUGHLIN,
Attorney General of New Hampshire.
MICHAEL F. EASLEY,
Attorney General of North Carolina.
HEIDI HEIKAMP,
Attorney General of North Dakota.
HARDY MYERS,
Attorney General of Oregon.
JAN GRAHAM,
Attorney General of Utah.
DARRELL V. MCGRAW, JR.,
Attorney General of West Virginia.
GAY WOODHOUSE,
Attorney General of Wyoming.

STATE OF MICHIGAN,
DEPARTMENT OF ATTORNEY GENERAL,
Detroit, MI, July 2, 1999.

Hon. JOHN CONYERS,
House of Representatives, Longworth House O.B., Washington, DC.

DEAR CONGRESSMAN CONYERS: I am writing to ask that you support and co-sponsor H.R. 2031, a bill introduced by Congressman Scarborough, which will give my office the ability to better enforce our laws against underage access to alcohol, excise and sales tax collection and other restrictions on alcoholic beverage distribution and sale.

H.R. 2031 will allow states to file for federal court injunctions against out-of-state wineries and retailers who illegally bypass our state system and ship alcohol directly to consumers. These clandestine shipments make it easier for young people to obtain alcohol and make a mockery of our other alcoholic beverage laws. Recent court decisions in Utah and Florida make it clear that all states need this federal court access to ensure their ability to enforce their alcoholic beverage laws.

H.R. 2031 is common sense legislation that makes no change in current state law and makes no restrictions on Internet or catalogue sales. H.R. 2031 simply gives my office the tools we need to take against out-so-state interests that bypass our existing regulations and controls with immunity. As you may know, H.R. 2031 may be brought to the House floor in the next few days. I would appreciate your support of this bill.

Very truly yours,

JENNIFER M. GRANHOLM,
Attorney General.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE ATTORNEY GENERAL,
Richmond, VA, June 14, 1999.

Hon. DENNIS HASTERT,
Office of the Speaker,
The Capitol, Washington, DC.

DEAR SPEAKER HASTERT: The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act passed in the U.S. Senate recently, and the U.S. House of Representatives plans to vote on similar legislation next week. The legislation contains an amendment to help stop the illegal shipment of alcohol to minors and other violations of state alcohol laws.

The amendment was first introduced last March as S. 577 by Senator Orrin Hatch (R–UT) in response to dozens of television station investigative reports showing how teenagers can have alcohol sent directly to them by ordering it through the mail, over the Internet, through toll-free phone services, and by other means. The amendment was offered to the juvenile justice bill by Senator Robert C. Byrd (D–WV) and passed by an overwhelming 80–17 bipartisan vote.

The amendment gives state attorneys general access to federal courts to seek injunctive relief against those who are violating our state laws and shipping alcohol directly to minors. States have difficulty detecting these illegal shipments, which also evade our state tax systems. Because of jurisdictional issues, prosecuting violators is a very uncertain process in state courts. Access to federal courts is needed to handle these cases expeditiously and in a manner consistent with the alcohol laws and regulations in Virginia and other states.

This amendment would not restrict legitimate commerce in alcohol or any other product, or impose a burden on any manufacturer, wholesaler or retailer of alcohol beverages that is operating lawfully. As things now stand, those companies that are doing business in a manner that respects the law are at a competitive disadvantage to those who are engaged in illegal tactics.

This amendment is not an attempt to change or revise any alcohol law; rather, it would simply give attorneys general the ability to enforce their state laws, whatever those laws may be. If an individual or entity can flout our states' alcohol laws without consequence, it erodes the very integrity of our states' legislative authority.

In the fall of 1997, five Virginia college students died due to binge drinking related accidents. In response, my Office launched a statewide task force to address the subject of college binge drinking. After speaking with students and parents who have been affected by alcohol abuse, I have made a personal commitment to fighting binge drinking among our young people, and I am convinced that curbing the direct shipment of alcohol to minors is an important part of that effort.

Beyond college alcohol abuse, there are many other health and safety issues related to underage drinking. These concerns are shared by parents across the nation, in every state of the union. Attorneys general must have the enforcement tools needed to help combat this problem

I urge you to support this important amendment, H.R. 2031, introduced by Congressmen Scarborough (R–FL), Delahunt (D–MA), and Sensenbrenner (R–WI). It will give attorneys general the option to use the federal court system for injunctive relief to stop the direct shipment of alcohol to minors and other violations of state law regarding the importation and transportation of alcohol.

In addition to contacting my own state's Congressional delegation in support of this amendment, I have written other attorneys general encouraging them to do the same.

If anyone in your office has questions about this legislation, they can call Jonathan Amacker in my officer at 804–786–4596. Thank you for your consideration of this matter.

Sincerely,

MARK L. EARLEY,
Attorney General.

COMMONWEALTH OF MASSACHUSETTS,
OFFICE OF THE ATTORNEY GENERAL,
Boston, MA, July 15, 1999.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR ED KENNEDY: I am writing to enlist your support for H.R. 2031, a bill introduced by Congressmen Scarborough, Delahunt, Sensenbrenner and Cannon, to provide State Attorneys General with the ability to seek federal injunctive relief against out-of-state alcohol beverage distributors which ship alcohol directly to minors in contravention of state laws and regulations.

Specifically, H.R. 2031 allows states to file for federal injunction relief where the Attorney General has reasonable cause to believe that an out-of-state entity is engaging in, or about to engage in, an act that would constitute a violation of a state law regulating the importation or transportation of alcohol. Shipments by alcohol distributors to minors provide our youth with the opportunity to obtain alcohol in direct contravention of state laws. By giving State Attorneys General access to federal courts to seek injunctive relief against those who are violating our state laws, we can hopefully prevent such direct shipment of alcohol to minors.

This bill is important and will provide my office with the tools we need to take action against out-of-state businesses that bypass our existing laws and regulations, and in so doing, jeopardize the health and welfare of our children. On behalf of the citizens of the Commonwealth of Massachusetts, particularly our young people, I ask for your vote of support for this important legislation.

Sincerely,

TOM REILLY,
Attorney General.

STATE OF UTAH,
OFFICE OF THE ATTORNEY GENERAL,
Salt Lake City, UT, June 14, 1999.

Congressmember JAMES V. HANSEN,
House of Representatives, Rayburn Building, Washington, DC.

DEAR JIM HANSEN: I am writing to encourage you to support a bill that will be voted upon this week. H.R. 2031, introduced by Congressmen Scarborough, Delahunt, and Sensenbrenner, contains an amendment to help stop the illegal shipment of alcohol to minors and other violations of state alcohol law.

The amendment was first introduced last March by Senator Hatch, days after Utah secured a significant ruling in the Court of Appeals which asserted state jurisdiction of all liquor sales that cause unlawful results in Utah and enables the State to criminally prosecute businesses that violate Utah's liquor laws.

Utah must have the authority to enforce its state laws governing the sale and distribution of alcohol, and this amendment does just that. By giving state attorneys general access to federal courts to seek injunctive relief against those who are violating our state laws, we can prevent the direct shipment of alcohol to minors.

I hope you support this important piece of legislation; it will enhance Utah's ability to enforce its laws and will contribute greatly to the safety and welfare of Utah's children.

Sincerely,

JAN GRAHAM,
Attorney General.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF ATTORNEY GENERAL,
Harrisburg, PA, June 29, 1999.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: I am writing to urge your support for H.R. 2031, the proposed ''Twenty-First Amendment Enforcement Act.'' This legislation, introduced by Congressmen Scarborough (R–FL), Delahunt (D–MA) and Sonsenbrenner (R–WI), will help prevent illegal shipments of alcohol to minors, and the evasion of state tax laws.

The ''Twenty-First Amendment Enforcement Act'' would give state attorneys general access to federal courts to seek injunctive relief against individuals and businesses who violate state liquor laws by shipping alcohol directly to consumers. These transactions, usually completed over the Internet, allow purchases to be made without adequate proof of age, giving minors easy access to alcohol.

It is important to note that this measure will have no impact on legitimate sales of alcoholic beverages by manufacturers, wholesalers, or retailers who operate within the parameters set by law. House Resolution 2031 merely gives the states a better opportunity to enforce their current liquor and tax laws.

The problem of underage drinking has been exacerbated by the explosion of Internet liquor sales. Passage of H.R. 2031 would provide a valuable tool with which state attorneys general can work to prevent the direct shipment of alcohol to minors. Again, I urge you to support this important legislation.

Very truly yours,

MIKE FISHER,
Attorney General.

STATE OF NEBRASKA,
OFFICE OF THE ATTORNEY GENERAL,
Lincoln, NE, June 17, 1999.

Congressman BIL BARRETT,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN BARRETT: H.R 2031 would give states access to federal courts to enforce their laws against illegal, direct shipping of alcoholic beverages. I urge you to support this bill.

Illegal, direct shipping of alcoholic beverages into the State of Nebraska undermines Nebraska's Liquor Control Act, creates unfair competition for Nebraska liquor wholesalers and retailers who are complying with the Liquor Control Act and who are paying applicable taxes, and creates a risk of alcohol shipment of under-age persons.

A copy of H.R. 2031 is enclosed for your quick reference. As you can see it is a simple, common sense approach to a rapidly growing problem.

Yours truly,

DON STENBERG,
Attorney General.

STATE OF KANSAS,
OFFICE OF THE ATTORNEY GENERAL,
Topeka, KS, June 15, 1999.

Hon. JERRY MORAN,
House of Representatives, Longworth House O.B., Washington, DC.

DEAR CONGRESSMAN MORAN: I am writing to ask that your support and co-sponsor H.R. 2031, a bill introduced by Congressman Scarborough that will give my office the ability to better enforce our laws against underage access to alcohol, excise and sales tax collection and other restrictions on alcoholic beverage distribution and sale.

H.R. 2031 will allow states to file for federal court injunctions against out-of-state wineries and retailers who illegally bypass our state system and ship alcohol directly to consumers. These clandestine shipments make it easier for young people to obtain alcohol and make a mockery of our other alcoholic beverage laws. recent court decisions in Utah and Florida make it clear that all states need this federal court access to ensure their ability to enforce their alcoholic beverage laws.

H.R. 2031 is common sense legislation that makes no change in current state law and makes no restrictions on Internet or catalogue sales. H.R. 2031 simply gives my office the tools we need to take action against out-of-state interests that bypass our existing regulations and controls with impunity. As you may know, H.R. 2031 may be brought to the House floor in the next few days. I would appreciate your prompt co-sponsorship of this important legislation and your vote of support if it should be offered as an amendment to the Juvenile Justice bill.

Very truly yours,

CARLA J. STOVALL,
Attorney General.

Mr. DELAHUNT. Mr. Chairman, let us make no mistake, the online bootleggers who evade State alcohol control laws are hopefully not the future of electronic commerce. They are a throwback to a bygone era.

Let us embrace E commerce and do all we can to encourage it, but let us do it in a manner that respects the rule of law.

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

Mr. SCARBOROUGH. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, this legislation will allow State Attorneys General to seek Federal court injunctions against any out-of-State companies that illegally direct ship alcohol to consumers. These illegal direct shippers are bypassing State excise and sales taxes, operating without required licenses, and most appallingly, illegally selling alcohol to underage persons.

It is important to note what H.R. 2031 does not do. It does not change existing State laws, and makes no restrictions on legal Internet or catalog sales. It does not open the door to Internet taxation. In fact, the word ''Internet'' does not appear anywhere in the text. It does not create a new Internet E commerce policy. It only deals with direct shipments of alcohol.

The legislation has bipartisan support. It was adopted overwhelmingly as an amendment to the other body's juvenile justice bill. Attorneys General from 23 States have signed a letter of support on this bill.

Mr. Chairman, I rise in support of States' rights, and urge my colleagues to allow States to enforce their own alcohol laws by voting in favor of this much needed legislation.

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise in support of H.R. 2031, the 21st Amendment Enforcement Act. The rational for this bill is simple and straightforward. State laws governing alcohol shipping and distribution must be followed and enforced. This bill ensures that States have the tools needed to fully enforce their laws, especially those governing the distribution of alcohol to minors.

This bill will ensure that States have legal recourse against alcohol distributors who deliberately seek to violate State laws. Any vintner, retailer, or

marketer who ships alcohol to adults in compliance with laws governing the shipments's destination should support this legislation. H.R. 2031 will simply allow States to take legal action in Federal courts against illegal business practices which often jeopardize the welfare of children.

Just as law enforcement officials need the proper tools to fight crime, and drug enforcement officials need the proper tools to fight the war on drugs, liquor enforcement officials need the tools to enforce State liquor laws. These laws keep alcohol out of the hands of minors, and ensure that consumers receive safe products from people who sell these products.

I urge my colleagues to support the 21st Amendment Enforcement Act.

I would just quickly add that I served 10 years in the Florida legislature, Mr. Chairman, and was involved in legislating areas of enforcement of the structure that Florida has for alcohol sales in Florida.

What is going on today, I do not think there will be any speaker here today who would question it, is absolutely in violation not just of Florida laws, but laws in the 50 States and the District of Columbia.

Essentially, people have created a way to evade systems that legislatures have in place for the sale of alcoholic beverage, which are different in the 50 States, but these systems literally violate those laws in the 50 States and the District of Columbia.

Again, it has been made clear that this is not against E commerce in any way, but in fact what the Internet has done is allow a new way of bootlegging. I, as one of many millions, tens of millions of Americans, have purchased products through the Internet. I encourage that.

But as I sat with my son, and my son, who is 8 years old, has the ability, he remembers credit card numbers and access numbers pretty well, and has the ability today or tomorrow to, in his own way, perhaps, purchase things through the Internet. Obviously, that is not what we want to see happen. On top of that, there are legal ways to purchase these products through the Internet today.

Again, I urge my colleagues to close a loophole. This is not an issue of trying to stop commerce on the Internet, it is an issue of enforcement of State liquor laws which have existed in the 50 States, with a great deal of authority for that enforcement.

Mr. SCARBOROUGH. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman from Florida for yielding time to me, and I thank the gentleman from Massachusetts and the gentleman from Florida for their leadership on this very important issue.

Mr. Chairman, as the previous speaker from Florida said, this is an issue about States' rights. It is not anti-commerce, it is not anti-free enterprise. What we must keep in mind is that there are legitimate areas where States have carved out the responsibility in support of their constituents to regulate certain types of activity, whether it be illicit drugs or sale of alcohol to minors.

We must constantly try and balance the rights of States, the powers of States, to exercise legitimate supervision in those particular areas which, if not properly supervised, would be harmful to the citizens of that State against what we all here believe in, and that is free enterprise and the capitalist system.

But we must ask ourselves, in that regard, at what price is free enterprise allowed to reign? We have witnessed in recent weeks tremendous damage to our national security, information on that damage coming forward, where secrets and very important military national security information was disclosed and made available to China, including information made available to China by companies seeking to exercise so-called free enterprise.

□ 1200

Free enterprise does not mean that corporations and companies in America can do whatever they want whenever they want with whom they want. They have to act responsibly, and they have to subject themselves to legitimate exercises of State authority.

The sale of alcohol to minors in particular States, and other laws within those States regarding the regulation of the sale of alcoholic beverages, is a long-standing authority recognized by the courts and by this Congress. As a matter of fact, in the Constitution itself, as the gentleman from Florida (Mr. SCARBOROUGH) indicated, is a legitimate area where there are going to be placed and have been placed some restrictions.

But that power is hollow if, in fact, companies are allowed, as they are doing now, to circumvent State law by Internet sales of alcohol in circumvention of and derogation of and flouting State laws.

This legislation that the gentleman from Florida has proposed, supported by the gentleman from Massachusetts, mandates nothing. It simply empowers those States who wish to exercise the power through their attorneys general, duly elected by the people of the several States, to enforce laws against the sale of alcoholic beverages in their State which are in violation of State laws. It does nothing more. It does nothing less.

We hope to keep the debate focused, Mr. Chairman, with regard to amendments that might be opposed on that fundamental power of States' rights.

One certainly will see, as amendments are proposed, we suspect that it is commercial interests that are behind the amendments. Again, while all of us are very, very strong proponents of free enterprise, we also are proponents of States rights and to protect American families.

In an age where we are seeing far too much youth violence, for example, Mr. Chairman, I think we need to be especially mindful that our families all across America need to be empowered and need to be able to rely on the legitimate authorities that they have elected in their States, such as the attorneys general, to protect their children in those legitimate areas where State exercise of authority can, indeed, do so in regulation of alcohol; and sales of alcoholic beverages is one such area.

We must enact this legislation. It is a very specific, very narrow, very limited response to a problem that has developed in recent years that is a very real problem. Again, to emphasize Mr. Chairman, while we are in favor of Internet sales, we are in favor of commerce generally between the States, this is a legitimate area long recognized by the Congress, by the courts, and by the legislatures of the several States for State regulation.

In order for that State regulation to be meaningful, the State attorneys general must have the power to enforce the interstate sale of alcoholic beverages in derogation of State laws. I urge support of this bill.

Mr. DELAHUNT. Mr. Chairman, I yield as much time as he may consume to the distinguished gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, it is unfortunate that this bill is on the floor today. This bill is no more than an attempt to advantage one industry group over another. It comes at a time when we should be working to find a solution to the problem, the problem of consumers not having access to the wines of their choice because distributors are unable to service the growth in small wineries.

In 1963, there were 375 wineries. Today, in 1999, there are 2,000 wineries. In 1963, we had 10,900 distributors. Today, we have 300 distributors. This is the problem. This is why small wineries and consumers who want to buy premium wine from small wineries are looking for other available places in order to purchase it.

There is an Amador Foothill grower in California that was interviewed by the press; and he said, ''A lot of large distributors look on wineries of our size as a nuisance. They cannot sell much of our wine. And the larger wineries are banking on them to sell 10 percent more each year, so they do not have time to sell small premium wines.''

That is the problem. This problem is not about kids buying wine in cyberspace. As a matter of fact, that argument does not even pass the giggle test. The fact of the matter is, teenage kids across this Nation are not going to be purchasing premium Cabernet wine from my district, from anywhere from $40 to $150 a bottle.

Everyone has been able to see through this clever cover. As a matter of fact, two of the original supporters of this idea, the Mothers Against

Drunk Driving and the Emergency Room Nurses have withdrawn their support. The Mothers Against Drunk Driving stated that, in fact, this is a battle between various elements within the alcohol beverage industry. They go on to say that they are dismayed that the industry would go this far or go to such lengths to misrepresent their views.

Even the National Council on State legislatures is opposed to this measure. They have been working on this issue for the past couple of years, and they see some progress being made. Last week, they voted 41 to 7 in opposition to this legislation. They, too, understand it is a turf issue and have asked this Congress not to interfere.

The Wall Street Journal just editorialized against this, citing it as ''an obstacle to interstate commerce of precisely the type the Founders intended to prohibit.'' The Journal goes on to say and to warn that ''Today wine; tomorrow any out-of-State competition that some local interest with campaign money did not want to deal with.''

I also want to point out that this bill deals with all liquor violations, not just the ones that were mentioned by the supporters of the bill.

Attorneys General across this Nation could take all and any liquor violation regarding importation and transportation to the Federal courts. This is true even in States that allow direct shipment of wine.

Oklahoma, for example, has a limited personal importation. However, they disallow any transaction on Memorial Day, Labor Day, or Election Day. So if one transports an alcoholic beverage in Oklahoma on the day of a special election to pass a school bond, one could find oneself in Federal court.

Wyoming has a law that prohibits the sale of private labeled wines. So if one sells or transports private labeled wines in Wyoming, it could be Federal court.

Now, the supporters will tell us that this is farfetched; that an Attorney General would not do that. I want to tell my colleagues that it is no more farfetched than the supporters' claims that kids are buying high-priced premium wine over the Internet.

Most troubling, Mr. Chairman, is the fact that one of the coauthors of this bill has informed me that small wineries and consumers are not going to be disenfranchised because, in the end, the distributors will go online and sell online themselves.

I cannot understand why direct sales can be harmful to one industry, the small wineries, but then be good in their eyes for the distributors who are trying to sell these wines.

Finally, I want to point out that this bill has had no public input. It was rushed to the floor. It was a markup in the Committee on the Judiciary. The public has not been able to speak. Small wineries have not been able to speak. Consumers have not been able to speak. That is particularly troubling, given the long list of amendments that we are looking at today on the bill.

One of the amendments, I understand, is going to provide immunity for Internet service providers. What does this mean, that Yahoo can go online and sell direct in States that prohibit the direct sale of alcoholic beverages? I think this is a huge loophole, and it is one that the supporters of this bill were not counting on.

There was also a great deal of discussion about the loss of tax revenue. I can tell my colleagues that, without an analysis of this bill, I do not know how one can ascertain what the impact, the economic impact of this bill would be one way or the other.

I also want to point out that there are a couple of local laws that could end up landing their constituents in Federal court. Indiana allows a person to bring one bottle of wine home per trip every time they come back to Indiana. If one brings back two bottles of wine, it could be Federal court.

Maryland allows one bottle at a time, but not more than two bottles per calendar month. What if someone visits the Virginia wine country three times over the course of the month and brings back three bottles of wine? They are subject to Federal court.

Right here in D.C., you can bring back four bottles of wine. If one visits Virginia wine country or my district in California, and one comes back with a six-pack of premium wine, the little six-pack containers that are so common for people to carry on the airplanes, one can be in violation of this district's laws, and one can be prosecuted in Federal court.

Mr. Chairman, this bill should be defeated, and this issue should be left up to the States to decide without the heavy hand of the Federal Government's interference.

Mr. SCARBOROUGH. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would just like to ask if the gentleman from California (Mr. THOMPSON) would be open to a few questions about some statements he made.

The gentleman from California criticized selected State laws.

Mr. THOMPSON of California. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. THOMPSON of California. Mr. Chairman, I have not criticized any State laws. I am just pointing out that this measure could put violation of something, of a law such as the Oklahoma measure that allows transportation of an alcoholic beverage product, into Federal court. I do not think that is what the gentleman's intention is.

I do not think it is the intention of the gentleman's supporters that, if the Internet service provider does direct sales, that they could sell wine in Florida, which makes it a felony to directly ship to Florida. It is completely at odds with the State law that you claim that the gentleman is trying to protect.

Mr. SCARBOROUGH. Mr. Chairman, reclaiming my time for a question, I need to ask the gentleman from California this question. Does the gentleman from California understand that all this provides is Federal injunctive relief for attorneys general towards businesses that continually ship in alcohol illegally; since it provides for injunctive relief, nobody is going to be thrown into Federal court and then thrown into prison? Does the gentleman understand that?

Mr. THOMPSON of California. Mr. Chairman, I understand that. I also understand that the Federal court is not the place to determine how much wine one can bring back if one decides to go to the vineyards of Virginia over the course of a weekend that one spends here in D.C.

Mr. SCARBOROUGH. Mr. Chairman, I think the gentleman said it is his position that minors are not purchasing alcohol over the Internet. Is that the gentleman's position?

Mr. THOMPSON of California. Mr. Chairman, I think it is a clever cover for what the gentleman from Florida is trying to do, and that is advantage one industry player. I believe that the gentleman was privy to the same tape that I saw in Mr. HATCH's committee hearing that showed a 14-year-old girl accessing the Internet, trying to buy an alcoholic beverage. But the thing that was not talked much about in that hearing was the fact that her older brother or father was standing right there next to the television camera operator and filming this using his credit card. It is a far stretch from leading us to believe that some youngster is going to plan weeks ahead to purchase some alcoholic beverage and, in the case that impacts my district, a bottle of Cabernet.

I do not think the teenagers of the gentleman from Florida (Mr. SCARBOROUGH) are going to buy Opus Cabernet over the Internet with their parents' credit card.

Mr. SCARBOROUGH. Mr. Chairman, reclaiming my time, if they did try to use my credit card, it would not go through for the type of wine that the gentleman sells in his district.

Mr. SCARBOROUGH. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, one might ask the opponents of this very measured legislation why they think the International Association of Chiefs of Police is endorsing it. The International Association of Chiefs of Police certainly has no problem with the legitimate sale of alcohol. They are not beholden to the wine industry, large or small. They are not beholden to the beer industry, large or microbrew. Yet, they are very strongly in support of this legislation.

The reason they are very strongly in support of this legislation is they

know, as I suspect the opponents do also but will not admit it, that there are in fact numerous documented instances of minors purchasing alcoholic beverages over the Internet. For anybody to claim otherwise, they are simply misleading this debate or cannot make that argument with a straight face.

There is a case, a documented case just recently reported in Alabama, of a 17-year-old boy able to buy alcoholic beverages over the Internet according to some plan where they will send it periodically, once a month.

There is also, documented through Americans for Responsible Alcohol Access, a documentary that shows teenagers in various States, including Mississippi, buying alcoholic beverages.

Also for the opponents of this very measured legislation, also to make the speechless argument that there has been no public input, that is absolutely wrong. There have been debates on this issue in the Congress. There have been hearings on this, two hearings. This passed overwhelmingly in the United States Senate. Every one of those Senators who voted in support of this, I would presume maybe the opponents of this measured bill know otherwise, but I would certainly presume that those Senators were speaking for their constituents, the citizens of the State.

□ 1215

So there are plenty of documented instances of minors using the internet in violation of State law to purchase or receive alcoholic beverages.

Mr. Chairman, this is a very measured response to a real problem. I urge support of the legislation.

Mr. DELAHUNT. Mr. Chairman, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, I rise in strong opposition to this legislation that would criminalize the efforts of the small wineries in my district in responding to their consumers.

This bill is a wolf in sheep's clothing. It is not about State's rights, it is not about combating the problem of underage drinking. Instead, this bill is about wholesalers and distributors that do not want small wineries to move into their turf.

Make no mistake, I firmly believe that we have a national obligation to take care of our children and protect them from threats to their health and safety. Nobody speaks more to that than I do. Too many young people are starting to drink at an early age leading to alcohol and other substance abuse problems. That is why I have fought so strongly in this Congress to support the passage of zero tolerance legislation for underage drinking and driving.

But this legislation does not address that pressing issue. In fact, Mothers Against Drunk Driving, MADD, will not even endorse this bill. That is because they recognize this bill for what it is: A power grab by wholesalers and distributors.

This power grab involves a 65-year-old regulatory scheme that grew out of prohibition and stands on three legs: Politics, policy, and profits. Through the three-tier system, manufacturers are required to sell their beer, wine, and liquor to licensed wholesalers who are the sole suppliers for stores, bars and restaurants, sports arenas, and other retailers. They have got it all tied up and they do not want to give any of that up.

But guess what, this distribution system does not work for consumers who want to access hard-to-find good wines from small wineries. The wineries in my district in Sonoma and Marin Counties, just north of the Golden Gate Bridge, produce some of the world's finest wines, and we will have to say Napa too, because that is where my colleague, the gentleman from California (Mr. THOMPSON) is from, but many of them cannot get their products to markets the traditional ways.

Wholesalers and distributors will not carry their products because the wineries are not big enough. These winemakers now are joining the point-and-click-world of Internet commerce to get their products directly to the consumers. So, do not inhibit their ability to sell their product.

At another time support efforts to ensure that children and teenagers do not buy alcoholic beverages, but today is not the day to address that. Vote against H.R. 2031.

Mr. SCARBOROUGH. Mr. Chairman, I yield myself 4 minutes.

The statement has been made that alcohol sales to minors over the internet is not a real problem. In fact, one individual stood up and said that I was clever in using this as a front. I thank him for calling me clever, but I am not clever enough to have about 30 news stations across the country running stories specifically on minors purchasing alcohol over the Internet.

WBRC–TV in Birmingham; WIAT–TV in Birmingham; KPMO in Phoenix, Arizona; KEYT–ABC in Santa Barbara; WUSA–CBS in Washington; WPEC in West Palm Beach; WPLG in Miami; WWSB in Sarasota, Florida; WICS in Springfield, Illinois, a three-part series; WEVV–TV in Evansville, Indiana, a two-part series; WBFF in Baltimore; stations also in Boston; Lansing, Michigan; Greenville, Mississippi; Syracuse, New York; Charlotte, North Carolina; Columbus, Ohio; Cleveland, Ohio; Oklahoma City; Philadelphia; Lancaster, Pennsylvania; Pittsburgh, Pennsylvania; Providence, Rhode Island; Spartanburg, South Carolina; Amarillo, Texas, a three-part series; San Antonio; Salt Lake City; Norfolk; Seattle; Green Bay; WISC, Wisconsin; WMTV, Wisconsin; CNN Morning News, Hard Copy; NWCN–TV cable news in Seattle; and ZDTV cable news have all done stories on illegal sales of alcohol to minors over the Internet.

While I thank the gentleman for saying I am clever and suggesting that I would be resourceful enough to set up such a media explosion on this happening from coast to coast, but regretfully I would have to disagree with the gentleman and say I am not quite that clever.

Also, regarding the question of no public input, I sat through the Committee on the Judiciary hearings and can report we heard all the input we could get for about 6 or 7 hours. There have been 2 other days and two other committee hearings over the past several years where this issue has been debated over and over and over again.

In the end, again, all it comes down to is the fact that there are some people that want to allow small businesses to sell wine illegally over the Internet. I want to be able to have my rich Republican supporters to be able to purchase the finest wine from Napa valley, or purchase the finest wine from Sausalito, a beautiful region I recently visited. I have nothing against that. It just has to be legal.

And it does not matter how small the winery is, it does not matter how fine the wine is, it does not matter how strong these businesses may support my colleagues in their districts, or how strong my wine lovers in my district may support me. If it is illegal, it is illegal. If it is bootlegging, it is bootlegging. The only thing this bill does is stop the illegal shipment of alcohol into States, and it does it by allowing the State's attorney general to file an injunction. Nothing more, nothing less.

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

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume to concur with my friend from Florida. I too want my middle class Democrats to have availability on the Internet to purchase the wines out in Sausalito, California.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. RANGEL).

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

Mr. RANGEL. Mr. Chairman, I would have to agree that the gentleman from Florida is clever, and I do hope we can use his ingenuity as relates to the interstate sale of guns. Because, clearly, we ought to have as much concern about these dangerous weapons as we do about our children consuming wine.

Now, in the old days, when I was a kid, kids did not wait 2, 3, 4 days in order to get wine. They used to get outside the liquor store and get someone to go there and buy wine for them. So if they are clever enough to use the Internet to do it, I do not really think that this law is going to catch too many of them.

It seems to me, coming from a State that has wineries, that we have a major problem here, and that is whether or not some of my Republican friends want to throw the baby out

with the bathwater. We want to be able to have as much competition in this great Republic of ours that we can. I do not think it can be challenged that we have some 1700 small wineries that are unable to penetrate the larger distributors that we have in this country. They have fine products, but they do not have the money and the know-how to get it into the stores.

Finally, technology has given them the opportunity to break through these barriers and to be able to sell their products, subject to State law. Now, we know that one of the things that Congress wants to do is to get government out of the lives of people, especially the Federal Government, and we do not have a lot of attorneys general pleading, knocking down our doors and saying, for God's sake come in here and provide oversight for us.

If we are going to start doing this with wine, there is no reason why we do not start controlling competition in books and recordings and in clothing, and taking away the very same technology that is pumping up our economy and allowing people to be able to get their wares to the marketplace.

Mr. SCARBOROUGH. Mr. Chairman, I yield myself 30 seconds just to respond.

There is a big difference between books and liquor. Amazon.com can still continue to sell books. There is nothing in the Constitution regarding the importance of books. There is nothing in the Constitution regarding sweaters from J. Crew. There is something in the Constitution regarding the twenty-First Amendment, which says it is going to be the province of the States to regulate alcohol sales. So there is a big difference.

Regarding guns, guns can also be shipped, they just have to be shipped legally.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. RADANOVICH). We violently disagree on this issue, but he is a good friend, nonetheless.

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

Mr. RADANOVICH. Mr. Chairman, I thank the gentleman for yielding me this time on this issue, even though I oppose this legislation.

I am not a lawyer, I am a small winery owner. I am one of more than 2,000 wineries in about 47 States, however, only 50 wines are available in a typical retail marketplace. More specifically, about 20 wineries produce 90 percent of all the wine produced. Despite this, sales of regional or limited availability of wine, of which there are perhaps over 10,000 labels, have grown. Unfortunately, at the same time the traditional distribution avenues have decreased from over 20,000 wholesalers to fewer than 400.

These wholesalers are not sufficient to handle the shipment and delivery of wines from numerous small producers. Direct mail and the Internet, on the other hand, have helped these small wineries stay afloat, while at the same time helping to satisfy a growing consumer demand for smaller, lesser-known wines produced in this country.

The reason H.R. 2031 is proposed is to stop these alternative avenues to market in favor of existing monopolistic wholesalers. The Twenty-First Amendment to the Constitution is not an absolute divestment of Federal power of the States. The U.S. Supreme Court has long established that the amendment has its limits and must be considered in the context of the constitutional provisions, including Congress' exclusive right to regulate interstate commerce.

Proponents of this legislation claim that it is necessary to curb the delivery of alcohol products to underage purchasers. I believe that there are few more important causes than to stem the tide of underage drinking in this country, however, I am convinced that direct shipment of wine, beer, and spirits does not contribute to the problem.

The two States with the highest consumption of wines, California and New York, have long permitted interstate shipments over the phone or by mail. Surely if these mechanisms were inherently open to abuse, the authorities in those States would have discovered that by now, but they have not.

I am sure we can all remember when we were kids, when we were teenagers in high school and we stole our dad's credit card to order a $200 case of premium wine over the phone to have parties with our friends 30 days down the line. And in the meantime, 38 percent of those kids who go into retail stores in the District of Columbia to purchase beer over the counter succeed. So my advice to those that are so concerned about underage purchasers is to focus their direction where the problem really is. The issue is not an issue under this piece of legislation.

The National Conference of State Legislatures recently passed a resolution that opposed legislation which allowed Federal interference in the purchase and delivery of wine across State borders. Forty-one States joined in the passing of the resolution, with only 7 States supporting this attempt to Federalize the laws. The Federal Government should not empower States to engage in this kind of activity. This is monopoly protection at its best. And even those wineries can ship into approximately 12 States now, they will, through the support of the attorneys general, limit that as well.

I am a California farmer. In 1982, I established a small vineyard and winery in the Sierra foothill community of Mariposa, my hometown. The Radanovich Winery, which produces Sauvignon blanc, Chardonnay, Merlot, Zinfandel and Cabernet Sauvignon, has grown to over 4,000 cases annually.

Like most wineries, mine is small. Of the more than 2,000 wineries in this country, only 50 are available in a typical retail marketplace. More specifically, about 20 wineries produce 90% of all the wine produced. Despite this, sales of regional or limited availability wine—of which there are perhaps over ten thousand labels—have grown. Unfortunately, traditional distribution avenues are insufficient for the shipment and delivery of wines from these numerous small producers. Direct mail, the Internet and other alternative forms of distribution have helped these small wineries stay afloat, while at the same time helping to satisfy the growing consumer demand for smaller, lesser known wines produced in this country.

Grape growing is a very important agricultural crop, the largest crop in California and the sixth largest crop in the nation. Over 60% of the grape crop is used in the production of wine. The resulting wine industry in total annually contributes over $45 billion to the American economy; provides 556,000 jobs, accounting for $12.8 billion in wages; and pays $3.3 billion in state and local tax revenues. In addition, wine is our third largest horticultural export. Wine is commercially produced in 47 states.

Consumers in every state should be able to obtain access to a wide variety of wines, especially the wines of small producers who lack the distribution channels of the major wine producers in this nation. To meet these consumer needs, I point to the 20 states which have chosen to enact limited interstate shipments directly from winery to consumer or retailer to consumer. Intrastate direct shipments are legal in 30 states. I also direct your attention to recently passed ''shipper permit'' legislation in New Hampshire and Louisiana and to the special order system developed and implemented by the Pennsylvania state liquor monopoly.

I am concerned that passage of the proposed legislation would have a chilling effect on efforts underway to craft creative state-by-state solutions such as these.

Legislation to allow states to bring to Federal court an action to enjoin shipment or transportation of liquor in violation of the laws of a particular state would have the unintended consequence of crippling small wineries in this country. The proposed legislation does much more than simply providing a remedy for a violation of the Webb-Kenyon statute that generally governs states authority over interstate shipments. I fear that it will authorize a state to erect discriminatory barriers to interstate commerce, which will be used to favor in-state commercial interests to the detriment of out-of-state wine producers. The Commerce Clause protects against state imposed barriers to free trade. That protection should apply to wineries as well as all other businesses.

The twenty-first amendment to the Constitution is not an absolute divestment of Federal power to the States. The U.S. Supreme Court has long established that the amendment has its limits and must be considered in the context of other constitutional provisions, including Congresses exclusive right to regulate interstate commerce.

Further, existing remedies are available for violations of liquor laws. In the case of wine (as with harder liquors) there is an underlying federal permit which is required to operate a winery. That permit is subject to oversight by the Bureau of Alcohol, Tobacco and Firearms, and requires conformance to applicable laws. There have been successful compliance actions through this mechanism. An additional mechanism is not necessary.

Professor Jesse H. Choper, a distinguished scholar in the field of constitutional law from the University of California has written expressing his concerns about the possible consequences of Federal legislation in this arena. Professor Choper concludes that the proposed legislation would violate the Commerce Clause protection against barriers to free trade among the states, by allowing states, rather than the Congress, to establish those barriers.

I am also concerned that the thrust of this legislation is to allow states to use the Federal courts to obtain direct jurisdiction over small businesses located in other states in a manner which invites abuse of the court system and a trampling of the rights of out-of-state citizens in order to satisfy the demands of politically powerful local interests. Allowing the federal courts to be used as enforcement machinery for state action seems to me a huge expansion of federalism and a very dangerous precedent.

Proponents of this legislation claim it is necessary to curb the delivery of alcohol product to underage purchasers. I believe that there are few more important causes than to stem the tide of underage drinking in this country. A Health and Human Services survey reflects that more than half of 18–20 year olds were drinking alcohol in the month prior to the survey, and an astonishing quarter of that age group have engaged in binge drinking during the same period.

However, I am convinced that direct shipment of wine, beer or spirits does not contribute to the problem. The two states with the highest consumption of wines—California and New York—have long permitted Intrastate shipments ordered by phone or mail. Surely, if such mechanisms were inherently open to abuse the authorities in those states would have discovered that by now. But they have not.

Manuel Espinoza, Chief Deputy Director of the California Alcoholic Beverage Control agency has written to Congressman THOMPSON and myself that as a result of remote sales of alcohol in California, a practice that has been legal for almost fifty years, the state has experienced no enforcement problems or impediments in its ability to enforce laws related to sales to minors. California has only received one complaint about the delivery of alcohol to underage recipients via interstate mail orders. That complaint originated from a privately organized ''sting'' and subsequent investigation determined that the actual delivery, though left at the door, was accepted by the minor's mother.

Another concern raised by proponents is the avoidance of state excise taxes by interstate shippers. There is no indication that taxes avoided by shippers constitute a significant loss of revenue to any state. It is estimate that interstate direct shipments consist primarily of ultra premium wine and never constitute more than one-half of one percent of a state's total wine volume. For the entire country, a tax loss of that magnitude would be $2 million annually. For the State of Maryland, even if it were to allow direct shipment of wine, annual tax losses at full volume would be less than $20,000 per year.

To address even this minuscule problem, forty-one members of California's Congressional delegation have written to the Advisory Commission on Electronic Commerce requesting that the Commission address this problem when it examines means to ensure the fair imposition of consumption, sales and use taxes arising from remote sales of all products, a far more significant revenue problem estimated to involve many billions of dollars in lost revenue. Congress established this Commission for just such a purpose, and this member suggests that we wait for the report we requested of them.

Legislation which preempts the Advisory Commission on Electronic Commerce regarding wine will have the effect of setting a precedent in regulation of the Internet before the Commission has done its' work. We are moving into an arena that all of us have not had the opportunity to think through, and our narrow attempts with wine may end up with far-reaching impacts on the sale of anything through the Internet. That is why Andy Sernovitz, the President of the Association for Interactive Media (AIM) a 300 member Internet trade group, said; ''If they can stop you from selling wine on the Internet, books and music are next.''

Mr. Chairman, the National Conference on State Legislatures recently passed a resolution that opposed legislation which allowed federal interference in the purchase and delivery of wine across state borders.'' Forty-one states joined in passing that resolution, with only 7 states supporting this bodies attempt to federalize state laws.

Mr. Chairman, I am not convinced there is an urgent national problem which needs to be solved by allowing virtually unprecedented use of federal courts to solve state problems which can be addressed by state legislative and judicial means. States can make it a crime for a person under 21 to attempt to purchase alcohol. Most have. Why don't the Attorneys general in the states prosecute their own citizens when they violate state laws?

Rather than the proposed legislation, alternatives include legislation which would encourage the development of open markets so that consumers can have access to the products which they wish to purchase.

I close by quoting for you from a letter by Florida Attorney General Robert Butterworth urging the veto of a bill making direct interstate shipment of wine to a Florida consumer a felony: ''[The bill] is the perfect tool for the vested interests who seek additional control over the marketplace, at the expense of competition and consumer choice.''

The federal government should not empower states to engage in anti-competitive actions favoring their in-state businesses. The federal government should not use the power of the courts to suppress competition. The federal government should not expand its reach into the private purchases of consumers, or the activities of the small businesses, which make up the largest part of the wine business.

Mr. Chairman, I thank the gentleman once again for yielding me this time, but I must ask my colleagues to join me in opposing the bill.

□ 1230

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT.)

Mr. BARRETT of Wisconsin. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me the time.

Mr. Chairman, I rise in support of the 21st Amendment Enforcement Act, which will help States such as my home State of Wisconsin crack down on the illegal shipment of alcoholic beverages.

But I am concerned that today's debate is being framed as an effort to restrict E-commerce.

Ironically, this bill does not even mention Internet and would have no effect on the direct shipment of alcohol and other products just as long as those shipments comply with State law.

The issue today is whether a State should have the right to take action against a company that violates the law of that State by shipping alcohol directly to the customer.

The 21st Amendment to the Constitution repealed prohibition but gave each State the right to regulate the sale of alcoholic beverages. Direct sales, whether over the Internet, by phone, or through the mail, violate the laws of certain States, make it easier for children to obtain alcohol, and drain needed tax revenue. This bill merely gives these States an additional tool to stop a practice that is already illegal.

Commerce over the Internet continues to grow at an incredible rate, and Congress should do nothing to discourage fair growth. But companies in one State should not be able to disregard the laws of another State in an effort to reach new customers.

I urge my colleagues to cast a vote for fair Internet commerce and for States' rights by passing the 21st Amendment Endorsement Act.

Mr. SCARBOROUGH. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT) another friend and classmate with whom I disagree today.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman from Florida for his gracious yielding of time even though we disagree on this.

My colleagues, I think this is a legislation that is ill-advised. And I commend to the sponsors and the managers today, the gentlemen from Florida, Massachusetts, and Georgia, to the National Conference of State Legislatures vote which occurred on July 29, just a few days ago, by a vote of 41–7.

Forty-one States oppose H.R. 2031, including Massachusetts, Georgia, and Florida. These State legislators who made this judgment believe that the direct shipping issue should be resolved at the State and local levels of government. And so I think there is a disconnection here between a perceived problem, as I see it, by the sponsors and an actual problem.

I come from a State and represent a district, Washington State, and the Fifth Congressional District, where we have emerging small wineries who do direct customer transfers and shipments. They are not trying or do not violate the law. But there is a chilling effect that this legislation would have on it on this emerging business.

It is clear to me that this is a job loser to the extent that there is a restriction on these emerging companies over the Internet. What they do and what they have explained to me very clearly is there is a very complicated process they must go through in order to ship a bottle of wine or a case of wine from manufacturer A to customer B in another State.

The Federal Express transfer company has to make sure there is a signature on the other end from an adult over the age of 18 able to buy this kind of product. And if not, it has to be sent back. So it is the shipper and the shipping company that is the most at risk.

So I urge my colleagues to reject this bill.

Mr. DELAHUNT. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. GORDON).

Mr. GORDON. Mr. Chairman, as I have listened to the debate this morning, I have discovered that there has been an abundance of debate on pros and cons of this legislation, contradictory pros and cons.

However, there has been one common denominator. That common denominator is that no one wants to see the Internet used to encourage alcohol abuse by minors. So the real question before us today is how can we stop the Internet from using or being used as a vehicle for alcohol abuse by minors?

After reviewing this legislation, it seems to me that there is a better way, that this legislation simply oversteps and that a better approach would be requiring sellers and shippers to clearly label packages as containing alcohol and that they obtain proof that the recipient is of legal drinking age.

I am co-sponsoring legislation to do that and would suggest that is a better approach.

The CHAIRMAN. The gentleman from Florida (Mr. SCARBOROUGH) has 3 minutes remaining. The gentleman from Massachusetts (Mr. DELAHUNT) has 7½ minutes remaining.

Mr. DELAHUNT. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, I rise in strong opposition to H.R. 2031. This legislation would restrict interstate commerce and limit consumers' choices throughout the country. It would also seriously harm the small vintners in my district and around this Nation.

Let me explain how some people from our States and districts like to buy wine. They come to places like the central coast of California and spend a few days touring the vineyards and tasting the wines of my district and maybe they buy some to take home.

After they get home, they will discover they cannot find any wine from these lovely vineyards in Paso Robles or the Santa Maria Valley that they like so much. So they try to order some over the phone or through the Internet, until the vineyard tells them, ''No, sorry, but your State will not let us ship to you. You're out of luck.''

Right now a number of States have adopted laws that restrict the rights of their citizens to order wine from out-of-state wineries. This bill would encourage more State legislatures to adopt these anti-consumer laws.

Is that really what the authors of this legislation want to do, restrict the choices of law-abiding adult consumers?

Let me quote from the Wall Street Journal. ''Shutting down shipments of $300 cases of wine is not a reasonable regulation of intoxicating beverages; it is an obstacle to interstate commerce of precisely the type the Founders intended to prohibit.''

What this legislation will do is harm the little guy, the small family vintners and wineries. I have heard from so many vintners in my district who would like to be able to reach more consumers throughout the country. However, this is not possible without going through a large distributor who simply will not ship small quantities of wine. And besides, retailers only have so much shelf space and certainly not enough for the wine productioned by 1,600 small wineries throughout the United States.

So vintners seek to expand their businesses and serve their loyal customers through phone orders or through the Internet. This bill will seek to shut down that avenue of commerce.

The authors of this legislation claim that its purpose is to cut down on underage drinking, and that is a noble goal.

As a school nurse for 20 years, I have worked very hard to fight underaged drinking. But this bill is not about stopping kids from drinking. If it were, we would think Mothers Against Drunk Driving would be in favor of it. They are not.

California has allowed direct sales for over 20 years, and it has had no measurable effect on underage drinking. If we really want to discourage underage drinking, we should support programs like Fighting Back in my district, which works through public awareness initiatives and provides youth services, or we should challenge the drug czar to include anti-youth drinking ads as part of the government's anti-drug ad campaign.

If this were a bill to cut down on underage drinking, I would be for it. But it is not. It is an attack on our small vintners.

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

Mr. SCARBOROUGH. Mr. Chairman, I yield myself 30 seconds to respond to something that the gentlewoman from California (Mrs. CAPPS) said.

She said that this would restrict choices of legal purchases of wine. That is just not the case. If they sell alcohol legally, this does not apply to them. If they sell alcohol illegally, it applies to them.

Because all this language says is, if they sell alcohol illegally, that States' attorneys general will be able to go to court and stop them from selling alcohol illegally and stopping interstate bootlegging.

Mr. DELAHUNT. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Chairman, I thank the gentleman for yielding me the time, especially as time is drawing short.

Mr. Chairman, I rise in opposition to the bill of the gentleman and in the interest of full and complete disclosure.

I have got to tell my colleagues that I am an avid wine enthusiast and that my wife and I took our honeymoon vacation to the wineries of California, and we have enjoyed our subsequent visits there. But I will tell my colleagues, Mr. Chairman, this is not just an issue that affects California but one that impacts Texas, Oregon, Washington, Virginia, New York. And my own beloved State of Missouri is home to many family-run wineries whose intentions are not criminal.

Instead, these small businesses attempt to satisfy long-time repeat customers and cultivate new ones, those who have left those well-worn tourist paths and have chosen to adventure to experience the adventure and hospitality of a small but friendly winery.

These long-time family businesses in my district, one dating back to 1855, nonetheless depend on E-commerce, a way to attract new business and survive alongside the large wholesalers.

Mr. Chairman, this law, in my belief, is unnecessary. I have listened and I have accepted the invitation of my friend from Florida, and I have listened to the debate; and I have got to tell my colleagues that I am unmoved by arguments offered by the proponents that massive numbers of underage drinkers are searching the Internet for basement bargains of bottles of Bordeaux to binge with their friends on their parents' next night out. I am struck, however, by the apparent inconsistency demonstrated by some of those who are leading the charge in favor of this measure.

A few weeks ago, the gentleman from Georgia, we were leading the charge, a very emotional debate, about the availability of and access to firearms and whether further restrictions were needed. Many argued against further intrusions claiming appropriately, in my view, that additional gun laws were in violation of the rights of law-abiding citizens.

Here is my question: If gun manufacturers are immune from civil liability in the case of criminal conduct committed by a violent felon who has purchased a firearm, and I support that immunity, then how can we hold vintners responsible for the unlawful purchases of wine?

I urge the defeat.

The CHAIRMAN. Both gentlemen have 2½ minutes remaining. The manager of the bill has the right to close.

Mr. GOODLATTE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, this particular analogy just put forth by the gentleman from Missouri (Mr. HULSHOF) with gun liability is completely misplaced.

We are not saying that anybody should or should not be immune from ultimate illegal use of the alcohol, such as the drunk driver. This bill simply goes to the shipping into the State in violation of an existing State law.

Now, if those States, and we have heard from a number of Members that are speaking for the wineries, if those States have a disagreement with a particular alcoholic restrictive law of a particular State, then their remedy should be to go to those State legislators and change the State laws that relate to how liquor can be brought into and distributed within that State.

But again, to make perfectly clear, and let us remove the clouds of the gun debate and the commerce debate here, this is a bill that simply empowers attorneys general of the States to seek injunctive relief to stop shippers, large or small, from shipping into their State in violation of State laws. It does not affect the legal shipper.

I urge support of the bill.

Mr. DELAHUNT. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for the generous grant of time.

Mr. Chairman, I rise in opposition to the bill. Where in this bill do we target or state explicitly that what we are doing is going after underage purchasers of wine over the Internet or microbrew over the Internet?

This is a very broad bill. The target is much larger than underaged drinking and access to alcohol. They are still going to go down to the concern and give the guy an extra couple of bucks who is a bad guy to go into the store and buy the stuff. They are not going to do it over the Internet and buy an expensive case of wine. That is not what we are after here. We are trying to close down the small wineries and breweries.

Mr. SCARBOROUGH. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Florida (Mr. SCARBOROUGH) has 1½ minutes remaining. The gentleman from Massachusetts (Mr. DELAHUNT) has 2 minutes remaining.

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

Mr. Chairman, I think the point has been made again and again that this particular proposal has nothing whatsoever to do with impeding the growth of E-commerce in terms of the sales of wine or any spirits or alcohols.

What it has to do is with respect to State laws. The fact and the reality is that we should be here to respect and provide an opportunity to States that find themselves with limited capacity and ability to enforce their own laws.

Now, the gentleman from New York (Mr. RANGEL) spoke to the issue of guns. Now, I know I have a disagreement with my friends from Georgia and Florida. But let me say, when it comes to that particular issue, I want the laws in Massachusetts relative to guns respected and honored anywhere in this Nation.

□ 1245

I do not want the shipment of firearms into Massachusetts from Georgia, Florida or California. I want to ensure that my Attorney General has the right to go to court and have the firearm laws of Massachusetts respected, initially.

Another item here, Mr. Chairman. This is from the New York Times. ''Officials Struggle to Regulate On-Line Sale of Prescription Drugs.'' I am just going to quote:

> The Food and Drug Administration announced steps today to curb the illegitimate sale of prescription drugs over the Internet. Now doctors are prescribing pills on-line to patients they have never met in States where they are not authorized to work. Pharmacies are shipping pills across State lines without the requisite license.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. DELAHUNT) has expired.

Mr. SCARBOROUGH. Mr. Chairman, I yield myself such time as I may consume. I would just like to say in closing, again bringing up what I brought up at the very beginning of the debate. We can talk about a lot of different things, we can throw red herrings in front of the people in this Chamber, but in the end the dividing line of this bill is between legal alcohol sales and illegal alcoholic sales.

We have had some people who are angry because they say we are trying to destroy local wineries. Again, the only local wineries that will be destroyed will be the local wineries whose very existence depends on illegal sales, because their legal sales will not be affected. We have people that are angry because we are not limiting this to merely people under 21 years of age. Their argument seems to be that if you are 21 years old and 1 day, then illegal bootlegging to you is okay while it is not okay to minors. That is just not right.

We have had the argument that this is a made-up issue. Again, I do not know how many times we have to read the 30 plus television stations that have run stings on this thing.

Also, one thing, going back to what my good friend the gentleman from Missouri said about gun sales. That is just not relevant. I will say to the gentleman right now, I, too, oppose illegal gun sales across State lines, and I think it is very courageous that you do that, also. Now I am asking you and everybody in this House to join with me and support the banning of illegal alcoholic sales.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in opposition to H.R. 2031, the 21st Amendment Enforcement Act.

H.R. 2031's proponents contend that it will address the problem of illegal sales to minors over the Internet. I strongly support cracking down on underage drinking, but this bill does nothing to address this serious problem. Rather, H.R. 2031 is nothing more than an intra-industry battle between liquor wholesalers and Internet liquor retailers. Under the guise of protecting minors from Internet alcohol sales, this bill's true intent is to tie up Internet liquor retailers in federal litigation.

Supporters of this legislation have failed to provide evidence of any wide-spread problem with illegal, under-age Internet alcohol sales. In fact, in California, we have had telephone and mail-ordered wine deliveries since 1963 and our law enforcement agencies report they have not encountered problems with these deliveries. Moreover, legitimate concerns over underage Internet purchases of alcohol have been adequately addressed by the industry's practice of visibly labeling shipping packages as containing alcohol and requiring the signature of persons over the age of 21 for receipt. Finally, state and federal enforcement mechanisms already exist to address illegal alcohol sales. H.R. 2031 will add a duplicative and unnecessary layer to already existing law.

I find it ironic that one of the chief proponents of this bill, the National Beer Wholesalers Association, actively opposed my efforts to include language in the Treasury-Postal Appropriations Bill to include underage drinking in the billion-dollar anti-drug media campaign administered by the Office of National Drug Control Policy. If the National Beer Wholesalers are so devoted to fighting underage drinking, you would think they would have joined forces with me. Instead, they fought tooth and nail against establishing an effective effort to combat illegal alcohol use by teenagers.

Not only is this bill bad policy, it's also anti-business. As small vintners in California and across the nation seek innovative ways to promote their quality product, they are naturally looking at the marketing opportunities presented by the Internet. This bill would work directly against such marketing and trade opportunities.

Direct access has been a long-standing problem for the 1,600 family-owned wineries who compete with the 10 mega-wineries that produce 90% of the wine in the United States. Wholesalers cannot supply all of the unique wines available from smaller wineries to the majority of consumers and thus, these small wineries are excluded from the national market. The Internet is a vital sales tool for the small wineries to directly promote their wines to consumers.

H.R. 2031's true design is simple: it would protect wholesalers of wine, beer and distilled spirits from Internet competition. I urge my colleagues to defeat this proposal and work instead to promote interstate trade. Let's support the 1,600 small wineries in California and across the United States who are using their good business sense to expand markets and create jobs in their communities.

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 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 is as follows:

H.R. 2031

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 ''Twenty-First Amendment Enforcement Act''.

SEC. 2. 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 has reasonable cause to believe that a person is engaged 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 by an attorney general against any person, except one licensed or otherwise authorized to produce, sell, or store intoxicating liquor in such State.

''(2) VENUE.—An action under this section may be brought only in accordance with section 1391 of title 28, United States Code, or in the district in which the recipient of the intoxicating liquor resides or is found.

''(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 may issue a preliminary or permanent injunction or other order to restrain a violation of this section. A proper showing under this paragraph shall require clear and convincing evidence that a violation of State law as described in subsection (b) has taken place. In addition, no temporary restraining order or preliminary injunction may be granted except upon—

''(A) evidence demonstrating the probability of irreparable injury if injunctive relief is not granted; and

''(B) evidence supporting the probability of success on the merits.

''(2) NOTICE.—No preliminary injunction or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party and an opportunity for a hearing.

''(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 its terms;

''(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained;

''(D) be binding upon—

''(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

''(ii) persons in active concert or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

''(e) 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.''.

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENT.—The amendment made by this Act shall apply only with respect to the importation or transportation of any intoxicating liquor occurring after—

(1) October 31, 1999, or the expiration of the 90-day period beginning on the date of the enactment of this Act, whichever is earlier, if this Act is enacted before November 1, 1999; or

(2) the date of the enactment of this Act if this Act is enacted after October 31, 1999.

The CHAIRMAN. The bill shall be considered under the 5-minute rule for a period not to exceed 2 hours.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

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.

AMENDMENT OFFERED BY MR. GOODLATTE

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

The Clerk read as follows:

Amendment offered by Mr. GOODLATTE:

Page 6, line 9, strike the close quotation marks and the period at the end.

Page 6, after line 9, insert the following:

''SEC. 3. GENERAL PROVISIONS.

''(a) EFFECT ON INTERNET TAX FREEDOM ACT.—Nothing in this Act may be construed to modify or supersede the operation of the Internet Tax Freedom Act (47 U.S.C. 151 note).

''(b) ENFORCEMENT OF TWENTY-FIRST AMENDMENT.—It is the purpose of this Act to assist the States in the enforcement of section 2 of the twenty-first article of amendment to the Constitution of the United States, and not to impose an unconstitutional burden on interstate commerce in violation of in article I, section 8, of the Constitution of the United States. No State may enforce under this Act a law regulating the importation or transportation of any intoxicating liquor that unconstitutionally discriminates against interstate commerce by out-of-State sellers by favoring local industries, thus erecting barriers to competition and constituting mere economic protectionism.

''(c) SUPPORT FOR INTERNET AND OTHER INTERSTATE COMMERCE.—Nothing in this Act may be construed—

''(1) to permit state regulation or taxation of Internet services or any other related interstate telecommunications services

''(2) to authorize any injunction against—

''(A) an interactive computer service (as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)); or

''(B) electronic communication service (a defined in section 2510(15) of title 18 of the United States Code).

Mr. GOODLATTE. Mr. Chairman, I offer this amendment along with the gentleman from California (Mr. COX) and the gentleman from Michigan (Mr. CONYERS) and with the support of the gentleman from Florida who has offered the underlying legislation.

The amendment to H.R. 2031 clarifies that this bill is not meant to interfere with legitimate electronic commerce on the Internet. First, the amendment clarifies that the bill in no way supersedes the recently enacted Internet Tax Freedom Act which placed a 3-year moratorium on new multiple and discriminatory Internet taxes. I strongly supported passage of that act and do not wish to see it compromised.

Second, our amendment clarifies that this bill in no way extends the powers of States to interfere with electronic commerce. It includes language that clarifies that the authority granted to States under this bill is limited to the enforcement of State laws regarding the transportation of alcohol within its borders, not to the legal advertisement or sale of alcohol on-line.

Third, our amendment ensures that injunctive relief is available against the entity shipping alcohol in violation of applicable laws, not against communications companies used by these third parties' activities for advertising and other communication purposes.

Mr. Chairman, it is important as we craft laws that apply to the Internet and other communications services that we avoid imposing liability on these service providers for the actions of third parties. The approach of this amendment is fully consistent with the approach we have adopted in the Telecommunications Act of 1996 which has played a very beneficial role in the growth of the Internet over the last 3½ years.

Mr. Chairman, aiming injunctive relief at the individual engaged in the commercial activity we are concerned about, not the communications company, is a common-sense solution. Unlike the seller or transporter engaged in an illegal transaction, the communications company has no idea what

States the transaction affects and is not in a position to tailor the transaction to comply with the different laws of 50 States. Furthermore, Internet service providers and other communications companies are in no position to monitor the conduct of their users or to prevent transactions. Indeed, enforcement approaches such as injunction to block Internet sites can seriously disrupt lawful Internet communications and slow the operations of a service provider's network for all users.

Mr. Chairman, if we do not adopt this amendment, we risk needless legal uncertainty and pointless litigation against Internet service providers and other communications companies. The amendment has the support of groups such as America Online, the Commercial Internet Exchange, Prodigy, PSI Net, BellSouth and Bell Atlantic.

Mr. Chairman, I urge my colleagues to adopt the tech-friendly, commonsense solution and pass this amendment.

Mr. DELAHUNT. Mr. Chairman, I rise in support of the amendment.

I want to applaud the gentleman from Virginia and the gentleman from California. I concur that this is an amendment that is needed and it addresses a problem. I support the amendment.

Mr. COX. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to thank the author of the bill the gentleman from Florida (Mr. SCARBOROUGH) and the gentleman from Virginia (Mr. GOODLATTE) who just offered this amendment for their excellent work in support not only of the main purpose of the law but also in another area, and, that is, Internet freedom, Internet freedom from regulation and Internet freedom from taxation so that that dynamic medium can continue to grow and prosper.

The amendment's language makes it clear that search engines, Internet service providers, web hosting services and other interactive computer services will not be adversely affected by this bill. In addition, the bill makes it clear, as presently written with this amendment, that it is for the enforcement of the 21st amendment that we are granting State attorneys general the power to enter Federal court. This is not the beginning of a slippery slope in which new laws can be written to regulate and tax the Internet under the guise of regulating alcoholic beverage transactions. To the contrary, it is the 21st amendment which will control, and the Supreme Court has told us that the 21st amendment did not have the effect of repealing the interstate commerce clause. Rather, States are free to regulate within their boundaries the sale, distribution and production of alcoholic beverages and the importation of alcoholic beverages produced and sold elsewhere in order to promote temperance, in order to maintain their status as dry States or even counties to be dry counties, to promote those social purposes behind the 21st amendment. But in doing so, in vindicating the purposes of the 21st amendment, a State cannot discriminate as mere economic protectionism against other sellers, other producers in the rest of the United States. I think that this language that is agreed upon all around makes it clear so that today what we are talking about is alcohol, we are talking about the 21st amendment. We are not talking about newfound powers of the parochial, of the municipality, the county, the State, to tax or regulate either instrumentalities of interstate commerce, particularly the Internet and other telecommunications, and neither are we talking about new opportunities to tax and regulate the things that move across it. We are limiting ourselves, as properly we should, to those things that are covered by the 21st amendment and nothing else.

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, if the gentleman would engage in a brief colloquy. It is, then, with the language that the gentleman is proposing here, if in fact hypothetically, if you have the recipient State which prohibits the sale of alcoholic beverages to anyone under the age of 21 and you have a seller winery in another State and there is a transaction made over the Internet to sell the alcoholic beverage to somebody in the recipient State who is in fact under 21, the language that the gentleman is proposing here, which is really clarifying language, would not prohibit the attorney general of the recipient State from seeking injunctive relief if they can otherwise meet the burdens of the legislation, is that correct?

Mr. COX. Yes. That is true if the underlying State legislation is itself consistent with the 21st amendment and the interstate commerce clause.

Mr. BARR of Georgia. In other words, if a State, as many States do, have a flat out prohibition on the sale of alcoholic beverages to a person under the age of 21, then the language that the gentleman is proposing here would not prohibit the recipient State from seeking injunctive relief from an out-of-State seller using the Internet to sell the alcohol to somebody under 21 in the recipient State?

Mr. COX. Yes. The State law itself is authorized, to the extent it is authorized, by the 21st amendment to the Constitution. And because the United States Supreme Court has interpreted the 21st amendment to mean that it does not empower States to pass laws that favor local liquor industries by erecting barriers to competition and that State laws that constitute mere economic protectionism are not entitled to the same deference as laws enacted to combat the perceived evils of an unrestricted traffic in liquor. We are simply restating those constitutional principles in the statute.

Mr. BARR of Georgia. In other words, so long as there is the basis for the recipient State's prohibition on the sale of alcoholic beverages to somebody under 21.

The CHAIRMAN. The time of the gentleman from California (Mr. COX) has expired.

(On request of Mr. BARR of Georgia, and by unanimous consent, Mr. COX was allowed to proceed for 1 additional minute.)

Mr. COX. Mr. Chairman, I continue to yield to the gentleman from Georgia.

□ 1300

Mr. BARR of Georgia. In other words, just to clarify this point, I appreciate the indulgence of the gentleman from California. If in fact the law prohibiting the sale of alcoholic beverages to anyone under the age of 21 in the recipient State is based on a legitimate public interest and public safety, not on economic protectionism, then under the scenario that I indicated, the attorney general of the recipient State could, under this legislation as proposed to be amended by the gentleman from California, seek injunctive relief.

Mr. COX. That is correct. What we are trying to do is restate in simple, easy to understand language the balance that the courts, I think, have properly struck between vindicating the purpose of the 21st amendment and at the same time making sure that we do not subtract in any way from the interstate commerce clause. They are both parts of the Constitution, both read together. I think that the current case law that we have cited and that we repeat in the statute expresses it as elegantly and simply as it can be expressed.

Ms. LOFGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do want to comment briefly on the amendment offered by the gentleman from California (Mr. COX).

I will support this amendment. It does clarify issues relative to Internet service providers and to the Net itself. However, I do want Members to know that, although this amendment should be supported and I intend to vote for it, it does not cure other problems that we find troubling in the underlying bill.

The issues relate to the commerce clause and to the conflict between that clause and the 21st amendment. This conflict continues to be problematic. As we discussed at some length in the Committee on the Judiciary when the bill was considered, the 21st amendment did not repeal the commerce clause. So even though this amendment does accommodate the Internet—and I credit the gentleman from California (Mr. COX) for bringing this forward and commend the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) for their considerable effort on Internet issues—the problem in the underlying bill persists. If this bill becomes

law, State AG's shall be able to burden impermissibly interstate commerce using the cover of the 21st amendment.

Thus, even with this fine amendment, the underlying bill continues to be overbroad. We can't seem to agree to limit it to the one issue that we all agree is significant, namely that we should not permit or facilitate underage drinking. By contrast, this bill would allow a variety of arcane blue laws that have nothing whatsoever to do with underage drinking or any other legitimate concern of the Federal Government to be enforced by a State attorney general in a Federal court.

I will wholeheartedly support this amendment, and I sincerely hope it is approved, but I intend, even if it is adopted, to oppose the underlying bill because of the other problems I've enumerated.

Mr. SCARBOROUGH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from California (Mr. COX) briefly just to clarify a few things.

The gentleman from Georgia (Mr. BARR) was asking the gentleman if a State would still be able to enforce their alcohol laws, and the gentleman said they could. If he can explain the purpose of this clarifying language regarding economic protectionism and a bill a State legislature passes for the mere purposes of economic protectionism.

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

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. COX. Yes, the language in section 1 is now written as section 3(b) on Line 17 of the amendment, as reported, states that no State may enforce under this act a law regulating the importation or transportation of any intoxicating liquor and with some additional language interpolated that constitutes mere economic protectionism, and that is the existing Supreme Court test, and we wish simply to conform our statute with that Supreme Court test.

Mr. SCARBOROUGH. Mr. Chairman, reclaiming my time, let me ask the gentleman another question.

We go to support for Internet and other interstate commerce, and it says nothing in this act may be construed to permit State regulation or taxation of Internet services or any other related interstate telecommunications, and it is important for us to differentiate here that we are talking about the actual Internet service itself or the telecommunication service and not the goods that are sold over the Internet.

Mr. COX. Yes, I think that that is correct.

In addition, when combined with the preceding section, we make it clear that the goods that we are talking about letting States regulate and tax are alcoholic beverages and those things covered by the 21st amendment, so that it is also true what we are not doing in this legislation today is opening up new vistas of taxation and regulation of products that move across the Internet. We are restricting ourselves only to the four corners of the power that States have under the 21st amendment.

Mr. SCARBOROUGH. And the gentleman's actual language, the language that we have all agreed to, goes again to the Internet service and not the goods, and the goods here being alcohol.

Mr. COX. Yes, and the reason we hope that this is a belt-and-suspenders operation, that this is surplusage, but perhaps not because States and localities have been very aggressive about taxation and regulation of the Internet. We want to make sure that no State confuses its power to tax or regulate alcoholic beverages with a new one found in this statute or anywhere else to tax or regulate the Internet or the means of interstate communication or sale.

Mr. SCARBOROUGH. And reclaiming my time, I just like to say I agree with the gentleman and the gentleman from Virginia (Mr. GOODLATTE) 100 percent, and it is very important that we allow E-commerce to flourish without new regulations or tax burdens, and I believe this language does so while still allowing the State to enforce its alcohol laws as it was given the right in the 21st amendment some 60 or 65 years ago.

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

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

Mr. GOODLATTE. Mr. Chairman, I just want to make it clear that it is my intention and I believe the intention of the gentleman from California, and he may want to speak for himself, that if there is an existing State law that taxes the sale of alcohol in that State and the sale happens to come into the State from out of State and the original purchase was made over the Internet, that that taxation still applies as it does with the Internet Tax Freedom Act. The Internet Tax Freedom Act does not overturn existing State laws on the sale of products from one State to another, just like it does not with a catalogue sale or any other type of sale. It simply imposes a moratorium on new taxes on Internet services.

Is that a correct statement?

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. COX of California. It is certainly correct as far as the gentleman has taken it. I would add to that the following:

Some State laws are unconstitutionally and impermissibly discriminatory, as for example the Hawaii tax that exempted pineapple wine. The Supreme Court properly said that that was an unconstitutional impermissible discrimination in favor of instate and against out-of-state producers, and all of these laws not having been tested under the commerce clause, we cannot say that we are trying to grandfather them here against that.

The CHAIRMAN. The time of the gentleman from Florida (Mr. SCARBOROUGH) has expired.

(On request of Mr. GOODLATTE, and by unanimous consent, Mr. SCARBOROUGH was allowed to proceed for an additional 2 minutes.)

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

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

Mr. GOODLATTE. What the gentleman is saying is that if there is a law existing out there or one that may be proposed in the future that is unconstitutional, we do not want this act, whether it could or could not, we do not want it to be read as encouraging anybody in that direction. We want to make sure that unconstitutional laws are discouraged because they are unconstitutional whether we pass this amendment or not.

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

Mr. SCARBOROUGH. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. I think it is very important because during the course of the general debate, mention was made that this proposal could lead to new taxation, taxation on the Internet; and I think that the colloquy that has occurred here has clarified that. In fact, it was the gentleman from California (Mr. COX) who during the 105th session of Congress was the key sponsor that led to the enactment of the moratorium on taxation on the Internet; but that did not, that did not extinguish the right of States to tax on the Internet according to their preexisting taxation scheme.

Am I correct, Mr. Chairman?

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

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. COX. Yes, the purpose of the Internet Tax Freedom Act was to prevent new taxes on the Internet and discriminatory taxes that prayed upon the Internet.

Mr. DELAHUNT. And if the gentleman yield, nothing that this bill proposes in any way impacts that moratorium.

Mr. COX. Again, Mr. Chairman, if the gentleman from Florida will yield?

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I thank the gentleman. That is correct.

AMENDMENT OFFERED BY MR. CONYERS TO THE AMENDMENT OFFERED BY MR. GOODLATTE

Mr. CONYERS. Mr. Chairman, I offer a perfecting amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS to the amendment offered by Mr. GOODLATTE:

At the end of the matter proposed to be inserted, strike the period and insert a semicolon and add the following text: ''used by

another person to engage in any activity that is subject to this Act.''.

Mr. CONYERS. Mr. Chairman, I want to thank my friends who have introduced this. I had an amendment quite similar to it, and I do not think it will be necessary to offer it now. But the perfecting amendment I am offering will clarify that Internet service providers and electronic communication services will be exempted only where they are used by another person to engage in activity covered by the act. Thus, for example, if Yahoo or another Internet provider goes into the business of selling or shipping liquor, they would not be exempted from liability.

Now, Mr. Chairman, Internet commerce has opened new doors of opportunities for entrepreneurs around the country as well as provided consumers with a vast array of new choices of goods and services; and with the expansion of commerce over the Internet comes the added benefit of greater competition which will lead to lower prices for consumers.

Of course, we do not want people to use Internet to violate the law, but we also do not want to create unnecessary and burdensome regulations that will hinder this emerging new marketplace, nor do we want to hinder the types of commercial transactions that permit direct contact between producers and consumers.

The best marketplace is one that promotes robust competition, and therefore we want to encourage new entrants to the market and not erect barriers blocking them.

As is currently written, the legislation could have negative repercussions for the emerging Internet marketplace. State alcohol laws often target liquor sold over the Internet, and therefore I urge that we proceed cautiously when we grant a Federal forum for these types of State actions to ensure the Internet service providers and other telecommunication services do not bear the brunt of the liability.

□ 1315

Another problem is that the bill gives and encourages the imposition of new Internet taxes by giving States another forum in which to collect those taxes from out-of-State defendants. This is a bipartisan and non-controversial improvement, and I hope that my perfecting amendment will be accepted, which remedies these problems.

What we are doing here, I believe, is clarifying that this measure cannot be used as a tool to bring actions against Internet providers and other wired telecommunications services.

It seems to me we can all agree that we do not want Internet carriers to be the targets of State attorney general actions to enforce our State alcohol laws. The amendment also clarifies that the legislation does not modify or supersede the Internet Tax Freedom Act, in which Congress placed a moratorium on new Internet taxes. We do not want to undermine Congress' prior legislation and permit selective carveouts to that important commitment.

This amendment is supported by many groups and organizations, America Online, Bell Atlantic, Bell South, the Commercial Internet Exchange Association, Prodigy and PSInet. Whether or not one ultimately supports 2031, this very important amendment deserves your vote. Although these changes do not address all of my concerns, this is an important improvement to the legislation, and I urge that the perfecting amendment be accepted and the amendment be supported.

Among other things the Cox amendment makes it clear that neither this act nor Webb Kenyon are in anyway designed to supersede any other provision of the Constitution, such as the first amendment or the Commerce clause (including the so-called ''dormant'' Commerce clause). In this regard, the amendment reaffirms the Supreme Court's 1984 decision in *Bacchus Imports* v. *Dias*, 468 U.S. 263 (1984), which held that a state law which imposed an excise tax on sales of liquor but exempted certain locally produced alcoholic beverages violated the Commerce clause. The Court concluded that this state legislative scheme was clearly discriminatory legislation and constituted ''economic protectionism.'' The Court noted that ''one thing is certain: The central purpose of the [Twenty-First Amendment] was not to empower States to favor local liquor industries by erecting barriers to competition.'' The Court held that the state's law was not designed to promote temperance but was ''mere economic protectionism.''

The Court has adopted this line of reasoning in striking down numerous other state liquor laws. See e.g., *Brown-Forman Distillers Corp.* v. *New York State Liquor Authority,* 476 U.S. 573 (1986) (relying on Bacchus); *Healy* v. *Beer Inst.,* 491 U.S. 324 (1989) (relying on Brown-Forman). See also Capital Cities Cable versus Crisp (holding that a state statute which banned the transmission of out of state alcoholic beverage commercials by cable television stations in the state violated the Commerce Clause and was outside of the state's Twenty-First Amendment power); *California Retail Liquor Dealers Ass'n* v. *Medcal Aluminum* 445 U.S. 97 (1980) (holding that a state wine pricing system violated Sherman Antitrust Act and noting that the ''Federal Government retains some Commerce clause authority over liquor); *Hostetter* v. *Idlewild Bon Voyage,* 377 U.S. 324, (1968) (holding that the Commerce clause prohibited the State of New York from interfering with the sale of alcohol to departing international airline travelers at a New York airport and that the argument that the Twenty-First amendment trumps the Commerce clause where states regulate alcohol is ''patently bizarre,'' ''an absurd oversimplification,'' and ''demonstrably incorrect'').

AUGUST 2, 1999.

Re amendment to H.R. 2031.

Hon. JOHN CONYERS,
Ranking member, House Judiciary Committee, Rayburn House Office, Washington, DC.

Hon. BOB GOODLATTE,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS AND REPRESENTATIVE GOODLATTE: We write to express our strong support for the amendment you intend to offer tomorrow to H.R. 2031 to clarify that injunctive relief under the bill is available against certain shippers of alcohol, and not against providers of communications services.

This important clarification will avoid confusion and needless litigation against internet service providers and other providers of communications services who are not engaged in the sort of shipments that are the subject of the bill.

Thank you very much for your leadership on this issue.

Sincerely,

AOL.
BELL ATLANTIC.
BELLSOUTH.
COMMERCIAL INTERNET EXCHANGE ASSOCIATION. (''CIX'')
PRODIGY.
PSINET.

Mr. GOODLATTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the perfecting amendment offered by the gentleman from Michigan (Mr. CONYERS), and I commend him for offering this amendment. The underlying amendment that I have offered makes it clear that Internet service providers, those who provide interactive computer service or an electronic communications service, would not be subject to the injunction provided for in the underlying bill if all they did was provide the ability to communicate with people and were not involved in transactions themselves.

The gentleman from Michigan's amendment makes it clear that if that company, that Internet service provider, is, in fact, themselves selling the alcoholic beverage, then they would be subject to the injunction, because it adds the language used by another person to engage in any activity that is subject to this act to create an exception to the exception already created for them to the injunction.

The gentleman's language is well taken, I support it, and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS) to the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

The amendment to the amendment was agreed to.

Mr. BARR of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not see the gentleman from California on the floor. Perhaps the gentleman from Virginia would engage in a colloquy.

I think, getting to the intent, the Congressional intent of the proposed amendment, as amended, needs further clarification. If I could engage the gentleman from Virginia in a brief colloquy and elicit from him if he thinks it is accurate, just a simple yes or no.

If, in fact, under the legislation as proposed and as amended, as proposed to be amended by the gentleman from California, if State A has a law on the books that prohibits the sale of alcoholic beverages to anyone under 21, and the attorney general of that State seeks to go into Federal court under

this law simply based on that law to seek an injunction to enjoin a seller of an alcoholic beverage from State B from shipping that alcoholic beverage into State A and it being directed to or received by somebody under 21 in violation of State law, this proposal would still allow the attorney general of State A to seek injunctive relief. Is that correct?

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

Mr. BARR of Georgia. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the one word answer is yes, and that is certainly my intention in offering this amendment to make sure that the underlying purpose of the bill is preserved, but make sure that, A, there are no efforts here to create new taxes or new regulations of Internet activities, and, B, that there is no unconstitutionally, and I think that is an important word we use here, unconstitutionally discriminatory action taken by a State that would disfavor out-of-State purveyors of these products.

Mr. BARR of Georgia. Mr. Chairman, reclaiming my time, this is the problem, and maybe the gentleman from Florida could listen also, this is the problem that I have with this language. It has taken us approximately half an hour to debate this, trying to get just a simple yes or no.

If State A has a law on the books that says no sales of alcoholic beverages to somebody under 21, with this language, does this modify or in some way limit the ability that the attorney general would have in the bill as proposed to stop an Internet sale of alcoholic beverage coming in from another State to that person?

Mr. GOODLATTE. Mr. Chairman, if the gentleman will yield further, it would not stop the attorney general of a State that wishes to seek an injunction against a company violating that State's laws, prohibiting either the sale of alcohol in the State or the sale of alcohol to minors in that State from continuing to seek that injunction. I strongly support the gentleman and the gentleman from Florida's efforts to allow the States to go into Federal court to achieve that injunction.

Mr. BARR of Georgia. Mr. Chairman, reclaiming my time, is it the purpose of this amendment to limit the scope of the Webb-Kenyon Act?

Mr. GOODLATTE. Mr. Chairman, it is not the purpose of this amendment to limit the scope of the Webb-Kenyon Act.

Mr. BARR of Georgia. Does this amendment create any new right of action to challenge State laws regulating alcohol?

Mr. GOODLATTE. In my opinion, it does not, and it is not my intention in offering this amendment to in any way affect the rights of the States to regulate the sale of alcohol in their State as provided by the Twenty-First Amendment to the Constitution.

Mr. BARR of Georgia. Would this language, as proposed, permit a defendant in the recipient State or in the shipping State to delay enforcement of a valid State alcohol law by claiming that the law creates a barrier to competition, that this language creates a barrier to competition?

Mr. GOODLATTE. That may be an issue in seeking an injunction, but certainly is not the intention of this amendment, to allow anybody to delay State enforcement of State laws controlling the sale of alcohol in their State borders.

Mr. BARR of Georgia. Finally, are there any State laws today that would be subject to a challenge under this proposed language?

Mr. GOODLATTE. Would the gentleman repeat the question?

Mr. BARR of Georgia. Are there any State laws today that would be subject to a challenge under this proposed language by the gentleman from California?

Mr. GOODLATTE. I am not aware of any laws that would be subject to them. However, I would say to the gentleman, the way I read section 3(b) of the amendment, that if they would be subject to challenge, they would have already been subject to challenge as being unconstitutional to begin with. I think that portion of this amendment reinforces the gentleman from California's concern that we do not have any unconstitutionally discriminatory treatment, but, if it exists, I think it would have been treatable under existing law and certainly would also be treatable under this law.

Mr. BARR of Georgia. The gentleman from Virginia, who has researched issue extensively, is not aware of any State laws that would be subject to challenge under the proposed language today?

Mr. GOODLATTE. None that I know of.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me ask the gentleman from Virginia further clarification. I heard the gentleman say in the colloquy with the gentleman from Georgia that under the example that the gentleman from Georgia gave, that the attorney general of a State where there was an alleged violation relating to a sale to a person under 21, I thought I heard the gentleman say that if there was a violation, that the State attorney general would thereafter be enabled under this amendment to prohibit any further Internet sales into that State, even though it was to someone over the age of 21. Did I misunderstand the gentleman?

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

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

Mr. GOODLATTE. The gentleman misheard. The question from the gentleman from Georgia was whether or not anything in my amendment would undermine the purpose of the underlying bill, which is to allow the attorney general to go into Federal Court and to seek an injunction restraining the sale of alcohol to minors. Then later, or maybe in an earlier conversation, in reference to a dry State, whether they could seek an injunction from violating the laws of the State for shipping any alcohol into the State.

If you have a dry State that prohibits the sale of alcohol, now or in the future, this amendment would not affect that one way or another. That is the assurance the gentleman from Georgia wanted, that the underlying bill would still have the effect the gentleman intends, which is that the attorney general of that State could go into Federal court and seek an injunction, but he would not be able to seek an injunction for the sale of alcohol to an adult unless that sale itself violated that State law in some way, shape, or form. This amendment does not in any way change that.

Mr. NETHERCUTT. Mr. Chairman, reclaiming my time, I appreciate the clarification.

Mr. Chairman, I want to rise in support of the Goodlatte amendment, which I believe improves significantly on H.R. 2031. The proponents have argued that this bill does not inappropriately interfere with Internet commerce. It is true they worked very hard to avoid any reference to the Internet on this legislation, but the reality is quite different.

A great many of the wine sales we are discussing occur over the Internet sites of small wineries. The entrepreneurial owners of these wineries have learned, like many other small businessmen and women, that the Internet levels the playing field and makes it possible for small proprietors to reach customers. These companies cannot afford sales departments or national advertising. They are forced by their size to rely on Internet sales. That is what I want to be sure that this legislation does not prohibit.

This amendment ensures that Internet sales by wineries are not treated any differently than any other product. The Internet Tax Freedom Act blocked the imposition of new Internet taxes, and this amendment ensures compliance with that act.

Proponents of this legislation have called small wineries and brewers bootleggers and smugglers, suggesting somehow their intent in selling wine is criminal. To the contrary, these small businesses play by the rules and only want an opportunity to sell their superior product in the interstate marketplace. There is no pressing problem of minors buying cases of ultra-premium wines, and the authors of the legislation have shown no evidence to the contrary, notwithstanding the few news clips that they have discussed.

I have talked with wineries in Washington State about the supposed problem of minors purchasing alcohol. They have told me that in fact they know virtually all of their customers. Their buyers have in virtually all cases

bought wine in person from the winery in the first place. These are repeat customers who have taken the time to travel all the way to rural wineries in eastern Washington. Once they get home, these customers enjoy the superior product that Washington State provides and that these wineries provide, and they want to order again. Many of these customers are from other States and would be unable to purchase wines with this legislation.

Small businesses are the actual target of this legislation. These small wineries will never be able to ship their product through normal distributor channels. They simply do not produce enough to be worth the large distributors' time. These producers bottle 2,000 cases a year, an insignificant amount to a distributor, but a very significant quantity when the survival of these small businesses is on the line.

We are adding a winery in our State of Washington every 18 days. It is a growth industry that creates new jobs in rural areas. These are small wineries, specialty wineries. Any Member representing constituencies that rely on Internet telemarketing or catalog sales should be concerned about where this legislation is taking us.

From the perspective of the States, this bill is all about taxation. Any company or industry that is perceived to be circumventing State laws, State taxes through mail sales, could run afoul of such efforts in the future. This is why the National Conference on Legislators has opposed this bill, because of a belief that the problem should be resolved at the State level. I am still concerned about this bill, and I urge my colleagues to support this amendment.

□ 1330

Mr. DOOLEY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this particular amendment, but I remain opposed to the underlying bill. I oppose the legislation because it is clearly anti-small business, and it is also anti-consumer.

We are moving into a new economy, an economy that is giving opportunities for small business people to participate by offering their products over the Internet. One of the greatest innovations and greatest opportunities that we are seeing in E commerce is the fact that we are almost eliminating all barriers to entry. We are allowing almost any company to set up and develop a web page, and they can immediately be in a worldwide business.

What we are doing with this legislation is to preclude a lot of small business people that are involved in the wine industry, that do not have the volumes to work with the archaic structure that is currently in place in many parts of the country to distribute their product, from having the opportunity to have the access to consumers that they need. This is clearly not a direction that we should be going, and is clearly a direction that is inconsistent with the changes in the United States' economy and the changes in the international economy.

This legislation is a heavy-handed approach that would chill the rights of adults to purchase wine over the Internet, unfairly discourage small wineries from marketing their products nationwide through E commerce, and create a new Federal remedy for a problem that is already addressed by State and Federal statutes.

Supporters of this legislation contend that the bill is being done at the behest of States' rights, but nothing could be further from the truth. As we saw just in the last week, the National Conference of State Legislatures overwhelmingly passed a resolution opposing this legislation.

The arguments that this is somehow going to result in more alcohol being in the hands of minors is also equally without foundation and substantiation. Nothing could be further from the truth.

I ask my colleagues to oppose this legislation. We ought to be passing policies which encourage and provide greater opportunity for more families to enter into business, for more families to live out a dream. What we are doing here, in so many ways, is impeding that opportunity.

Also speaking as a wine consumer, I almost think it is un-American because I might live in a particular part of the country, in a particular State, that I am precluded from purchasing a bottle of wine over the Internet. That is not what our Founding Fathers had in mind when they passed the interstate commerce clauses. They had in mind that we would allow for free competition that would benefit consumers and benefit our businesses.

I urge my colleagues to oppose this legislation.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although I rise in support of the pending amendment, which I think certainly improves the bill, I do want to express my concerns about the legislation as a whole, H.R. 2031.

This is legislation that directly impacts interstate commerce, and it drastically tips the scales of commerce in favor of large wholesale distributors at the expense of consumers and small local vineyards, which rely heavily on direct sales for their business. This legislation gives attorneys general the power to sue out-of-State wine and beer distributors in Federal court for violations of State liquor laws.

As a recent editorial in the Wall Street Journal makes clear, giving State attorneys general the power to sue out-of-State vineyards in Federal court can lead to nothing but political mischief. What better way for a politically ambitious attorney general to build political support at home than to sue out-of-State shippers on behalf of local wholesalers to help keep the competition out?

The 21st amendment was designed to give States the power to regulate alcohol sales within their States, and to ban it altogether, if they choose. It was not designed to give States the power to keep the wine sales of some distributors out while allowing others in. Such a result flies directly in the face of the interstate commerce clause by establishing special interest protections for local distributors.

Any resident who seeks to buy a rare or obscure vintage of wine not offered by his local distributor with this legislation is simply out of luck. The legislation is anticompetitive, it is anticonsumer. Unfortunately, it sounds good.

This legislation would do great mischief. It injects the strong arm of the Federal courts into an area of commerce that is best left to the States. It imposes unnecessary Federal interference in the enforcement of State laws, and gives the State Attorney General a new weapon, the Federal court, to favor local over interstate commerce.

The result will not balance the scales of justice. It will, instead, tip those scales against consumers who have found in the Internet a cornucopia of goods and services heretofore unknown to them.

I urge us to defeat this legislation.

AMENDMENT OFFERED BY MR. BARR OF GEORGIA TO THE AMENDMENT OFFERED BY MR. GOODLATTE, AS AMENDED

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. BARR of Georgia to the amendment offered by Mr. GOODLATTE, as amended:

On page 1 of the amendment offered by Mr. GOODLATTE, at line 16, strike the words ''thus'' and continuing to the end of line 17, and inserting the following: ''erecting barriers to competition, and constituting mere economic protectionism.''

Mr. BARR of Georgia. Mr. Chairman, this simply cleans up the language.

It struck a number of us, in trying to analyze the final language on this page of the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) that the words ''thus erecting barriers to competition'' was unusual language to use in a statutory provision. Therefore, what we do is simply keep the same intent, but clarify it so it reads, ''erecting barriers to competition and constituting mere economic protectionism.''

We are just taking out and changing the grammar so that it is consistent with the earlier language in the particular provision.

Mr. Chairman, I would ask the gentleman from Virginia (Mr. GOODLATTE) if he has any problem with the clarifying language.

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

Mr. BARR of Georgia. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding. This

language is perfectly fine with us. We have no objection to the amendment, and urge its adoption.

Mr. DAVIS of Virginia. Mr. Chairman, I rise today to urge my colleagues to support the Goodlatte/Conyers/Davis amendment to the Twenty-First Amendment Enforcement Act because it is essential to ensuring that this legislation does not restrict the growth of Internet commerce. This amendment clarifies first that the Act does not modify or supersede the Internet Tax Freedom Act that we worked hard to enact last year under the leadership of my colleague Representative COX. Equally important is the clarification that an injunctive relief action may not be sought against an Internet Service Provider. Indeed, enforcement approaches such as injunctions to block Internet sites can seriously disrupt lawful Internet communications, and slow the operations of a service provider's network for all other uses.

In sponsoring this clarifying amendment today with my colleagues, I want to alleviate the concern I had that in its current form, H.R. 2031 could be misinterpreted as authorizing injunctions by the states against communications companies who are not involved in the shipping or importing of liquor, but are simply used by third parties for communications purposes. I want to ensure that in enacting this legislation, we do not implement a burdensome Federal enforcement action that would hamper the growth of the Internet. Not just when it comes to the sale of alcohol over the Internet, but we must consider the message we send to business—from the small entrepreneurs to large industry—when they make commercial decisions about how they use the Internet to do business.

While the Twenty-First Amendment Enforcement Act does not specifically mention the Internet, there is no doubt that it is the inmate nature of the Internet that has spurred the call for this legislation. It is my firm belief that Federal policy must use market-driven principles as the underpinning of any enacted legislation affecting the Internet. Despite the Federal Government's initiation and financing of the Internet, its expansion and diversity has been driven mainly by the private sector. Each piece of legislation that will change people's commercial behavior must be thoroughly examined and the consequences understood, lest we unleash a federal mandate or restriction that will harm the Internet's success and growth as the primary tool for communication between people and business.

The Federal Government can be the leader in developing incentives to move the Internet forward as the primary tool of businesses, educators, scholars, students, and the ordinary citizen. We must ensure the no Government can hinder that development. I ask my colleagues to support the Goodlatte/Conyers/Davis/Boucher/McCollum/Dunn amendment and guarantee the continued growth of the Internet as a tool of business.

Mr. CHAMBLISS. Mr. Chairman, today, I rise in support of the Twenty-First Amendment Enforcement Act, which will provide individual states the ability to enforce statutes regulating the distribution and sale of alcoholic beverages within their border, a right guaranteed by the Twenty-First Amendment.

Most states, including my home state of Georgia, employ a three-tiered system of alcohol distribution to control the distribution and sale of alcoholic beverages within their borders. Under this system alcohol producers go through state-licensed wholesalers, who must go through retailers, who alone may sell to consumers. Furthermore, Georgia is one of nineteen ''express prohibition'' states that expressly outlaw direct shipments of alcohol from out-of-state. Georgia's system has proven quite effective in combating illegal alcohol sales to minors.

While Georgia's alcohol statutes have proven successful throughout the years, the recent development of electronic commerce via the Internet has presented new challenges to preventing illegal shipments of alcohol into our state. Confronted with this new challenge, as well as the difficulty of enforcing its laws in court, Georgia in 1997 enacted statutes making the illegal shipment of alcoholic beverages within its borders a felony. This action was necessary to ensure the state would have jurisdiction over violators of its state liquor transportation laws.

I believe if states are unable to effectively enforce their laws against illegal interstate shipment of alcoholic beverages, they may also lose some ability to police sales to underage purchasers. Illegal direct shipments also deprive the state of the excise and sales tax revenue that would otherwise be generated by a regulated state, placing regulated businesses at a distinct commercial disadvantage. Finally, if direct shippers violate state law, they exclude themselves from other state obligations such as submitting to quality control inspections, licensing requirements, and complying with other restrictions placed upon sellers of alcohol.

As an advocate of smaller government and state's rights, I favor a resolution to this problem that does not mandate changes to any existing state laws or alter existing case law interpreting the Commerce clause of the Constitution. I believe the Twenty-First Amendment Enforcement Act is the common-sense solution to this problem as it allows Georgia the authority to seek enforcement, through a federal district court injunction, of its state laws regulating the importation or transportation of intoxicating liquors without infringing on states' rights or creating Constitutional confusion.

For these reasons, I support the passage of H.R. 2031, the Twenty-First Amendment Enforcement Act, and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BARR) to the amendment offered by the gentleman from Virginia (Mr. GOODLATTE), as amended.

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. LOFGREN:

Page 21, after line 17, insert the following (and make such technical and conforming changes as may be appropriate):

''(2) the term 'firearm' shall have the meaning given such term in section 921(a) of title 18 of the United States Code;

Page 3, line 128, insert ''or firearm'' after ''liquor''.

Mr. SCARBOROUGH. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order is reserved by the gentleman from Virginia (Mr. SCARBOROUGH) to the amendment offered by the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I offer this amendment on behalf of myself, as well as the gentlewomen from New York, Mrs. MCCARTHY and Mrs. LOWEY.

As I mentioned earlier, Mr. Chairman, in a discussion on the Cox amendment, I do have concerns about the underlying amendment and its ability to constrain interstate commerce unreasonably. However, if this House is insistent upon pursuing the remedies outlined in the Scarborough bill, I would suggest that we ought to provide those tools equally to the chief law enforcement officers of our States in the enforcement of gun laws.

As many of my colleagues know, the State of California has recently passed, by wide margins in the assembly and the State Senate, and these measures have been signed into law by the Governor, a whole series of gun safety measures that I believe put California on the cutting edge of gun safety measures among the 50 States.

It seems to me that, if we are going to give the Attorneys General of the 50 States the ability to go into Federal court to protect their citizens from $20 bottles of cabernet, we ought to be at least as willing to give the attorney general of the State of California the ability to go into Federal court to protect his citizens against the Tech–DC9, the AK–47, and other weapons of mass destruction.

Mr. Chairman, as we know, we failed to come together across the aisle on a bipartisan basis to adopt gun safety measures earlier in this Congress, but we have an opportunity here to at least allow those States that have been more progressive and more receptive to the people of the country than has the United States Congress to have an additional tool to protect the citizens of the States who have forward-thinking State legislatures and forward-thinking Governors.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentlewoman from California (Ms. LOFGREN), who finds it, as do many of us, ironic that this House apparently does not demonstrate the same concern for the dangers of interstate shipment of firearms as they claim to have about the interstate shipment of alcohol.

If we opened the Federal courts to State alcohol suits, we should at least do the same for firearms. I thank the gentlewoman for making the connection in this debate.

Ms. LOFGREN. I thank the gentleman from Michigan (Mr. CONYERS), the ranking member.

I would note, as to the issue of germaneness, noting that the gentleman from Florida (Mr. SCARBOROUGH) has reserved a point of order, that it is my contention that the amendment is germane.

As we know, the underlying bill deals with issues that are governed by the Alcohol, Tobacco, and Firearms Bureau, as is the issue of guns. It seems to me, if we are going to give a tool to States to use the Federal courts for an item that is regulated by ATF, to wit, bottles of cabernet, that we ought to provide that same remedy and tool to States to deal with another item which is within the jurisdiction of ATF, to wit, firearms, as defined in title 18 of the U.S. Code.

I would hope that we might move apace to adopt this resolution. I have two teenage children. They will be starting high school again this fall. They will be starting school, before this House finishes our annual recess. I would like to be able to tell them and to tell their classmates that the House of Representatives has done something, anything rational, to preserve and to enhance gun safety in America. I think we owe that to the mothers and fathers across the United States.

Although we have not been able previously to come together, although we have not been able to support the gun safety measures that have passed the United States Senate, although we have not been able to deliver that level of safety to the American people, we could act today and at least do this much.

So I am hopeful that we can approve this amendment. It is so important to me that I believe I would vote for the underlying bill, despite the reservations I have, in order to get this important new enforcement tool for State Attorneys General.

POINT OF ORDER

Mr. SCARBOROUGH. Mr. Chairman, I ask to speak on the point of order, the fundamental purpose of the bill is to provide the attorney general of any State with the authority to bring a civil action to the United States district court to enjoin any person or entity that the attorney general has reasonable cause to believe is engaged in any act that would constitute a violation of State law regulating the importation or transportation of any intoxicating liquor.

The fundamental purpose of the amendment is to expand the single class of merchandise covered by this bill, to wit, intoxicating liquor, by adding another class of merchandise, to wit, firearms, to the one class covered by this bill.

A distinction also exists that the distinguished ranking member of the Committee on the Judiciary did not touch on when he said we ought to be able to blur alcohol and firearms together in this sort of stew. The main difference is that none of us here support the illegal transportation of firearms across State lines.

□ 1345

What this amendment does is this amendment tries to bring in the gun amendments. We all agree illegal transportation of firearms across State lines should not be permissible. Unfortunately, illegal alcohol sales being transported across State lines is still being defended by many people here today.

According to House Practice Germaneness section 9: ''One individual proposition is not germane to another individual proposition.'' This is clearly one individual proposition being added to another. Accordingly, Mr. Chairman, the amendment is not germane, and I insist on my point of order.

The CHAIRMAN. Does the gentlewoman from California (Ms. LOFGREN) desire to be heard on the point of order?

Ms. LOFGREN. Yes, Mr. Chairman.

Mr. Chairman, I believe that the amendment is germane. I would ask, clearly even if there is a question as to germaneness, it does not need to be raised if all Members agree that the underlying measure should be supported by us all. I was glad to hear the comments of the gentleman from Florida (Mr. SCARBOROUGH) that none of us support the illegal transport of firearms across State laws. The question is whose laws? In California, it is now, because of what the State legislature has done, it is illegal. TEC–9s are covered. TEC DC–9s are covered.

That is not the case under Federal law. So this would allow those States' Attorneys General, the State of California, to go to Federal court to enforce California State laws vis-a-vis firearms.

I hope that we might be able to come together, the gentleman from Florida (Mr. SCARBOROUGH) and I, to allow this amendment to be offered and adopted; and that if he would withdraw his point of order, we need not discuss the germaneness issue any further.

I would hope that he would do that since, if I understood him correctly, he agrees or says he agrees with the intention of the amendment. Therefore, I would hope, and I do not know if he wishes to respond, but I would hope that he might withdraw his objection on this point.

The CHAIRMAN. Does the gentleman from Georgia (Mr. BARR) desire to be heard on the point of order?

Mr. BARR of Georgia. I do, Mr. Chairman. Mr. Chairman, I am not quite sure whether the gentlewoman from California (Ms. LOFGREN) correctly characterized the earlier remarks of the gentleman from Florida (Mr. SCARBOROUGH) who has sponsored the underlying bill here and who has risen and asserted and insisted on a point of order against the amendment of the gentlewoman from California.

I think the gentleman from Florida has made very clear that he is opposed to this amendment. I think the point that the gentleman was making earlier is a very accurate one; and that is that Federal law already provides that, when one ships a firearm in interstate commerce, it has to be shipped consistent with State laws, and it has to be shipped, for example, to a licensed firearms dealer if it is shipped through the mails.

There already, in other words, are very sever limitations on the interstate shipment of firearms. And to open that Pandora's box or that can of worms now to insert into a piece of legislation that is very specific, very clear, very limited, very reasonable, a whole new issue on which there have not been hearings, I mean, the opponents of the bill of the gentleman from Florida earlier were bemoaning the fact, erroneously as it turns out, bemoaning the fact that there had not been hearings and debate and information solicited on his proposed piece of legislation. In fact, as the gentleman from Florida correctly stated, there have been hearings. There has been information. There has been evidence to support his legislation.

What the gentlewoman from California is now proposing to do is to raise another whole issue which has not been debated certainly in the context of the intent of this legislation.

I believe the gentleman from Florida is very correct when he points respectfully to the Chair on section 9 of House Practice on Germaneness. The proposed amendment from the gentlewoman from California has nothing whatsoever to do with the intent or the effect of the underlying bill proposed by the gentleman from Florida.

I rise in support of the reservation on this and I join the gentleman from Florida (Mr. SCARBOROUGH) in insisting on his point of order. I respectfully urge the Chair to strike the amendment as not germane and out of order.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The bill permits a State Attorney General to bring a civil action in Federal court against a person who has violated a State law regulating the importation and transportation of intoxicating liquor.

The amendment offered by the gentlewoman from California attempts to create an additional Federal cause of action against a person who violates a State law regulating firearms.

As stated in section 798a of the House Rules and Manual, an amendment must address the same subject as the bill under consideration.

This amendment addresses a separate subject matter (regulating traffic in firearms) than that addressed by the bill (regulating traffic in intoxicating liquors).

Accordingly, the amendment is not germane and the point of order is sustained.

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. LOFGREN:

On page 6 at the end, insert the following:

(c) Application of Amendment with regard to Certain Violations of Law. This Act and the amendment made by this act shall take immediate effect with regard to any violation of a state law regulating the importation or transportation of any intoxicating liquor which results from any violation of a state's firearms laws.

Mr. SCARBOROUGH. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida reserves a point of order on the amendment.

Ms. LOFGREN. Mr. Chairman, I believe that the amendment offered by myself and by the gentlewoman from New York (Mrs. MCCARTHY) and the gentlewoman from New York (Mrs. LOWEY) adequately addresses the germaneness issue that was the subject of the point of order on the prior amendment we offered.

There are a series of cases that relate to the interplay between alcohol laws of the States and firearms. I would note for the RECORD and will include for the RECORD two cases: first, the case of *Davis versus State of Alabama Alcohol Beverage Control Board* wherein the court found that the ABC Board in Alabama was able to refuse the renewal of liquor licenses for good cause including the discharge of firearms in the parking lot of the facility in question.

Second, a case from Illinois, *Sip and Save Liquors versus Richard M. Daley, Mayor*, cited at 657 N.E.2d. 1, provides that the Commission may take notice of gun law violations of the State in the proceedings instituted pursuant to the Illinois liquor laws.

This amendment would allow State AGs to utilize the Federal courts to enforce the State gun laws relative to liquor law violations. Let me give an example where this might be pertinent. For example, as I mentioned earlier, in California, TEC–DC9s are no longer a legal weapon.

It would be possible for a State AG, Mr. Lockyer, to go into Federal Court and to seek removal of the liquor license or the license of a winery when the violation of the winery owner related to the violation of the State weapons laws. This may be a niche, and it is a niche I propose only because of the germaneness issue, given the prior ruling of the Chair, and given the unwillingness of those who raised the germaneness issue to waive or withdraw it.

But, once again, as I argued earlier, if we are able to do something, anything to enhance the Nation's gun safety laws, we should do it. As I mentioned before, school will commence all across America before our recess has ended. This is one of the last opportunities the House of Representatives will have before our recess to do something, to do something reasonable, to do something responsible to enhance gun safety laws.

I would hope that we could come together across the aisle on a bipartisan basis to do even this modest thing to help guarantee the safety of the children of this country and the children of the high schools in California, even if it is only some modicum of increased safety when they return to school in September.

(Cite as: 657 N.E.2d 1, 212 Ill.Dec. 306)

SIP & SAVE LIQUORS, INC., AN ILLINOIS CORPORATION, PLAINTIFF-APPELLANT, *v.* RICHARD M. DALEY, MAYOR AND LOCAL LIQUOR CONTROL COMMISSIONER OF THE CITY OF CHICAGO, AND WILLIAM D. O'DONAGHUE, CHAIRMAN OF THE LICENSE APPEAL COMMISSION, DEFENDANTS-APPELLEES

No. 1–93–0760

Appellate Court of Illinois, First District, Third Division, Sept. 6, 1995, Rehearing Denied Nov. 9, 1995

Liquor retailer sought review of revocation of retailer's license by mayor and city liquor control commissioner. The Circuit Court, Cook County, Edward C. Hofert, J., denied relief, and retailer appealed. The Appellate Court, Cerda, J., held that: (1) municipal code section placing time limit on issuance of revocation applied to liquor licenses; (2) state's five-day time limit, not code's 60-day limit, was applicable to revocation of liquor license; (3) failure to issue revocation within five days did not deprive commission of jurisdiction; (4) retailer was not deprived of due process; and (5) revocation was warranted.

Affirmed.

[1] INTOXICATING LIQUORS—106(1)—223k106(1)

City code section allowing mayor to suspend or revoke any license issued under code and state reasons for any revocation or suspension within 60 days was applicable to liquor licenses. Chicago, Ill., Municipal Code §§4–4–280, 4–60–070.

[1] INTOXICATING LIQUORS—108.1—223k108.1

City code section allowing mayor to suspend or revoke any license issued under code and state reasons for any revocation or suspension within 60 days was applicable to liquor licenses. Chicago, Ill., Municipal Code §§4–4–280, 4–60–070.

[2] INTOXICATING LIQUORS—10(2)—223k10(2)

Liquor control is subject to concurrent jurisdiction of state and local government; home-rule municipalities may legislate in area of liquor control, except as restricted by state, pursuant to home-rule provisions of state constitution. S.H.A. Const. Art. 7, §6.

[2] INTOXICATING LIQUORS—11—223k11

Liquor control is subject to concurrent jurisdiction of state and local government; home-rule municipalities may legislate in area of liquor control, except as restricted by state, pursuant to home-rule provisions of state constitution. S.H.A. Const. Art. 7, §6.

[3] INTOXICATING LIQUORS—11—223k11

State statute requiring that revocation of liquor license be issued within five days of hearing prevailed over municipal code section imposing 60-day time limitation for issuing revocation, as code expanded state's time limit and was thus inconsistent with state law. S.H.A. 235 ILCS 5/7–5; Chicago, Ill., Municipal Code §4–4–280.

[3] INTOXICATING LIQUORS—15—223k15

State statute requiring that revocation of liquor license be issued within five days of hearing prevailed over municipal code section imposing 60-day time limitation for issuing revocation, as code expanded state's time limit and was thus inconsistent with state law. S.H.A. 235 ILCS 5/7–5; Chicago, Ill., Municipal Code §4–4–280.

[4] ADMINISTRATIVE LAW AND PROCEDURE—489.1—15Ak489.1

City liquor control commission's failure to issue reasons for revocation within five-day period prescribed by state law did not deprive commission of jurisdiction to revoke license, as statute setting forth five-day period was directory, not mandatory, Liquor Act was to be liberally construed, licensee was not injured by late decision, and Liquor Act did not provide that jurisdiction was lost. S.H.A. 235 ILCS 5/1–2, 7–5.

[4] INTOXICATING LIQUORS—108.9—223K108.9

City liquor control commission's failure to issue reasons for revocation within five-day period prescribed by state law did not deprive commission of jurisdiction to revoke license, as statute setting forth five-day period was directory, not mandatory, Liquor Act was to be liberally construed, licensee was not injured by late decision, and Liquor Act did not provide that jurisdiction was lost. S.H.A. 235 ILCS 5/1–2, 7–5.

[5] STATUTES—227—361k227

Word ''shall'' generally is mandatory and not directory, but it can be construed as meaning ''may'' depending on legislative intent.

[6] STATUTES—227—361k227

Generally, statutory regulations designed to secure order, system and dispatch in proceedings, and by disregard of which rights of interested parties cannot be injuriously affected, are not mandatory unless they are accompanied by negative language that imports that acts required shall not be done in any other manner or time than designated.

[7] STATUTES—227—361k227

If statute is mandatory, it prescribes result that will follow if required acts are not done; if statute is directory then its terms are limited to what is required to be done.

[8] STATUTES—227—361k227

Failure to comply with mandatory provision will render void proceeding to which provision relates, but strict observance of directory provision is not essential to validity of proceedings.

[9] ADMINISTRATIVE LAW AND PROCEDURE—670—15Ak670

Liquor retailer waived issued that he was denied due process because shotgun which retailer was charged with possessing in license revocation proceeding was destroyed and police officer was allowed to testify to its measurement, where retailer did not object to testimony, and did not make motion in limine at hearing, and did not raise issue until penalty hearing.

[9] INTOXICATING LIQUORS—108.10(4)—223k108.10(4)

Liquor retailer waived issue that he was denied due process because shotgun which retailer was charged with possessing in license revocation proceeding was destroyed and police officer was allowed to testify to its measurement, where retailer did not object to testimony, did not make motion in limine at hearing, and did not raise issue until penalty hearing.

[10] CONSTITUTIONAL LAW—287.2(3)—92k287.2(3)

Liquor retailer received sufficient notice of charge of possessing sawed-off shotgun, thus, retailer was not denied due process in license revocation proceeding. U.S.C.A. Const. Amend. 14.

[10] INTOXICATING LIQUORS—108.2—223k108.2

Liquor retailer received sufficient notice of charge of possessing sawed-off shotgun, thus, retailer was not denied due process in license revocation proceeding. U.S.C.A. Const. Amend. 14.

[11] INTOXICATING LIQUORS—106(4)—223k106(4)

Presence of sawed-off shotgun on premises of liquor retailer warranted revocation of liquor license; retailer was not improperly found guilty of failing to register gun which was not registerable, location of shotgun permitted inference that retailer had control

of gun, and factors both in favor of and against revocation existed.

[12] INTOXICATING LIQUORS—108.10(8)—223k108.10(8)

Appellate court may reverse licensing decision of liquor control commission only if manifest weight of evidence supports opposite conclusion.

*2 **307 Lamendella & Daniel, Chicago (Joseph A. Lamendella, Kris Daniel, of counsel), for appellant.

Corp. Counsel, Chicago (Susan S. Sher, Lawrence Rosenthal, Benna Ruth Solomon, Mardell Nereim, of cousel), for appellees.

Justice CERDA delivered the opinion of the court:

Plaintiff, Sip & Save Liquors, Inc., an Illinois corporation, appeals from the revocation of its retail liquor license. It argues on appeal that: (1) the City of Chicago Local Liquor Control Commission (the commission) lost jurisdiction when it did not timely issue a decision; (2) plaintiff was denied due process; and (3) revocation was an unreasonable penalty.

One of the issues in this case is whether the City of Chicago Local Liquor Control Commission lost jurisdiction to impose any sanction when it failed to render a decision within the mandatory 15-day period prescribed by section 4–4–280 of the Chicago Municipal Code (the Code) (Chicago Municipal Code §4–4–280 (1990)) and the holding in Puss N Boots, Inc. v. Mayor's License Commission (1992), 232 Ill. App. 3d 984, 173 Ill. Dec. 676, 597 N.E. 2d 650 or whether instead the Liquor Control Act of 1934 (235 ILCS 5/1–1 et seq. (West 1992)) (the Liquor Act) of the State of Illinois was applicable.

The commission charged in a notice of hearing to plaintiff that on August 19, 1990, the Code was violated when Thomas Shubalis, plaintiff's president, possessed an unregistered Winchester .22-caliber rifle, a Harlin 20-gauge shotgun, a Ruger .357 Magnum firearm, and a .25-caliber automatic firearm. It was also charged that Shubailis violated State law by possessing firearms without possessing an Illinois firearm owner's identification card. The notice also charged that on August 29, 1990, plaintiff sold or gave alcoholic beverages on the licensed premises to a person under the age of 21 years.

The notice stated that the city would present evidence of previous acts of misconduct. Attached as exhibits were orders of dispositions of previous charges: (1) sale to a minor on November 4, 1983, resulting in a warning on July 18, 1984; (2) sale to a minor on January 11, 1985, resulting in a warning on July 17, 1985; and (3) sale to a minor on August 31, 1985, resulting in a $300 voluntary fine on April 29, 1986.

A hearing was held before the commission on January 17, February 14, and April 4, 1991.

Chicago police officer Anthony Wilczak testified at the hearing that he responded to a burglary alarm on August 19, 1990, at plaintiff's liquor store. He searched the premises and found a .357 Magnum revolver and a .25-caliber automatic pistol below the cash register on the shelf. He asked Shubalis *3**308 about the guns, and Shubalis said that the guns were his brother's. Shubalis also said that the did not know where the .22-caliber rifle came from and that the sawed-off shotgun belonged to friend of his brother. He did not find a firearm owner's identification card when he searched Shubalis nor did he find a city registration for any of the weapons.

Chicago police officer Sharon Gaynor testified at the hearing that she recovered in the search a sawed-off 20-gauge shotgun and a Winchester rifle, which were found in a large safe in a back storage area. The safe was open, and the guns were lying in the safe.

On April 26, 1991, Richard M. Daley, mayor and local liquor control commissioner of the city of Chicago, revoked plaintiff's city of Chicago retail liquor license. The order stated that the proceedings were instituted pursuant to the Liquor Act (Ill. Reve. Stat. 1989, ch. 43, pars. 93.9 through 195). The order made the following findings: (1) on or about August 19, 1990, the licensee possessed unregistered firearms (Harlin 20-gauge shotgun, Ruger .357 Magnum firearm, and .25-caliber automatic firearm) on the licensed premises in violation of former section 11.1–13 of chapter 11.1 of the code (Chicago Municipal Code §11.1–13 (1983) (now codified as Chicago Municipal Code §8–20–150 (1995))); (2) on or about August 19, 1990, the licensee possessed firearms on the licensed premises without possessing a firearm owner's identification card issued by the State of Illinois in violation of State law; and (3) on or about August 29, 1990, plaintiff sold or gave alcoholic beverages on the licensed premises to a person under 21 years of age in violation of former section 147–14(a) of chapter 147 of the Code (Chicago Municipal Code §147–14(a) (1983) (now codified as Chicago Municipal Code §4–60–140(a) (1993))).

Plaintiff appealed to the City of Chicago License Appeal Commission (the appeal commission), which affirmed Daley's action on September 30, 1991. Plaintiff's petition for rehearing was denied by the appeal commission on November 6, 1991.

On December 6, 1991, plaintiff filed a complaint in administrative review against defendants Daley and William D. O'Donaghue, chairman of the appeal commission.

On May 6, 1992, the trial court found the following: (1) finding charge number one (Harlin 20-gauge shotgun) was sustained; (2) the other findings were not sustained; (3) the matter was remanded to the commission to consider its order of revocation with respect to finding against the plaintiff on charge number one.

On June 6, 1992, the commission reconfirmed the revocation of the license based on the finding that the owner possessed an unregistered Harlin 20-gauge shotgun.

On August 14, 1992, the trial court reversed the order reconfirming revocation and remanded the matter for a hearing by the commission on the penalty in view of the fact that the charges were modified. The commission was ordered not to consider the charges that were not sustained by the trial court. It was also ordered that both parties would have a full hearing in aggravation and mitigation.

A hearing on the penalty was held on October 8, 1992, before the commission. During Chicago police officer Lawrence Seidler's testimony, plaintiff made an oral motion in limine based on the following: (1) the charge was the failure to exhibit a registration certificate and not the possession of a sawed off shotgun; and (2) the shotgun was destroyed by the police. The motion was denied.

Officer Seidler testified that the barrel of the shotgun was 14 inches long and that a portion of the stock was sawed off.

Thomas Shubalis testified at the hearing that the liquor store had been in business at the same location for 17 years. He recognized the shotgun and had seen it once before on the premises. He did not believe that the shotgun was on the premises on August 19, 1990. The shotgun had been brought in by a neighbor who was moving and who was going to pick up the gun in a *4 **309 couple of days. The shotgun had been on the premises in a storeroom safe for a number of years but he thought it had long been removed and never even thought of it. The safe was not used, and it was hardly visible because there were liquor boxes in front of it. He never had occasion to open the safe between the time he saw the shotgun and the time of the burglary. He had no registration for the shotgun.

On October 14, 1992, plaintiff moved in the trial court to reverse all orders of the commission and the appeal commission on the basis that the mayor lost jurisdiction to revoke the liquor license. The hearings had terminated on April 4, 1991, and the decision was rendered on April 26, 1991, which was later than the mandatory 15-day period.

On October 16, 1992, the commission sustained ''charge one'' and revoked the license. The following findings of fact were made. Shubalis admitted that he first saw the sawed-off shotgun eight or nine years before the burglary and that he did nothing to assure that the shotgun was removed from the premises. Shubalis's testimony that the gun was hidden in the old safe and that he did not even think about it after first seeing it was not credible. The licensee had a history of three prior violations, one of which resulted in a fine of $300. The weapon was an extremely dangerous type of weapon. In light of the serious nature of the offense, revocation was appropriate.

On January 22, 1993, the trial court denied plaintiff's motion to reverse and to reinstate the license, denied plaintiff's motion to reverse the post-remand order of revocation, and affirmed the order of revocation.

Plaintiff filed a notice of appeal on February 19, 1993.

I. JURISDICTION

Plaintiff first argues that the commission lost jurisdiction to impose any sanction when it failed to render a decision within the 15 days following the hearing as prescribed by section 4–4–280 of the Code (Chicago Municipal Code §4–4–280 (1990)), which was amended in 1992 to expand the time period to 60 days (Journal of the Proceedings of the City Council of the City of Chicago, July 29, 1992, at 20041–42). If the proceedings were initiated exclusively under the Liquor Act, then the procedural requirements of section 7–5 of the Liquor Act were not met (235 ILCS 5/7–5 (West 1995)). The term ''shall'' was mandatory and not directory.

[1] The first issue is whether section 4–4–280 of the Code applied to the revocation of plaintiff's liquor license. It states in part:

''The mayor shall have the power to * * * suspend or revoke any license issued under the provisions of this code * * *.

If the mayor shall determine after [a] hearing that the license should be revoked or suspended, within 60 days he shall state the reason or reasons for such determination in a written order or revocation or suspension * * *.''

According to the Journal of the Proceedings of the City Council of the City of Chicago, the ordinance was:

''intended to ratify prior actions of the Mayor in revoking licenses and * * * shall apply to all cases in which licenses have been revoked * * * within 60 days of the conclusion of a hearing required by Section 4–4–280 * * *.'' Journal of the Proceedings of the City Council of the City of Chicago, July 29, 1992, at p. 20042.

Section 4–4–280 states that it is applicable to the revocation of any license, and it does not exempt liquor licenses. Section 4–60–070 of the Code states that a liquor license shall be issued subject to chapter 4–4, the chapter in which section 4–4–280 appears. [FN1] (Chicago Municipal Code §4–60–070 (1994).) We find that section 4–4–280 covers liquor licenses.

''FN1. Section 4–60–070(a) of title four of the Code states in part that ''[a] city retailer's license for the sale of alcoholic liquor shall be issued by the local liquor control commissioner, subject to the provisions of an act entitled 'An Act relating to alcoholic liquor,' approved January 31, 1934, as amended, and subject to the provisions of this chapter and Chapter 4–4 relating to licenses in general not inconsistent with the law relating

to alcoholic liquor.'' (Emphasis added.) Chicago Municipal Code §4–60–070 (1994).''

*5 **310 The next issue is whether section 7–5 of the Liquor Act states with its requirement that a statement of reasons for revocation be given within five days of hearing controls over Code section 4–4–280's time frame of 60 days. Section 7–5 of the Liquor Act states in part:

''The local liquor control commissioner shall within 5 days after [a] hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination in a written order * * *.'' 235 ILCS 5/7–5 (West 1995).

[2] Liquor control is subject to concurrent jurisdiction of the State and local government. (Easter Enterprises, Inc. v. Illinois Liquor Control Commission (1983), 114 Ill. App. 3d 855, 858–59, 70 Ill. Dec. 666, 449 N.E. 2d 1013.) Home-rule municipalities such as Chicago may legislate in the area of liquor control, except as restricted by the State, pursuant to the home-rule provisions of the 1970 Illinois Constitution (Ill. Cont. 1970, art. VII, §6). (Easter, 114 Ill. App. 3d at 858–59, 70 Ill. Dec. 666, 449 N.E. 2d 1013.) Courts have approved local liquor ordinances in home-rule municipalities that were either more restrictive than State statutes on the same subject matter or that placed additional requirements on licenses not found in State statutes. Easter, 114 Ill. App. 3d at 859, 60 Ill. Dec. 666, 449 N.E. 2d 1013.

[3] Section 4–60–070 states that provisions of the Code chapter relating to licenses in general would govern liquor licenses except when they are inconsistent with ''the law relating to alcoholic liquor.'' (Chicago Municipal Code §4–60–070 (1994).) The ordinance also states that the license was subject to the provisions of the Liquor Act. The Liquor Act enumerates in section 4–1 certain powers of municipalities including the power ''to establish * * * regulations and restrictions upon the issuance of an operations under local licenses not inconsistent with law as the public good and convenience may require.'' 235 ILCS 5/4–1 (West 1993).

The Code's time limit is not just different than State law but expands a time limit established by State law. The longer time period is not a further restriction or an additional requirement. (Easter, 114 Ill. App. 3d at 859, 70 Ill. Dec. 666, 449 N.E. 2d 1013.) The Code's longer time for the issuance of the penalty decision is inconsistent with the five-day time limit in the Liquor Act. Under the terms of the Code and the Liquor Act, the inconsistent 15- and 60-day limits cannot stand. (Village of Mundelein v. Hartnett (1983), 117 Ill. App. 3d 1011, 1015, 73 I11.Dec. 285, 454 N.E.2d 29 (where there is a conflict between a statute and an ordinance, the ordinance must give way).) The State five-day limitation for issuing a revocation decision prevails over the Code.

The case of Puss N Boots, Inc. v. Mayor's License Commission (1992), 232 I11.App.3d 984, 173 I11.Dec. 676, 597 N.E.2d 650, was an appeal from an order of the mayor of the city of Chicago revoking the public place of amusement license of the plaintiff. Plaintiff argues that this court should follow the decision in Puss N Boots. One of the issues in that case was whether the mayor had lost jurisdiction to revoke the public place of amusement license because of failure to act within a 15-day time period prescribed by ordinance section 4–4–280. The court pointed out that the Code section providing for ''interpretation of language'' expressly stated that ''[t]he word 'shall' as used in this code is mandatory.'' (Puss N Boots, 232 I11.App.3d at 987, 173 I11.Dec. 676, 597 N.E.2d 650.) The court concluded that ''shall'' in section 4– 4–280 was mandatory and therefore the failure to render a decision within the mandatory time deprived the mayor of jurisdiction. Puss N Boots, 232 I11.App.3d at 987–89, 173 I11.Dec.676, 597 N.E.2d 650.

We agree with the decision rendered in the Puss N Boots case. The word ''shall'' in section 4–4–280 of the Municipal Code of Chicago is mandatory rather than directory, and the commission would have lost jurisdiction when the mayor failed to act within the 15-day period in this case if only the local code were involved. However, liquor control is subject to concurrent jurisdiction of the State and the city of Chicago. (Easter Enterprises, Inc. v. Illinois Liquor Control Commission (1983), 114 I11.App.3d 855, 858–59, 70 I11.Dec. 666, 449 N.E.2d 1013.) In this *6 **311 case, the order of April 26, 1991, was issued by Richard M. Daley as mayor and local liquor control commissioner. The order also stated that the proceedings were instituted pursuant to the Liquor Act. In the Puss N Boots case the State of Illinois had no involvement in the revocation of a Chicago public place of amusement license whereas in this case the proceedings were conducted subject to the Liquor Act. We find that the Puss N Boots case is distinguishable from the case sub judice and is not controlling.

[4] The next issue is whether the failure to issue the reasons for revocation within the five-day period provided by State law deprived the commission of jurisdiction. If the five-day requirement of the Liquor Act was mandatory and not directory, then the failure to act within the required time meant the commission did not have jurisdiction to act beyond the time limit. See Johnkol, Inc. v. License Appeal Commission (1969), 42 I11.2d 377, 383– 84, 247 N.E.2d 901 (failure of liquor license appeal commission to render a decision within 20 days of filing the appeal as required by State law resulted in loss of jurisdiction for noncompliance).

[5][6][7][8] Section 7–5 of the Liquor Act states that the local liquor control commissioner ''shall'' within five days of the hearing state the reasons for revocation. (235 ILCS 5/7–5 (West 1995).) The word ''shall'' generally is mandatory and not directory, but it can be construed as meaning ''may'' depending on the legislative intent. (Village of Mundelein v. Hartnett (1983), 117 I11.App.3d 1011, 1016, 73 I11.Dec. 285, 454 N.E.2d 29.) Generally, statutory regulations designed ''to secure order, system and dispatch in proceedings, and by a disregard of which the rights interested parties cannot be injuriously affected'' are not mandatory unless they are accompanied by negative language that imports that the acts required shall not be done in any other manner or time than designated. (Village of Mundelein, 117 I11.App.3d at 1016, 73 I11.Dec. 285, 454 N.E.2d 29.) If a statute is mandatory, it prescribes the result that will follow if the required acts are not done; if the statute is directory then its terms are limited to what is required to be done. (Village of Mundelein, 117 I11.App.3d at 1016, 73 I11.Dec. 285, 454 N.E.2d 29.) The failure to comply with a mandatory provision will render void the proceeding to which the provision relates, but strict observance of a directory provision is not essential to the validity of the proceedings. Village of Mundelein, 117 I11.App.3d at 1016, 73 I11.Dec. 285, 454 N.E.2d 29.

Alpern v. License Appeal Commission (1976), 38 I11.App.3d 565, 567, 348 N.E.2d 271, was the first decision that held that the Liquor Act's five-day requirement was directory so that a revocation issued beyond that time was valid and the commissioner did not lose jurisdiction. The court adopted the reason that ordinarily a statute that specifies the time for the performance of an official duty will be considered directory only where the rights of the parties cannot be injuriously affected by the failure to act within the time indicated. (Alpern, 38 Ill. App. 3d at 567, 348 N.E. 2d 271.) The court also noted that the Liquor Act provided that it was to be liberally construed to protect the welfare of the people. (Alpern, 38 Ill. App. 3d at 567, 348 N.E. 2d 271.) The five-day provision did not contain language denying the exercise of the power after the time named and no right of plaintiff would be injuriously affected by a failure to serve the revocation order timely. Alpern, 38 Ill. App. 3d at 568, 348 N.E. 2d 271.

Several first district cases have followed Alpern; Dugan's Bistro, Inc. v. Daley (1977), 56 Ill. App. 3d 463, 475, 14 Ill. Dec. 63, 371 N.E. 2d 1116; Rincon v. License Appeal Commission (1978), 62 Ill. App. 3d 600, 606, 19 Ill. Dec. 406, 378 N.E. 2d 1281; Watra, Inc. v. License Appeal Commission (1979), 71 Ill. App. 3d 596, 600, 28 Ill Dec. 120, 390, N.E. 2d. 102; and Cox v. Daley (1981), 93 Ill. App. 3d 593, 595–96, 49 Ill. Dec. 55, 417 N.E. 2d 745.

Miller v. Daley (1973), 14 Ill. App. 3d 394, 397, 302 N.E. 2d 347, stated that the five-day limit was mandatory but found that the order was served within the period prescribed by the statute so that the conclusion that it was mandatory was dictum. (See Alpern, 38 Ill. App. 3d at 568, 348 N.E. 2d 271 (the interpretation in Miller was dictum).) The weight of the authority is that the five-day period is directory.

*7 **312 We concur with the cases finding that the failure to act in five days does not result in the loss of jurisdiction because even though the word ''shall'' is used (1) the Liquor Act is to be liberally construed to protect the welfare of the people (235 ILCS 5/1–2 (West 1993)), and a construction voiding a late revocation order would not serve the welfare of the people; (2) the license was not injured by a late decision as he continued to run his business until the license was revoked; and (3) the Liquor Act does not provide that jurisdiction is lost after the five-day period.

II. DUE PROCESS

Plaintiff next argues that the plaintiff was denied due process because the shotgun was destroyed and a police officer was permitted to testify about the measurements of one barrel of the shotgun. Plaintiff was also denied due process because he did not receive notice of the charge of possession of a sawed-off shotgun. The penalty was based on possession of a sawed-off shotgun, which was a separate offense from the charge of possession of an unregistered shotgun.

[9] Plaintiff did not object to the testimony concerning the shotgun at the first hearing, which was when the charges were tried. A motion in limine was not made at the first hearing. Plaintiff did not raise the issue of the denial of due process based on destruction of the shotgun until the penalty hearing. Therefore, that issue was waived. Harbor Insurance C. v. Arthur Andersen & Co. (1986), 149 Ill. App. 3d 235, 240, 102 Ill. Dec. 814, 500 N.E. 2d 707.

[10] The charge of possessing an unregistered shotgun was stated in the notice of hearing to be a violation of former section 11.1–13 of chapter 11.1 of the Code, which is now codified as section 8–20–150. Section 8–20–150 of the Code requires one to exhibit a valid registration certificate. (Chicago Municipal Code §8–20–150 (1995).) Section 8–20–040 of the Code states in part that no person shall within the city possess or have under his control any firearm unless he holds a valid registration certificate for that firearm. (Chicago Municipal Code §8–20–040(a) (1990).) A sawed-off shotgun is unregisterable. (Chicago Municipal Code §8–20–050(a) (1995).) Although the predecessor of section 8–2–150 was cited in the notice of

hearing instead of the predecessor of section 8–20–040, plaintiff received adequate notice that he was charged with possessing an unregistered sawed-off shotgun. From the beginning of the proceedings plaintiff knew that possession of a shotgun was the issue.

III. REVOCATION

[11] Plaintiff next argues that the revocation was unreasonable. Plaintiff had no duty to register a firearm and display a registration certificate for a firearm that was unregisterable, that the licensee did not own, and that the licensee did not constructively possess. The revocation order states that the ordinance violated was section 8–20–150 requiring a registration certificate (Chicago Municipal Code § 8–20–150 (1995)), but the conduct was described as possession of an unregistered firearm, which was prohibited by section 8–20–040 Chicago Municipal Code § 8–20–040 (1990)).

Plaintiff further argues that the finding of possession was erroneously based on the fact that the licensee had knowledge of the presence of the shotgun on the premises eight or nine years earlier. Plaintiff operated the business for 17 years. In a two-year period plaintiff was charged with three separate sales of alcohol to minors, but there was no other record of wrongful conduct. Failure to display a certificate was the most venial of the firearms offenses and should have resulted in a more lenient sanction of either fine or suspension. There was no evidence that the shotgun was functional.

The second revocation order issued does not refer to the specific ordinance violated as plaintiff contends but merely states that ''charge one'' was sustained. The order should have referred to the first ''finding'' of the revocation order, which was that plaintiff possessed an unregistered shotgun, because the first charge in the notice of hearing was possession of a rifle. Plaintiff was informed as to the basis for the revocation. Furthermore, the findings of the commission were given, and they emphasized the possession of the shotgun.

*8 **313 The licensee was found to have possessed an unregistered gun and was not found guilty of the offense of failing to register the unregisterable shotgun. Therefore the licensee was not punished for failing to perform an impossible act, and United States v. Dalton (10th Cir. 1992), 960 F.2d 121, is distinguishable. The Dalton court held that due process barred a conviction under a statute that required registration of a firearm where the subject firearm could not be legally registered. (Dalton, 960 F.2d at 124.) Section 8–20–040 does not only state that one cannot possese an unregistered gun (which would imply that the gun was registerable); the ordinance precludes possession of any firearm that is unregisterable. Chicago Municipal Ordinance § 8–20–040 (1995).

The next issue is whether the licensee possessed the shotgun within the meaning of section 8–20–040(a), which states that no person shall ''possess, harbor, have under his control, * * * or accept'' Any unregisterable firearm. (Chicago Municipal Code § 8–20–040(a) (1999).) Although there were employees who had access to the room where the shotgun was located, the shotgun was at the licensee's place of business so that it can be inferred that the licensee had control over the area where the shotgun was found.

[12] The appellate court may reverse the commission's decision only if the manifest weight of the evidence supports the opposite conclusion. (Lopez v. Illinois Liquor Control Commission (1983), 120 Ill.App.3d 756, 762–63, 76 Ill.Dec. 199, 458 N.E.2d 599.) Section 7–5 of the Liquor Act permits revocation if the licensee violated any provisions of the act or any ordinance of the municipality or any rule of the local liquor control commission (235 ILCS 5/7–5 (West 1995)), but the violation must fairly relate to the control of liquor. Lopez, 120 Ill. App. 3d at 761, 765, 76 Ill.Dec. 199, 458 N.E.2d 599.

That shotgun was deemed to be especially dangerous because it was unregisterable. The presence of this firearm on the premises jeopardized the safety of the public because employees of the licensee would have access to it. On the other hand, the business had been operated for 17 years with only three other charges. There were factors going in favor and against revocation. A less severe penalty could have been imposed, but under the abuse of discretion standard, the revocation must be upheld.

The judgment of the trial court is affirmed.

Affirmed.

RIZZI and TULLY, JJ., concur.

(Cite as: 636 So.2d 448)

ROBERT DAVIS D/B/A SOLID GOLD, INC. *v.* STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD.

AV92000711

Court of Civil Appeals of Alabama, Feb. 25, 1994

Owner of lounge sought review of Alcoholic Beverage Control (ABC) Board decision denying renewal of lounge liquor license. The Mobile Circuit Court, Ferill D. McRae, J., affirmed. Owner appealed. The Court of Civil Appeals, Robertson, P.J., held that substantial evidence supported ABC Board's finding that operation of lounge was prejudicial to health, welfare and morals of community.

Affirmed.

[1] ADMINISTRATIVE LAW AND PROCEDURE—701—15Ak701

Circuit court review of decision of Alcoholic Beverage Control (ABC) Board decision denying renewal of liquor license is governed by administrative procedure statute pertaining generally to judicial review of agency actions in contested cases. Code 1975, § 41–22–20.

[1] INTOXICATING LIQUORS—102—223k102

Circuit court review of decision of Alcoholic Beverage Control (ABC) Board decision denying renewal of liquor license is governed by administrative procedure statute pertaining generally to judicial review of agency actions in contested cases. Code 1975, § 41–22–20.

[2] ADMINISTRATIVE LAW AND PROCEDURE—683—15Ak683

In reviewing trial court's determination as to propriety of action of Alcoholic Beverage Control (ABC) Board, standard of review of Court of Civil Appeals is same as that of trial court. Code 1975, § 41–22–20.

[2] INTOXICATING LIQUORS—102—223k102

In reviewing trial court's determination as to propriety of action of Alcoholic Beverage Control (ABC) Board, standard of review of Court of Civil Appeals is same as that of trial court. Code 1975, § 41–22–20.

[3] INTOXICATING LIQUORS—102—223k102

Substantial evidence supported Alcoholic Beverage Control (ABC) Board's finding that operation of lounge was prejudicial to health, welfare and morals of community, thus supporting Board's denial of lounge's liquor license renewal, where neighborhood residents testified that lounge patrons discharged firearms, brawled in parking lot, made excessive noise, loitered, trespassed, deposited weapons and narcotics in yards, parked illegally, and urinated, defecated, and engaged in sexual activities on residents' property, and residents' testimony was supported by testimony of ABC Board employees and city police sergeant. Code 1975, § 28–3A–5(b).

*448 Major E. Madison, Jr., Mobile, for appellant.

H. Lewis Gillis and Anita L. Kelly of Thomas, Means & Gillis, P.C., Montgomery, for appellee.

ROBERTSON, Presiding Judge.

Robert Davis d/b/a Solid Gold, Inc., appeals from a judgment of the trial court upholding a decision of the State of Alabama Alcoholic Beverage Control Board (ABC *449 Board) denying a renewal of his lounge liquor license.

By a letter to the ABC Board dated August 20, 1991, Thomas Sullivan, the City of Mobile council member representing the district in which Davis operated his business, protested the renewal of Davis's liquor license for the lounge known as the Solid Gold Social Club (lounge), stating that he had received several complaints from nearby residents that shootings, prostitution, and drug deals had occurred at the lounge. The ABC Board notified Davis of protests it had received that the lounge's ''operation and location [were] prejudicial to the health, welfare and morals of the community.''

The ABC Board held a hearing on the protests on September 26, 1991. By a letter dated October 11, 1991, the ABC Board notified Davis that it had denied a renewal of his liquor license. Davis appealed the Board's decision to the Mobile County Circuit Court, which, following an ore tenus hearing, affirmed the Board's decision.

The sole issue presented to this court on appeal is whether the ABC Board's decision not to renew Davis's liquor license for his lounge was clearly erroneous, unreasonable, arbitrary, or an abuse of discretion.

[1][2] The ABC Board may refuse the renewal of liquor licenses for ''good cause,'' provided that ''within one month prior to the scheduled date of expiration of such licenses the applicant shall have been notified by the board of objections to the [renewal] signed by persons authorized to do so.'' § 28–3A–5(b), Ala. Code 1975. The judicial review of such an action in circuit court is governed by § 41–22–20, Ala. Code 1975. Dawson v. Department of Environmental Management, 529 So.2d 1012 (Ala. Civ. App. 1988). Section 41–22–20(k) provides that ''the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute.'' The trial court may reverse, modify, or alter a decision of the ABC Board if the Board's action was clearly erroneous, unreasonable, arbitrary, capricious, or an abuse of discretion. § 41–22–20(k)(6), (7), Ala. Code 1975. In reviewing a trial court's determination as to the propriety of an ABC Board action, this court's standard of review is the same as that of the trial court. Dawson, supra.

[3] The record of the ABC Board's hearing reflects that the lounge is located in Mobile, at 1385 Dr. Martin Luther King, Jr., Avenue, an area of mixed commercial and residential properties. Neighborhood residents testified that the lounge's patrons discharged firearms; brawled in the parking lot; made excessive noise; loitered; trespassed; deposited weapons and narcotics in neighborhood yards; illegally parked their cars; and urinated, defecated, and engaged in sexual activities on the residents' property. Supporting testimony was offered by George Boan and Kenneth Kirkland, two ABC Board employees, and by Sgt. Kay Taylor of the Mobile Police Department. Boan, an ABC Board district supervisor, testified that he had personally observed loitering, noise, and illegal parking at the lounge, and he stated that during an investigation of the lounge he had been approached by prostitutes working the area. Kirkland, an ABC Board agent, played a videotape that he had made of the parking lot and the area surrounding the lounge; on that tape he had captured an apparent drug deal. Sgt. Taylor presented a

telephone log listing 95 complaints lodged with the police department between January 1, 1990, and September 25, 1991, concerning activities allegedly occurring inside the lounge or on its premises.

Davis denied that his patrons were responsible for the illegal activities that had occurred in the vicinity, blaming persons driving by and the occupants of a nearby house for causing the trouble. However, after a thorough review of the record, we find that the ABC Board heard substantial evidence that the operation of the lounge was prejudicial to the health, welfare, and morals of the community. Consequently, we cannot hold that the Board's action was clearly erroneous, unreasonable, arbitrary, or an abuse of discretion.

*450 The judgment of the trial court is affirmed.

AFFIRMED.

THIGPEN and YATES, JJ., concur.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Michigan, the ranking member.

Mr. CONYERS. Mr. Chairman, I want to thank the gentlewoman from California (Ms. LOFGREN) for her insistence.

PARLIAMENTARY INQUIRY

Mr. SCARBOROUGH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentlewoman from California yield to the gentleman from Michigan (Mr. CONYERS)?

Ms. LOFGREN. I have yielded to the gentleman from Michigan.

Mr. SCARBOROUGH. Parliamentary inquiry. Is this for the first 5 minutes?

Ms. LOFGREN. Yes, it is.

Mr. SCARBOROUGH. Parliamentary inquiry. Is it the rule of the Chair, then, that they can yield during the first 5 minutes when a point of order has been raised?

The CHAIRMAN. Does the gentlewoman from California yield to the gentleman from Florida for a parliamentary inquiry?

Ms. LOFGREN. I will yield for a parliamentary inquiry which has been stated. May I yield time to the gentleman from Michigan (Mr. CONYERS), the ranking member, under regular order?

The CHAIRMAN. The gentleman from Florida may state his parliamentary inquiry.

Mr. SCARBOROUGH. Mr. Chairman, the parliamentary inquiry, earlier I had tried to yield some time on reserving a point of order.

The CHAIRMAN. The Chair controls debate on the point of order when it is raised.

Ms. LOFGREN. Mr. Chairman, reclaiming my time, that was on the germaneness issue. This is on the 5 minutes.

Mr. SCARBOROUGH. I am trying to get a ruling from the Chair.

The CHAIRMAN. Members will suspend. Earlier the gentleman tried to yield time during argument on a point of order. That cannot be done under the rules.

The gentlewoman from California (Ms. LOFGREN) controls 5 minutes and can yield to the gentleman from Florida for a parliamentary inquiry.

Mr. SCARBOROUGH. Okay.

Ms. LOFGREN. Mr. Chairman, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank the gentlewoman from California for yielding to me.

I am glad the gentleman from Florida (Mr. SCARBOROUGH) realizes that this is perfectly orderly procedure.

I wanted to just thank the gentlewoman for her persistence in trying to connect at a Federal level the relationship between gun safety, the shipment of firearms, and the shipment of alcoholic beverages. There is nothing illogical or irrational about it. They are both very related subject matter.

The need for using these regulations and looking at them from this perspective of a Federally licensed firearm dealer and wine distributor or alcohol beverage distributor are related.

I am glad that the gentlewoman has reformulated her amendment. I think it now attaches to this bill with a great rationality, and it is an amendment on its own that I support very strongly.

Ms. LOFGREN. Mr. Chairman, I thank the ranking member for his kind comments.

POINT OF ORDER

Mr. SCARBOROUGH. Mr. Chairman, I rise to speak on the point of order that I reserved.

The CHAIRMAN. The gentleman may state his point of order.

Mr. SCARBOROUGH. Mr. Chairman, again, the fundamental purpose of this bill is to provide the attorney general of any State with the authority to bring a civil action in the United States district court to enjoin any person or entity that the attorney general has a reasonable cause to believe is engaged in any act that would constitute a violation of State law regulating the importation or transportation of intoxicating liquor.

Now, the fundamental purpose of this amendment is again to expand the single class of merchandise covered by the bill from intoxicating liquor to now adding another class of merchandise, which is firearms to the one class covered by the bill.

Secondly, it makes absolutely no sense because it adds an unrelated contingency in the final line when, again, reading the amendment, it says: ''This Act and the amendment made by this act shall take immediate effect with regard to any violation of a State law regulating the importation or transportation of any intoxicating liquor which results from any violation of a State's firearms laws.''

□ 1400

Now that is clearly, clearly, an unrelated contingency.

Also, I think it is very important to understand that what we are doing here is we are commingling again two issues. Instead of the single issue of alcohol that is being illegally shipped across State lines, we are actually talking about gun sales or the transporting of guns inside of a State. Obviously, that can already be taken care of inside the State by a State attorney general who simply goes to State court. The State attorney general also has the power to simply take away the State liquor license of the person who is illegally selling guns, and so it is unnecessary.

Again, it is a commingling of two issues and, as I said earlier, the fundamental purpose of this bill is a single issue, and that is to stop the illegal sales of alcohol across State lines. So for those reasons and many others, I think, once again, we have to go back to House Practice, Germaneness, section 9, which says, ''One individual proposition is not germane to another individual proposition.'' And this is clearly one individual proposition that is being added to another in a mix, sort of a legislative goo that I think even gives sausage making a bad name.

Accordingly, Mr. Chairman, I do not believe this amendment is germane and I insist on my point of order.

The CHAIRMAN. Does the gentlewoman from California wish to be heard on the point of order?

Ms. LOFGREN. Yes, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California (Ms. LOFGREN) is recognized.

Ms. LOFGREN. Mr. Chairman, I would disagree with my colleague from Florida on the germaneness issue. In the example I gave in my 5 minutes in support of my amendment, I mentioned the issue where we had the possession of a Tech DC 9 by the owner of a winery and the holder of a Federal license of a winery. That is not a State license, that is a Federal license. And in order to affect that Federal license, recourse first of the ATF and later, and arguably necessarily, to the Federal courts, would be necessary. The State does not have jurisdiction over the Bureau of Alcohol, Tobacco and Firearms.

Further, I would note that the forum of a Federal court gives multi-State enforcement opportunities that arguably are not available to the attorneys general by recourse to a State forum. And if that is not the case, if that turns out to be incorrect, then the entire basis for this act being asserted by the proponents of the Scarborough bill evaporates. Because if the point of the gentleman from Florida (Mr. SCARBOROUGH) is that there is adequate remedy in State court, then there ought to be adequate remedy in State court for alcohol violations as well.

As the Chair will note, I did not ask for a vote on his prior ruling on the first amendment, because although I think an argument, and a good argument, could be made on its germaneness, I think that the arguments on germaneness on this amendment are weak indeed, and I would hope that the Chair would allow a vote to be taken on this amendment.

We have gone to great lengths to make sure it deals with the germaneness issue. Consequently, it is much smaller in scope than I think is appropriate and warranted by the violence emergency that faces us. But I offer it because at least it is something that this Congress could do as a show of good faith to the mothers and fathers of America who, like myself, are preparing to send their children back to school in just a month or so.

So I would hope that the Chair would rule that this is germane, and that absent that, those who have raised the point of order might consider withdrawing that point of order. I think it is only fair that this House be given the opportunity to do something, something for gun safety for the mothers and fathers of this country.

Mr. Chairman, I submitted for the RECORD legal citations from the Appellate Court of Illinois on this subject matter.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard on the point of order?

Mr. BARR of Georgia. He does.

The CHAIRMAN. The gentleman from Georgia (Mr. BARR) is recognized.

Mr. BARR of Georgia. Mr. Chairman, in looking at this amendment, I have to conclude that Rube Goldberg is alive and well. If the Chair can figure out what this amendment means, the Chair is indeed very smart.

I think, though, that it can be stated very clearly, very succinctly, Mr. Chairman, that this is simply an evidence of the gun control advocates seeking to interject gun control into any piece of legislation they can at whatever the cost. And the cost here would be at the price of clarity and germaneness.

What the gentlewoman is proposing here in bringing in the issue of State firearms laws, which have nothing whatsoever to do with the laws of a State regarding the sale of alcoholic beverages, is to try to bring in an unrelated contingency. That, Mr. Chairman, is specifically precluded by House rules, number 22, on germaneness, entitled Conditions or Qualifications, which I would respectfully quote to the Chair. It says, ''A condition or qualification sought to be added by way of amendment must be germane to the provisions of the bill.''

The provisions of this bill relate solely and exclusively to State laws regarding the sale of alcoholic beverages. They have nothing whatsoever to do with firearms violations. This is not germane, it is unrelated, and I urge the Chair to sustain the point of order raised by the gentleman from Florida.

The CHAIRMAN. Does the gentleman from Michigan wish to be heard on the point of order?

Mr. CONYERS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) is recognized.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the point of order that is made, and I simply want to make it clear that this is a completely different amendment that is being brought forward.

What the gentlewoman is pointing out is that this is a subset of liquor violations, and some liquor violations result from gun violations. She is merely setting a different effective date for those violations. This is just empowering the States to enforce their own liquor laws, which sometimes involve gun laws.

So this supports the principle purpose of the bill. It in no way is caught by germaneness. It is stopping the sale of alcohol in violation of State laws. It does this by allowing cases where firearms' use violate State alcohol laws to be heard immediately. She merely changes the date.

So to argue the same nongermaneness arguments that were previously advanced fails to recognize that this is a substantially different amendment, and that it is clearly germane and is in accord with the precedence of the House.

This amendment does nothing whatsoever to expand the scope of the bill. It merely deals with the effective date issue, and for that reason I urge that the point of order be rejected.

The CHAIRMAN. The Chair is prepared to rule on the point of order raised by the gentleman from Florida.

The gentleman from Florida raises a point of order that the amendment offered by the gentlewoman from California is not germane.

The bill amends the Webb-Kenyon Act to authorize an attorney general of a State to bring a civil action in a Federal court against a person that an attorney general has reason to believe has engaged in an act in violation of a State law regulating the importation or transportation of intoxicating liquor. The bill also establishes certain parameters for Federal judicial purview of an action brought under the new law.

Clause 7 of Rule XVI, the germaneness rule, provides that no proposition on a ''subject different from that under consideration shall be admitted under color of amendment.'' One of the central tenets of the germaneness rule is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The Chair discerns that fundamental purpose of a bill by examining the text of the bill and the report language accompanying the bill as evidenced by the ruling of the Chair on July 18, 1990, recorded in Volume 10, Chapter 28, section 5.6 of the Deschler-Brown Precedents. As indicated on page 5 and 6 of the committee report, the underlying bill was ''introduced in order to specifically provide States with access to Federal court to enforce their laws regulating interstate shipments of alcoholic beverages.''

The fundamental purpose of the amendment appears to be to single out certain violations of liquor trafficking laws on the basis of their regard for any and all firearms issues. The Chair is of the opinion that the question illustrates the principle that an amendment may relate to the same subject matter, yet still stray from adherence to a common fundamental purpose, by singling out one constituent element of the larger subject for specific and unrelated scrutiny.

The fundamental purpose of the amendment is not the same as the fundamental purpose of the bill, nor is it a mere component of the larger purpose. Rather, the amendment pursues a purpose that, by its specialized focus, bears a corollary relationship to that pursued by the bill.

The proponent of this amendment has argued that her amendment merely addresses a subset of those State laws already addressed in the bill and is germane based on subject matter grounds. The Chair would note that general principle found on page 618 of the House Rules and Manual that the standards by which the germaneness of an amendment may be measured are not exclusive. Thus, while the amendment may arguably address the same subject matter, or a subset thereof, as that of the underlying bill, the fundamental purpose of the amendment must still be germane under every application thereof to that of the bill.

In the opinion of the Chair, the amendment is not germane and the point of order is sustained.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

Mr. SCARBOROUGH. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The point of order by the gentleman from Florida is reserved.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas: Page 6, line 9, strike the close quotation marks and the period at the end.

Page 6, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

''SEC. 3. REQUIREMENTS APPLICABLE TO CERTAIN CARRIERS IN CONNECTION WITH DELIVERY OF INTOXICATING LIQUOR TO A PLACE OF RESIDENCE.

''(a) DELIVERY OF INTOXICATING LIQUOR BY NON-GOVERNMENTAL CARRIERS FOR HIRE.—It shall be unlawful for a nongovernmental carrier for hire to knowingly deliver a container transported in interstate commerce that contains intoxicating liquor to a place of residence of any kind if such carrier fails to obtain the signature of the individual to whom such container is addressed.

''(b) PENALTY.—Whoever violates paragraph (1) shall be liable for a fine of $500.''.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentlewoman from Texas?

Mr. SCARBOROUGH. Objection, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue the reading.

The Clerk continued reading the amendment.

Mr. SCARBOROUGH. Mr. Chairman, I continue to reserve a point of order.

The CHAIRMAN pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope my colleague will see fit to join me in this amendment, and I would like to share with him language in H.R. 2031 in particular that specifically states, ''if the Attorney General has reasonable cause to believe that a person is engaged or has engaged in any act that would constitute a violation of State law regulating the importation or transportation of any liquor.'' In part, this provision reads that we are dealing with the illegal transportation of liquor. And the supporting materials that my colleagues have circulated to even support this legislation all goes to the underage drinking of our young people.

We realize and have seen documentation, Mr. Chairman, that underage drinking is more devastating in our youth community than drugs. And interestingly enough, the amendment that I have just offered, and I might add that I would be happy to see if the gentleman would accept a friendly amendment to my amendment or a perfecting amendment that deals with narrowing the opportunity by way of requiring the carrier, and I might amend that to be shipper, to in fact make sure that they have the signature of the individual to whom the container is addressed, which would, in and of itself, help to bring down the amendment of illegal alcohol being shipped and transported to youth.

□ 1415

In particular, materials that were sent out by the beer wholesalers, national beer wholesalers, speak to this issue, as well as some additional new faces and anecdotal stories that tell us what happens when young people use the Internet and these amounts of liquor come without any restraint whatsoever.

In Greenville, Mississippi, a teenage girl says ordering liquor or alcohol over the Internet is easier than walking into a store and buying it. February 16, 1999, in Boston, Massachusetts, indicates an 18-year-old lies about his age and uses his own debit card to order wine by the Internet. One package is left at the door without an ID check. One winery uses a deceptive return label that indicates the package was shipped from a printing company.

In addition, on May 13, 1999, again beer is sent to a 17-year-old. The UPS delivers it to an unmarked box. No ID check.

Materials that the beer wholesalers have offered to us have said several things. There is a new black market in alcohol. It says State laws are broken. Today this sensitive marketplace structure is in jeopardy, a national problem with local impact. Television stations in more than three dozen communities across the Nation have produced investigative reports that document how easy it is for teenagers to use the Internet to acquire beer.

If this is the premise upon which this legislation has been written, if we are to assist the attorney general in preventing illegal intoxicating liquors from being shipped across State lines, then I would argue that in fact this is an amendment that should be accepted. Because what it asks the carrier to do is to simply get a signature of the individual on the container that is addressed.

I would say to the gentleman from Florida (Mr. SCARBOROUGH) as well that we need to do what he says the legislation is attempting to do and that is to respond to underage drinking.

We can all rally around underage drinking, Mr. Chairman. For many of the carriers who are receiving alcohol from the shippers, they are in fact shipping to teenagers, leaving it, getting no ID, getting no signature, getting absolutely nothing. And that allows our teenagers, our youth, our college students to engage in alcohol abuse, which enhances and increases the numbers of those who are abusing alcohol.

I ask the gentleman from Florida to consider this amendment and, as well, be happy to offer a friendly amendment that should say that such requirement that requires the carriers to get the signature would be subject to the passage of a State law.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to compliment the gentlewoman from Texas (Ms. JACKSON-LEE).

If I understand the amendment, all she is asking is that the outside package have some identifying label that this is alcohol. Is that correct?

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I am asking for the signature.

Mr. CONYERS. Mr. Chairman, if the gentlewoman would continue to yield, plus the signature when it is received to determine that it is going into the proper hands.

Ms. JACKSON-LEE of Texas. Mr. Chairman, that is correct.

Mr. CONYERS. Mr. Chairman, first of all, I am sure that is consistent with the bill. I mean, I hope we do not have a germaneness problem.

Secondly, it makes pretty good sense. It would seem that those who support the bill might want to make this improvement merely because it makes more efficacious the whole process.

POINT OF ORDER

Mr. SCARBOROUGH. Mr. Chairman, I insist on my point of order and disagree with the gentlewoman from Texas (Ms. JACKSON-LEE) and also the ranking member of the Committee on the Judiciary. This is not consistent at all with the bill, and it is far outside the fundamental scope of this legislation.

Mr. Chairman, again, the fundamental purpose of this bill is to provide the attorneys general of any State with the authority to bring civil action in the United States District Court to enjoin any person or entity that the attorney general has reasonable cause to believe is engaged in any act that would constitute a violation of State law regulating the importation or transportation of an intoxicating liquor.

Now, what we have here from the gentlewoman from Texas (Ms. JACKSON-LEE) is actually a new set of substantive laws that would actually apply fines, penalties, and hold them accountable in Federal court for actual criminal or civil penalties. It is a substantive approach.

It is very important to remember, in this legislation the only thing we are talking about is providing States' attorneys general a procedural mechanism to go into State courts.

So by proposing this bill and if it passes, after it passes, we have not proposed any new Federal laws regarding the sale of alcohol. We have not proposed any new civil penalties. We have not proposed any new criminal penalties.

The only thing that we are doing is providing States' attorneys general with a procedural mechanism to go into court and stop illegal wine sales that are transported across State lines.

So when the gentlewoman from Texas (Ms. JACKSON-LEE) offers this amendment, she is taking us out of this very narrowly limited procedural safeguard for States' attorneys general and instead expanding it to a point where we are going to have an entirely new class of individuals and businesses that are going to be liable under Federal law that are going to be able to be dragged into Federal court and be held accountable under civil or criminal penalties.

Despite the debate that has preceded this conversation on the floor right now, there is nothing in my legislation and in the legislation of the gentleman from Massachusetts (Mr. DELAHUNT) that would hold anybody accountable under any new civil or criminal penalty. Again, it only provides a simple procedural safeguard so States' attorneys general are allowed only to stop the illegal shipment of alcohol into their States.

According to House Practice Germaneness Section 9, one individual proposition is not germane to another individual proposition.

This is clearly one individual proposition that is being added to another. We are clearly bringing in an entirely new group of people who will be liable under this. We are trying to add new

Federal regulations, telling shippers, nongovernmental shippers, what they may or may not ship and when they ship and how they ship and what procedures they must go through so they are not dragged into Federal court and then held liable.

So accordingly, Mr. Chairman, this amendment is clearly not germane. And I will insist on my point of order.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). Does the gentlewoman from Texas (Ms. JACKSON-LEE) wish to speak to the point of order?

Ms. JACKSON-LEE of Texas. Yes, I would, Mr. Chairman.

Mr. Chairman, I am disappointed in my colleague from Florida. And I realize that he has turned the debate away from the premise of the bill.

Again I say, Mr. Chairman, that this bill was argued on and discussed in the Committee on the Judiciary on the question of underaged drinking. What are we here for on the floor of the House?

Again I refer to H.R. 2031, which says, ''if the attorney general has reasonable cause to believe that a person is engaged or has engaged in any act that would violate a constitution of State law regarding the importation or transportation of any intoxicating liquor.''

That is what this amendment proposes to do. It proposes to make illegal for a nongovernmental carrier to deliver liquor to a place of residence without a signature.

I have already indicated to the gentleman from Florida (Mr. SCARBOROUGH) that I would be more than willing to make it subject to the passage of such State law. But we have a problem with underage drinking. And as the materials have indicated, sent out by the supporters of this bill, the national beer wholesalers who indicate that, if I might just cite some of their information, Mr. Chairman, State laws are broken. A national problem with local impact exists. They cited a number of instances where college students were receiving large amounts of alcohol and, of course, without any identification and, therefore, engaging in alcohol abuse.

I would simply raise the specter to the gentleman that germaneness is a potential waiver to something that is on the crisis level. We are at a crisis level with the abuse of alcohol by our young people.

First of all, I would ask the gentleman from Florida (Mr. SCARBOROUGH) would he accept a friendly amendment to modify it to make this subject to the passage of State laws in order to get to the point that we are trying to do?

Let me say this, Mr. Chairman, in particular. We have a situation where our children are being negatively impacted. We have clear evidence that laws are being broken, that there is no enforcement. The amendment that I offer would provide enforcement. It would encourage carriers to make sure that the addressee and the individual that signs equals the same person. By that they would determine whether or not to deliver to underage drinkers.

I think, Mr. Chairman, that we can do no less. If this bill is argued on the premise of bringing down underage drinking, then I clearly believe this amendment should be ruled not only in order but should be ruled as germane.

Mr. BARR of Georgia. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, here again, similarly, though not exactly the same as the prior amendments, there is a germaneness issue that jumps to the fore in looking at the amendment proposed by the gentlewoman from Texas.

I would note particularly in the House Practice Volume, Section 27, that what the gentlewoman is proposing to do is to amend a bill that amends existing law and going beyond the proposed amendment to the existing law.

It says, ''A germaneness rule may provide the basis for a point of order against an amendment that is offered to a bill amending existing law.''

The gentleman from Florida (Mr. SCARBOROUGH) is proposing an amendment to an existing law in a very narrow respect.

What the gentlewoman from Texas (Ms. JACKSON-LEE) is proposing to do by way of an amendment to the bill of the gentleman goes beyond that. It indeed would establish not an amendment to what the gentleman is proposing, and that is a change to Section 28 of the Federal Rules of Procedure relating to injunctive relief, but she is proposing a new substantive provision of the Federal Criminal Code.

We are talking about two entirely different titles of the Federal Code. We are talking here about the Civil Code. She is talking about a new substantive criminal provision.

It clearly raises germaneness questions. She is attempting to amend a bill that amends existing law in a way that is clearly improper pursuant to precedent and House Practice.

I would urge the Chair to sustain the point of order raised by the gentleman from Florida (Mr. SCARBOROUGH).

The CHAIRMAN pro tempore. Does the gentlewoman from Texas (Ms. JACKSON-LEE) have further argument on the point of order?

Ms. JACKSON-LEE of Texas. Yes, Mr. Chairman, I do.

Mr. Chairman, I am disappointed. And I hear the opponents' arguments.

As I indicated, the bill itself speaks to the attorney general being able to prohibit the illegal transfer or interstate transfer of alcohol. The underlying arguments for the bill speak to underage drinking.

My amendment in particular deals with carriers shipping interstate, in the course of interstate commerce, alcohol and the requirement thereof for a signature to the addressee.

I cannot imagine the unwillingness of the proponents of this legislation to be willing to accept this amendment based on the premise of the legislation to reduce underage drinking.

The CHAIRMAN pro tempore. The Chair is prepared to rule on the point of order.

□ 1430

The gentleman from Florida raises a point of order that the amendment offered by the gentlewoman from Texas is not germane.

Under clause 7 of rule XVI, one of the fundamental tenets of the germaneness test is that the amendment must have the same fundamental purpose as the bill. The fundamental purpose of the bill under consideration is the creation of Federal court jurisdiction for civil actions arising under State laws regulating the importation or the transportation of intoxicating liquor. The fundamental purpose of the amendment offered by the gentlewoman from Texas is the creation of new Federal prohibitions regarding the transportation of intoxicating liquor under Federal law. Therefore, the amendment has a different fundamental purpose and is not germane.

The point of order is sustained.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill, add the following:

SEC. 4. EFFECTIVE DATE.

(a) STUDY.—This Act shall not take effect until 90 days after the Attorney General submits to the Congress the results of a study to determine the effect the amendment made by this Act will have on reducing consumption of intoxicating liquor by individuals who by reason of age may not lawfully purchase such liquor.

(b) COMPLETION OF STUDY.—The Attorney General shall carry out the study required by subsection (a) and shall submit the results of such study not later than 180 days after the date of the enactment of this Act.

Mr. SCARBOROUGH. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida reserves a point of order.

Ms. JACKSON-LEE of Texas. Mr. Chairman, we commit ourselves as Members of the United States Congress to not waste the taxpayers' dollars, to solve national crises, and to respond to the immediacy of the issue. As I indicated in all of the underlying arguments and supporting documentation that the proponents of this legislation have utilized, they have utilized the premises of teenagers getting alcohol, underage drinking, the abuse of alcohol. In fact, in their own documentation, there is a recounting of the tragedies of what happens when underage drinkers or how they get alcohol.

This amendment is a simple request, Mr. Chairman. I would ask my good friend from Florida to reconsider his point of order, because it simply asks for a study to determine the impact of

this act on underage drinking. It then asks for the Attorney General to carry out the study required by subsection A and it asks for these results to be presented back to us, this Congress, to ensure that what we are trying to do, to bring down the numbers of underage drinking and to stop the abuse of alcohol, has really occurred by passage of this legislation.

This is an amendment that deals with the question of what is H.R. 2031 going to accomplish and what are we doing today with the passage of this legislation. Does it help the 17-year-old who calls a retailer's toll-free number to order a case of beer, she gives a fake birth date and uses someone else's credit card, the operator asks why she wants to pay $20 for a $7 case of beer and the teen says that she cannot get that brand where she lives although the brand is brewed in Michigan. The driver's license is never verified and the package is dropped off on the doorstep without an ID.

So it is important that we understand as we pass this legislation whether or not we are seeing the results that we should see, whether or not it will impact, as I indicated earlier, the 19-year-old who lies about his age, uses his own debit card to order wine via the Internet, one package is left at the door without an ID, one winery uses a deceptive return label that indicates the package was shipped from a printing company. There we are, Mr. Chairman, misrepresenting.

Or May 13, 1999, another television viewpoint, a 17-year-old orders beer from a Colorado company admitting that she is under 21, the company calls to confirm her age, she again admits she is under 21, beer arrives, anyway, left on the doorstep by UPS in an unmarked box, no ID checked.

My amendment simply asks that all of the points that we have made today regarding the impact of this legislation on again underage drinking would be studied in order to, first of all, assess what impact legislation like this might have, to assist the States, many of whom do not have legislation like this. Most of them have the 21 requirement but they do not have the requirement dealing with shipper's labeling, they do not require the requirement of signatures, none of that is required, and this is a study, Mr. Chairman, that would simply be able to provide us with the necessary information.

The CHAIRMAN pro tempore. Does the gentleman insist upon his point of order?

Mr. SCARBOROUGH. No, I do not.

The CHAIRMAN pro tempore. The gentleman from Florida withdraws the point of order.

Mr. SCARBOROUGH. Mr. Chairman, I rise in opposition to the amendment.

Let me, first of all, respond to some things that have been said by the gentlewoman from Texas. She has been saying them several times today regarding the main purposes of this bill being to stop the illegal sales of alcohol to minors. That certainly is a very important part of it, but I believe it is just as important that we stop illegal bootlegging to people over 21 years of age as it is to stop illegal bootlegging for people under 21 years of age. I am hopeful that the gentlewoman from Texas will be able to support this overall bill.

I must say that I was a bit confused in committee after she had expressed her deep concerns about underage drinking and said that it was a national crisis and that it was extraordinarily important for us to stop the illegal sales of alcohol to minors and then voted against the bill because she said that it applied also to people over the age of 21. This is a great first step. I know the gentlewoman wants to expand and wants to have carriers, nongovernmental carriers held liable, wants to put nongovernmental carriers in a position where they are actually going to be responsible for carding, and I certainly know that my friends, or perhaps my former friends, in the wine industry would not want to make Federal Express and UPS and other common carriers liable for carding at doors across the United States, because obviously their response to that would be to stop transporting wine across State lines.

So I certainly am hopeful that the gentlewoman will be supportive of the overall bill. If she believes that illegal alcohol sales to minors is a national crisis, then this is the way you stop it. The argument that you oppose stopping illegal bootlegging to minors through a bill form because you also are trying to stop illegal bootlegging to people over the age of 21 is an argument that quite bluntly I just do not understand. I certainly am hopeful that the gentlewoman is not going to oppose this bill if again she is concerned about this national crisis.

Let me also say, further, I am very pleased that she sees this as a national crisis. I mentioned 30, 35 news stations across the country that had identified this as a national crisis. I was accused of being clever and somehow, I do not know, I guess somehow getting these 35 stations from San Francisco to Washington, DC to do this. I wish I could have had that influence in the media. I do not. I think it is helpful, though, that the gentlewoman understands that there is a national crisis out there but the national crisis is not limited to illegal alcoholic sales for people that are under the age of 21. Illegal bootlegging is occurring across the country now, people of all ages.

I do obviously withdraw the point of order that I reserved. I do understand the purpose of this amendment. I will not be supporting this amendment. I do not think we need to stall an additional 90 days. If it is a crisis, I do not think we should give minors or people over 21 an additional 3 months to purchase alcohol illegally over the Internet. Likewise, I do not think you need a study for 180 days from the Attorney General to the State attorneys general telling them that illegal wine sales are occurring. They are occurring. Everybody knows they are occurring.

Again the only thing this bill does, the overall bill that she is seeking to amend, is it differentiates between illegal alcoholic sales and legal alcoholic sales.

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

Mr. SCARBOROUGH. I yield to the gentleman from Michigan.

Mr. CONYERS. I was wondering over here on our side, if we strike out the not taking effect for 90 days and make this a straight study, would that meet the objections and then the approval of the leadership on that side?

Mr. SCARBOROUGH. Again, my only concern with that is if we strike out the 90 days, I am concerned that that gives in to the argument that this measure strictly is concerned with illegal sales to people under the age of 21.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. SCARBOROUGH) has expired.

(On request of Mr. CONYERS, and by unanimous consent, Mr. SCARBOROUGH was allowed to proceed for 2 additional minutes.)

Mr. SCARBOROUGH. I continue to yield to the gentleman from Michigan.

Mr. CONYERS. Suppose we make it a study of the impact of this legislation assuming that it passes, so that there would be no taking of effect and it would have no negative implications.

Mr. SCARBOROUGH. If it will have no negative effect on the effective date, I certainly will consider it. I cannot give the gentleman an answer right now, but I certainly would consider that. My main concern is that we do not delay implementation of this obviously, because if it is a national crisis, as the gentlewoman from Texas says it is, we do not want to waste 3 months.

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. I am still not quite sure what the purpose of a study just to have a study is. Members on the other side have spoken very eloquently in committee as well as on the floor today recognizing that there is indeed a very serious national problem with underage drinking. That conclusion has been reached in the absence of a magical study by the Attorney General. So we all know there is a problem out there. This bill has nothing to do with Federal authorities. This bill has to do with the authorities of State attorneys general, not the United States Attorney General. I think this is makework, I do not think we need this, and I would urge my colleagues, and especially the gentleman from Florida, to oppose the amendment as unnecessary and costly. The Attorney General of the United States has far too many issues, including what I presume my colleagues on the other side would agree is inadequate enforcement of gun

laws already, and now we are saying take some of those scarce resources and conduct a study of an issue that we are not even proposing here because what we are proposing here is the authority of State attorneys general, not the U.S. Attorney General. I would oppose the amendment.

Mr. SCARBOROUGH. Reclaiming my time, let me ask the gentleman, is he saying here that it is his position that this study would not delay the implementation of this?

Mr. CONYERS. Absolutely. I am trying to save time actually, I am trying not to go to a vote and all of that, if we could merely have the impact of the legislation studied, which is not inconsistent with anything in the bill, nor anything that either of us on either side have debated in this matter.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. SCARBOROUGH) has again expired.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, what we are trying to do is suggest that there be a study, an impact study on the legislation if and when it is passed. I do not think that will hurt anybody pro or con. It should be very helpful to us, particularly on the Committee on the Judiciary, who will be looking at this matter across the years. This is not some fly-by-night provision. And it expedites time. We are working under 2 hours of amendments. The gentlewoman from California has an amendment she would like to put forward. It would save us a vote. I think that without a not taking effect for 90 days taken out of this, we are in a position to move forward expeditiously.

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

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. We have concerns from the gentleman from Georgia regarding the cost of this. Is there any estimate, CBO estimate or any other estimate on what the cost of this study would be? Because certainly if it is a national crisis, as you say it is, it is certainly something that we need to address and we need to know the depth of that national crisis and certainly we know what kind of impact this is having.

□ 1445

Mr. CONYERS. Mr. Chairman, let me comfort the gentleman by saying that I am sure that the Attorney General has one or two or three people who could conduct a study here that would be negligible in the budget of the Department of Justice. I think cost would be no immediate concern whatsoever.

Mr. SCARBOROUGH. Mr. Chairman, if the gentleman would yield one more time?

Mr. CONYERS. Of course.

Mr. SCARBOROUGH. Mr. Chairman, is the gentleman also willing to get rid of the age issue and not only look at under-age, illegal alcohol sales to under age drinkers, but also illegal bootlegging for all ages? Would he be willing to do that?

Mr. CONYERS. Yes, we are looking at an impact of this entire legislation. So we have taken out the specific references.

Mr. SCARBOROUGH. So, Mr. Chairman, all aspects of this legislation, including lost revenues to States to enforce their laws.

Mr. CONYERS. Absolutely.

Mr. SCARBOROUGH. Mr. Chairman, I have got to say I have no objection to that. I would like to see the draft.

Mr. CONYERS. Mr. Chairman, we assure the gentleman that there is nothing but fairness exuding from this side of the aisle, no underhanded motives, and the impact study of the legislation, nothing could be more neutral than that.

Mr. SCARBOROUGH. Certainly, and if the gentleman would yield, if the gentlewoman would withdraw this amendment and then have the modified language offered at the desk, I would have no objection to that.

Mr. CONYERS. There is no other way we can do that.

I want to assure the gentleman that from my point of view there is no other way we can proceed without withdrawing this and advancing the other, and because I know the gentleman's good faith is no less than mine, I am prepared to go that way.

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to this bill and in support of the amendment offered by my friend from California.

I share the concern of my friend from Florida and other supporters that we must do everything possible to reduce underage drinking, and I would be proud to vote for this bill if I thought it would achieve that goal.

But in reality, Mr. Chairman, this bill will do little to stop underage drinking while potentially crippling an industry that is very important to our nation and to my home state of New York.

New York, like many other states across the country, has a thriving wine industry dominated by small vineyards.

These vineyards have taken advantage of the Internet to sell their products across the nation.

The vast majority of these sales are to responsible adult consumers.

This legislation threatens these small wineries by permitting other states to seek action in federal court to block them from distributing their wines.

This bill is an unjustified intrusion by the federal government into matters that should be left to the states. It is opposed by the National Conference of State Legislatures—the very same people that this bill is supposed to be helping. Moreover, it would effectively give states the authority to regulate interstate commerce, in direct violation of the Constitution.

Mr. Chairman, the real purpose of this bill is not to prevent underage drinking. The real purpose of this bill is to protect the large beer and wine wholesalers from competition from independent producers, like many of the small wineries found in my home state of New York.

The amendment, by contrast, will target our efforts toward preventing underage drinking, where they belong.

I urge my colleagues to support this amendment, and to oppose this bill.

The CHAIRMAN. All time authorized under the rule for consideration of amendments is now expired.

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Ms. JACKSON-LEE of Texas. Mr. Chairman, can we ask unanimous consent for additional time of 10 minutes? It is always better when we can work together.

I ask unanimous consent for an additional 10 minutes to be able to respond to these concerns and work out some of the issues that we are working on.

The CHAIRMAN. The Chair continues to count for a quorum, but the gentlewoman from Texas is advised that the Committee of the Whole cannot entertain such a unanimous consent request to change the rule adopted by the House.

Does the gentlewoman withdraw her request?

Ms. JACKSON-LEE of Texas. Can the Chair restate the motion that he cannot entertain for clarification?

The CHAIRMAN. The Committee of the Whole may not entertain such a unanimous consent request.

Ms. JACKSON-LEE of Texas. All right, Mr. Chairman. I now withdraw my request for a vote.

The CHAIRMAN. The request for a vote on Amendment No. 4 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) is withdrawn.

The amendment is rejected.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CALVERT) having assumed the chair, Mr. BARRETT of Nebraska, 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. 2031) to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor, pursuant to House Resolution 272, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute

adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

Mr. BARR of Georgia. 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 325, nays 99, not voting 9, as follows:

[Roll No. 363]

YEAS—325

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Callahan
Camp
Campbell
Canady
Cannon
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Evans
Everett
Ewing
Filner
Fletcher
Foley
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Hostettler
Hutchinson
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Larson
Latham
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Pascrell
Payne
Pease
Peterson (MN)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Upton
Visclosky
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Young (AK)
Young (FL)

NAYS—99

Ackerman
Andrews
Berman
Blumenauer
Borski
Boucher
Buyer
Calvert
Capps
Carson
Clay
Conyers
Cox
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Doggett
Dooley
Engel
Eshoo
Farr
Fattah
Forbes
Gallegly
Gejdenson
Gordon
Gutierrez
Hastings (FL)
Hastings (WA)
Hill (IN)
Hinchey
Horn
Houghton
Hoyer
Hulshof
Hunter
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jones (NC)
Jones (OH)
Kasich
Kildee
Kilpatrick
Kuykendall
LaTourette
Lee
Lewis (CA)
Lofgren
Lowey
Maloney (NY)
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McKinney
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Minge
Nadler
Napolitano
Nethercutt
Owens
Oxley
Packard
Pallone
Pastor
Paul
Pelosi
Phelps
Pombo
Radanovich
Rangel
Rohrabacher
Roybal-Allard
Rush
Schakowsky
Serrano
Shays
Sherman
Skelton
Slaughter
Stark
Tauscher
Tauzin
Thomas
Thompson (CA)
Udall (NM)
Velazquez
Vento
Waters
Waxman
Weiner
Woolsey

NOT VOTING—9

Bilbray
Frank (MA)
Gephardt
Lantos
McDermott
Mollohan
Peterson (PA)
Vitter
Wynn

□ 1513

Mr. HASTINGS of Florida and Mr. ENGEL changed their vote from ''yea'' to ''nay.''

Messrs. CRANE, SISISKY, LAFACE, HINOJOSA, MALONEY of Connecticut, CUNNINGHAM, LAHOOD, BLILEY, ADERHOLT and SAWYER and Ms. BROWN of Florida changed their vote from ''nay'' to ''yea.''

So the bill was ordered to be engrossed and read a third time and was read the third time.

The result of the vote was announced as above recorded.

□ 1515

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. CALVERT). Is the gentleman opposed to the bill?

Mr. CONYERS. Yes, 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. 2031 to the Committee on the Judiciary with instructions to report the bill forthwith to the House with the following amendment:

At the end of the bill, add the following:

SEC. 4. STUDY.

The Attorney General shall submit to the Congress the results of a study to determine the impact of this Act. The Attorney General shall carry out the study required by subsection (a) and shall submit the results of such study not later than 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes on his motion to recommit.

Mr. CONYERS. Mr. Speaker, I wish the membership to know that there was a vote taken on the third reading. That has only occurred about 2 times in recent years.

So this is a motion to recommit for which I will not ask a record vote, and then there will be a final passage vote, which may or may not be a record vote.

Mr. Speaker, this motion to recommit is simple. It merely provides for a study to ascertain the impact of the legislation. It does not limit the study to the impact on underage drinking or any other specific area, although the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE) originally did that.

This will give the Congress the information we need to assess how the legislation is working so that we can determine any changes that might be needed in the bill in the future.

As the bill passed the committee, I opposed it. I believed the bill had the potential to burden Internet providers, to discriminate against out-of-State winemakers, and to authorize discriminatory taxes. Many of these concerns were addressed in the Goodlatte-Conyers-Cox amendment, which passed.

The acceptance of this motion to recommit will offer an additional modest improvement to the bill.

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

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we can make this brief. I do not intend to oppose this motion to recommit. I certainly understand

the concerns of many people from California and other wine-producing regions, and understand their eagerness. I would like to thank them for working with us to make this a better bill. I would also like to thank them, in their eagerness, for allowing me the opportunity to vote on the engrossment and third reading. I have not done that before. I thank the gentleman from California that did that.

Mr. Speaker, I think this is very important for us to have this study. I understand the gentleman's concerns. I thank the gentleman from California (Mr. COX) and others for coming together and having us produce something that works. The study, I think, of the gentlewoman from Texas (Ms. JACKSON-LEE) would be helpful. As she said, we have a national crisis right now regarding the sale of alcohol to minors, and a national crisis on the sale of alcohol to people of majority age.

I thank the gentleman for working with us on the motion to recommit, and I will be supporting it, as well as the final bill.

Mr. CONYERS. I thank the gentleman, Mr. Speaker. I urge the Members to support the motion to recommit.

The SPEAKER pro tempore. If no Member rises in opposition, without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Speaker, acting under the instructions of the House on behalf of the Committee on the Judiciary, I report the bill, H.R. 2031, back to the House with an amendment.

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

The Clerk read as follows:

Amendment:

At the end of the bill, add the following:

SEC. 4. STUDY.

The Attorney General shall submit to the Congress the results of a study to determine the impact of this Act. The Attorney General shall carry out the study required by subsection (a) and shall submit the results of such study not later than 180 days after the date of enactment of this Act.

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

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Ms. LOFGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 112, not voting 11, as follows:

[Roll No. 364]

YEAS—310

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Callahan
Camp
Campbell
Canady
Cannon
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Evans
Everett
Ewing
Fattah
Filner
Fletcher
Foley
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hayes
Hefley
Herger
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Hutchinson
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kucinich
LaHood
Lampson
Largent
Larson
Latham
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
McCollum
McHugh
McInnis
McIntosh
McIntyre
McNulty
Meehan
Menendez
Mica
Miller, Gary
Mink
Moakley
Moore
Moran (KS)
Morella
Murtha
Myrick
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Pascrell
Pastor
Pease
Peterson (MN)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Young (FL)

NAYS—112

Ackerman
Andrews
Barton
Berman
Blumenauer
Boucher
Buyer
Calvert
Capps
Carson
Clay
Conyers
Cooksey
Cox
Davis (IL)
Davis (VA)
DeFazio
DeGette
DeLauro
Dixon
Doggett
Dooley
Doolittle
Dreier
Engel
Eshoo
Farr
Forbes
Gallegly
Gejdenson
Gibbons
Gordon
Goss
Gutierrez
Hastings (WA)
Hayworth
Hill (IN)
Hinchey
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jones (NC)
Jones (OH)
Kasich
Kilpatrick
Kolbe
Kuykendall
LaFalce
LaTourette
Lee
Lewis (CA)
Lofgren
Lowey
Maloney (NY)
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McGovern
McKeon
McKinney
Meeks (NY)
Metcalf
Millender-McDonald
Miller (FL)
Miller, George
Minge
Moran (VA)
Nadler
Napolitano
Nethercutt
Owens
Oxley
Packard
Pallone
Paul
Payne
Pelosi
Phelps
Pombo
Radanovich
Rangel
Rohrabacher
Roybal-Allard
Rush
Schakowsky
Serrano
Shaw
Shays
Sherman
Skeen
Slaughter
Stark
Tauscher
Tauzin
Thomas
Thompson (CA)
Velazquez
Vento
Waters
Waxman
Weiner
Woolsey
Wu
Young (AK)

NOT VOTING—11

Barcia
Bilbray
Kennedy
Lantos
McDermott
Meek (FL)
Mollohan
Peterson (PA)
Portman
Vitter
Wynn

□ 1539

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

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. KENNEDY of Rhode Island. Mr. Speaker, on rollcall No. 364, final passage of H.R. 2031, I was unavoidably detained. Had I been present, I would have voted ''yea.''

Mr. PORTMAN. Mr. Speaker, on rollcall No. 364, I was detained in a conference committee meeting and did not hear the bells. Had I been present, I would have voted ''yea.''

GENERAL LEAVE

Mr. SCARBOROUGH. 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. 2031.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2031, TWENTY-FIRST AMENDMENT ENFORCEMENT ACT

Mr. SCARBOROUGH. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2031, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

DISAPPROVAL OF NORMAL TRADE RELATIONS TREATMENT TO PRODUCTS OF VIETNAM

Mr. CRANE. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 58) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 58 is as follows:

H.J. RES. 58

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to Congress on June 3, 1999, with respect to Vietnam.

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, July 30, 1999, the gentleman from Illinois (Mr. CRANE) and a Member in support of the joint resolution each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. CRANE).

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on House Joint Resolution 58.

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

There was no objection.

Mr. CRANE. Mr. Speaker, I ask unanimous consent to yield one-half of my time to the gentleman from New York (Mr. RANGEL) in opposition to the joint resolution and that he be permitted to yield further blocks of time.

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

There was no objection.

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

Mr. Speaker, I rise in opposition to H.J. Res. 58 and in support of Vietnam's Jackson-Vanik waiver.

Over the past decade, the United States has taken gradual steps to normalize our bilateral regulations with Vietnam. This process has borne tangible results on the full range of issues in our bilateral agenda, including increased accounting of our missing in action, increased trade and investment opportunities for U.S. firms and workers, and substantial progress toward resolution of the remaining emigration cases.

Last week, the administration reached a bilateral trade agreement in principle with the Vietnamese that will serve as the basis for a reciprocal extension of normal trade relations once it is finalized and approved by Congress.

The agreement in principle contains provisions on market access in goods, trade, and services, intellectual property protection, and investment, which are necessary for U.S. firms to compete in the Vietnamese market, the 12th most populous in the world.

The Vietnamese pledge to lift import quotas and bans, reduce key tariffs, protect intellectual property rights, ensure transparency in rules and regulations, and ease restrictions on financial services, telecommunications, and distribution.

Because Vietnam and the United States have not yet finalized and approved a bilateral agreement, the effects of the Jackson-Vanik waiver at this time is quite limited.

The waiver enables U.S. exporters doing business with Vietnam to have access to U.S. trade financing programs, provided that Vietnam meets the relevant program criteria.

The significance of Vietnam's waiver is that it permits us to stay engaged with the Vietnamese and to pursue further reforms. Vietnam is not an easy place to do business; however, our engagement enables us to influence the pace and direction of Vietnamese reform.

I will insert in the RECORD a letter I received for more than 150 U.S. companies and trade associations supporting Vietnam's Jackson-Vanik waivers, an important step in the ability of the U.S. business community to compete in the Vietnamese market.

Terminating Vietnam's waiver will give Vietnam an excuse to halt further reforms.

Do not take away our ability to pressure the Vietnamese for progress on issues of importance to the United States.

I urge a ''no'' vote on H.J. Res. 58.

Mr. Speaker, the letter I referred to is as follows:

JULY 23, 1999.

Hon. PHILIP CRANE,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CRANE: As members of the American business and agricultural community, we strongly support action to normalize trade relations with Vietnam. Renewal of the Jackson-Vanik waiver is a key step in this direction. We strongly oppose H.J. Res. 58, which would overturn the waiver. Renewal of the Jackson-Vanik waiver will ensure that U.S. companies and farmers selling to Vietnam will maintain access to critical U.S. export promotion programs, such as those of the U.S. Export-Import Bank, the Overseas Private Investment Corporation, and agricultural credit programs.

Furthermore, overturning the Jackson-Vanik waiver could derail current bilateral trade negotiations at a critical time. The talks, which have been ongoing for three years, could be successfully completed in a matter of a few weeks. The U.S. Trade Representative is seeking commitments from Vietnam on market access for goods, agricultural products, services and investment, and the protection of intellectual property rights. The final agreement will thus bring Vietnamese law closer to international norms, thereby helping U.S. companies and farmers to tap the long-term potential of Vietnam, the second most populous country in Southeast Asia. The American business and agricultural community will work hard for congressional approval of a trade agreement that provides meaningful access to Vietnam's markets.

The American business and agricultural community believes that a policy of economic normalization with Vietnam is in our national interest. We urge you to support the renewal of the Jackson-Vanik waiver as an important step in this process. We also stand ready to work with Congress toward passage of a trade agreement that opens Vietnamese markets to U.S. goods, agricultural products, services and investment.

Sincerely,

ABB; Ablondi, Foster, Sobin, Davidow; ACE International; AEA International SOS; Aetna International, Inc.; AgriSource Co. Ltd.; American Apparel Manufactures Association; American Chamber of Commerce in Australia; American Chamber of Commerce in Guangdong, China; American Chamber of Commerce in Hong Kong; American Chamber of Commerce in Korea; American Chamber of Commerce in the Philippines; American Chamber of Commerce Vietnam; American Council of Life Insurance; American Electronics Association; American Express Company; American Farm Bureau Federation; American International Group, Inc.; American-Vietamese Management Consortium, Inc.; Amstan Sanitaryware, Inc., ARCO; Arthur Anderson Vietnam; Asia-Pacific Council of American Chamber of Commerce; Associated General Contractors of America; Association for Manufacturing Technology; ATKearney; Banker and McKenzie, Vietnam; BBDO Advertising Agency; Bechtel; Black and Veatch; Bridgecreek Group; Brown & Root; California Chamber of Commerce; Caltex; Camp Dresser & McKee International, Inc.

Cargill; Caterpillar, Inc., Centrifugal Casting Machine Co., Inc.; Chamber of Commerce of the Princeton Area; Checkpoint Systems, Asia Pacific; Chevron Corporation; Chillicothe-Ross Chamber of Commerce Citigroup; Coalition for Employment through Exports, Inc.; Commerce Advisory Partners; Condor Consulting; Connell Brothers Company, Ltd.; Coudert Brothers, Vietnam; Craft Corporation; Crown Worldwide Ltd.; DAI-Asia; Deacons Graham & James; Delco Chamber of Commerce; Delta Equipment and Construction Company; Direct Selling Association; Eastman Kodak Co.; East-West Trade and Investment, Inc.; Electronic Industries Alliance; Eli Lilly (Asia) Inc.; Ellicott International; Emergency Committee for American Trade; Environmental-Services Inc.; ERM Hong Kong Ltd.; Exact Software; Fashion Garments Ltd.; FDX Corporation; Fertilizer Institute; Firmenich Inc.; Foster Wheeler Corporation; Freehill

Hollingdale & Page; Freeport Area Chamber of Commerce; Freshfields Vietnam; General Electric Company; Habersham County Chamber of Commerce; Halliburton Company.

Hewlett-Packard Company; Hills and Co.; Humphrey International Healthcare Inc.; IAMBIC, Ltd.; IBC Corporation; IBM; Illinois State Chamber of Commerce; Indochina Asset Management Ltd.; Ingersoll-Rand Company; Interior Architects, Inc.; John Hancock Mutual Life Insurance Company; Johnson & Johnson; Joseph Simon & Sons; Kansas Chamber of Commerce & Industry; KHM Inc.; Leo Burnett/M&T Vietnam; LiG Products Ltd.; Long Beach Area Chamber of Commerce; Louis Dreyfus Corp.; Luk, Inc.; McDermott Incorporated; Metro Atlanta Chamber of Commerce; Mobil Corporation; Motion Picture Association of America; Motorola; National Association of Manufacturers; National Foreign Trade Council; National Institute for World Trade;

National Oilseed Processors Association; National Retail Federation; Netrak Logistics & Consultants; New Jersey Chamber of Commerce; New York Life International; Nike; Norpac Food Sales; North American Export Grain Association, Inc.; Ohsman & Sons Company, Inc.; Oracle; Otis-Lilama Elevator Company, Ltd.; Pacific Architects and Engineers, Inc.; Pacific Ventures Inc.; Pacific View Partners, Inc.; Parsons Corporation; PASCO Scientific; PepsiCo Inc.; Pioneer Hi-Bred International; Polaris Co., Ltd. HCMC; Pricewaterhousecoopers Vietnam Ltd.; Procter and Gamble Company; Projects International, Inc.; Quaker Fabric Corporation; Raytheon; Rotex; RRC Schneider Electric; Rural Enterprises of Oklahoma, Inc.; Russin & Vecchi; S.C. Johnson & Son;

Samuels International Associates, Inc.; SciClone Pharmaceuticals International; Small Business Exporters Association; S-Tec Corporation; Telecommunications Industry Association; Telemobile Inc.; Texaco Inc.; The Boeing Company; The Chamber/Southwest Louisiana; Tileke & Gibbins Consultants Ltd.; U.S. Association of Importers of Textiles and Apparel; U.S. Chamber of Commerce; U.S. Committee Pacific Basin Economic Council-PBEC US; U.S. Council for International Business; U.S. Trading & Investment Company; U.S.-ASEAN Business Council; U.S.-Vietnam Trade Council ; Unisys Corporation; United Parcel Service; United Technologies Corporation; Unocal; Valve Manufacturers Association; Vietnam Auditing Company; Vietnam Venture Group, Inc.; Vinifera Wine Growers Association;Warnaco Inc.; Wharton Chamber of Commerce and Agriculture.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER), though we disagree perhaps at times.

□ 1545

Mr. ROHRABACHER. Mr. Speaker, I certainly appreciate the gentleman yielding me this time, as I am the author of the bill; and I wanted to have this opportunity to speak at this time.

It has been 1 year since President Clinton issued the first Jackson-Vanik waiver for Vietnam. Unfortunately, there has been no progress concerning democracy and human rights in Vietnam. And more specifically, in violation of Jackson-Vanik, the U.S. Government reports systematic corruption in Vietnam's refugee program.

My joint resolution disapproving Jackson-Vanik waivers for the Vietnamese dictatorship does not intend to isolate Vietnam nor stop U.S. companies from doing business there. It simply prevents Communist Vietnam from enjoying a trade status that enables American businessmen to invest there with loan guarantees and subsidies provided by the U.S. taxpayer. If private banks or insurance companies will not back up or insure private business ventures in Vietnam, American taxpayers should not be asked to do so.

Rampant corruption and mismanagement are as valid a reason to oppose this waiver as repression in Vietnam. And during the last year, rather than open up its state-managed economy, the Vietnamese Communist regime has further tightened its grip. There has been no move whatsoever towards free elections. And yesterday's Reuters News Agency reported that the Vietnamese government announced that opposition parties will not be tolerated. This morning's Washington Times reports a new campaign in Vietnam to crush Christians.

The lack of real progress to honestly resolve the MIA–POW cases and the continued persecution of America's former Vietnamese allies is why House Joint Resolution 58 is strongly supported by the American Legion, our country's largest veterans' organization, as well as other veterans' organizations and the National League of MIA–POW Families, and the National Alliance of POW–MIA Families.

Mr. CRANE. Mr. Speaker, I reclaim my time, and I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I claim the time in support of the joint resolution.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from New York (Mr. MCNULTY) is recognized for 30 minutes.

Mr. McNULTY. Mr. Speaker, I ask unanimous consent that half the time be yielded to the gentleman from California (Mr. ROHRABACHER) and that he be permitted to allocate that time as he sees fit; and that, further, I be permitted to yield the time that I have remaining.

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

There was no objection.

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

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

Mr. MCNULTY. Mr. Speaker, I rise in support of House Joint Resolution 58 which disapproves the President's determination to waive the Jackson-Vanik Freedom of Information requirements for Vietnam.

Others have pointed out that this debate is not about extension of normal trade relations to Vietnam, but rather about the more limited issue of whether Vietnam should be eligible to participate in U.S. credit and credit guarantee programs. Technically, Mr. Speaker, that is correct. However, I think we all know that this debate is about something much more.

In granting this waiver, we send a message of support to the government of Vietnam. We are telling the government of Vietnam that despite their continued failure to assist us in finding lost servicemen, despite their refusal to allow Vietnamese, including Vietnamese who bravely fought alongside us, to leave Vietnam, despite their blatant disregard for human rights, that we support them. These are not the values for which 58,000 U.S. servicemen and women gave their lives.

The trade embargo with Vietnam was lifted in 1994. In the intervening years, what progress has Vietnam shown? There are still 2,063 Americans still unaccounted for in southeast Asia. While the remains of some of those Americans may not be recoverable, it strains belief that the Vietnamese have no information as to the fate or location of all of these men and women.

Much will be said today about increased cooperation between the United States and Vietnam. In my opinion, Mr. Speaker, it is too little and it is coming too late. It has been 25 years since the communist takeover of the entire country, and in that time the Vietnamese have only cooperated with us when it would benefit them, and then only to the extent that they saw fit. This is not my definition of cooperation.

Mr. Speaker, I do not oppose the eventual, eventual, normalization of relations with the people of Vietnam. I do, however, oppose normalization of relations with this government under these circumstances.

Now, some may claim, Mr. Speaker, that I have an emotional attachment to this issue, and they are correct. On August the 9th, 1970, HM3 William F. McNulty was killed in Vietnam. He was a medical Navy corpsman transferred

to the Marines. He spent his time patching up his buddies, and one day he stepped on a land mine and lost his life.

That was a tremendous loss for our family, and I can tell my colleagues from personal experience that the pain may subside, but it never goes away. But there is a difference between what the McNulty family went through and what an MIA family goes through. Because Bill's body was returned to us, we had a wake and a funeral and a burial. What we had, Mr. Speaker, was closure. I can only imagine what the family of an MIA has gone through over these past 25 years and longer.

Mr. Speaker, until there is a more complete accounting for those missing in action, until there is progress on the immigration front, and until there is respect for human rights, this waiver should not be granted.

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

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

Mr. Speaker, I rise in opposition to House Resolution 58, which disapproves of the President's determination to waive the Jackson-Vanik Freedom of Immigration Requirements for Vietnam. This resolution, if passed, would preclude Vietnam from participating in United States trade financing programs, such as those sponsored by the Ex-Im Bank, OPIC, and agricultural credit programs under the United States Department of Agriculture.

At a broader level, passage of this resolution would seriously undermine the progress in United States-Vietnam relations made in the last 10 years. Since the late 1980s, Vietnam has shown an increasing commitment towards reengaging with the United States, evidenced by greater cooperation with the POW–MIA accounting and on immigration issues.

As a result of this progress, beginning in 1992, the United States has gradually normalized relations with Vietnam. This normalization process helped to keep Vietnam on track with its reforms and has resulted in greater cooperation on the POW–MIA accounting efforts, immigration, and economic reform.

Most recently, the administration announced that it reached a tentative bilateral commercial agreement with Vietnam. Clearly, our policy of engagement is helping to create a change in that society. Ending engagement at this juncture will end our ability to shape the pace and the direction of this change, including undercutting our ability to promote democratic reform.

In fact, as we have seen in our failed policy toward Cuba, a policy of isolation does little to promote the values which we care so much about. A policy of isolation, as we have seen in Cuba, only serves to separate people and prevents us from sharing our ideals and our beliefs.

I recognize that our history of Vietnam is a troubled one. The scars of the past run deep, and we can never forget those who sacrificed their lives in service to their country. However, isolating Vietnam will not heal those scars.

Perhaps no one can speak more authoritatively on that issue than one of our former colleagues, Pete Peterson. Pete Peterson was shot down flying his 67th mission during the Vietnam War and spent 6½ years as a prisoner of war. After serving 6 years with us in the House of Representatives, Pete Peterson returned to Vietnam, this time as the first United States ambassador since the Communist takeover. It is Ambassador Peterson's remarkable optimism about the changes going on in Vietnam that I believe sheds the greatest light on what our policy toward Vietnam should be.

Mr. Speaker, I ask unanimous consent that the remainder of my time be yielded to the gentleman from Michigan (Mr. LEVIN), a member of the Committee on Ways and Means, and that he be permitted to allocate that time as he sees fit.

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

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that I be allowed to yield 2 minutes to the gentleman from Illinois (Mr. CRANE), and that he be allowed to control that time.

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

There was no objection.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me the time, and I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, opponents of this resolution say they are opposed to this resolution because they support a more free and open Vietnam. Well, I too support a more free and open Vietnam, but I support this resolution because by passing it we send a clear signal that business as usual is not acceptable.

No one is looking to take away the right of American corporations to do business in Vietnam. First, let us be clear. Since the U.S. trade embargo on Vietnam was lifted in 1994, businesses have had the ability to trade with and invest in Vietnam, and some have done so. The debate over Jackson-Vanik waiver for Vietnam is not about trade and investment. This is about government subsidies for companies operating in Vietnam.

This resolution is also about maintaining the focus on changes we would like to see in Vietnam. And I thought this was why we first normalized relations with Vietnam, with the expectation that the government would make a genuine reform, a genuine effort at progress. It is no secret that the Vietnamese government wants this waiver, but in granting the waiver once again we are saying it is okay that religious freedom continues to be restricted, it is okay that there is minimal political freedom, it is okay to have repression and to have it intensified this past year.

If this waiver is upheld or rejected, American companies will be no more or less free to invest in Vietnam. It should be noted, however, that the investment climate in Vietnam is not good and that several American companies have pulled out and several others are considering pulling out. We should realize that one simply cannot do business, whether a foreigner or as a Vietnamese, in a place where the rule of law is disregarded.

For the U.S. to subsidize companies that do business in Vietnam through OPIC or Ex-Im would be for us to ignore this reality. As long as the Vietnamese government continues to jam Radio Free Asia, which is an attempt to deny the Vietnamese people access to objective news, and as long as it violates human rights and disrespects economic freedom, we should not waive Jackson-Vanik.

It is only through taking these steps that we can leverage and bring about the necessary changes concerning respect for individual rights, religious freedom and liberalized markets in one of the world's most politically and economically repressive countries.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

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

□ 1600

Mr. BEREUTER. Mr. Speaker, as chairman of the Subcommittee on Asia and the Pacific, I rise in opposition to the resolution.

The Jackson-Vanik waiver does not constitute an endorsement of the communist regime in Hanoi. However, our experience has been that the isolation and disengagement does not promote progress in human rights.

New sanctions, including the symbolic disapproval of the Jackson-Vanik waiver, only strengthen the position of the Communist hard-liners at the expense of those in Vietnam's leadership who are inclined to support more openness.

Engagement with Vietnam has resulted in some improvements in Vietnam's human rights practices, although we still remain disappointed at the limit scope and nature of those reforms.

Mr. Speaker, Americans must conclusively recognize that the war with Vietnam is over. With the restoration of diplomatic relationships in 1995, the U.S. and Vietnam embarked on a new relationship for the future. It will not be an easy or quick process.

The emotional scars of the Vietnam war remain with many Americans. In the mid-1960s, this Member was an intelligence officer with the First Infantry Division; less than a month after

the completion of my service, members of our tight-knit detachment of that division were in Vietnam taking casualties the very first night after arrival.

Like other Vietnam-era veterans, this Member has emotional baggage. A great many Americans have emotional baggage on Vietnam, but this Member would suggest it is time to get on with our bilateral relationship and not reverse course on Vietnam.

Distinguished Americans like JOHN MCCAIN, Pete Peterson, ROBERT KERREY, JOHN KERRY, CHUCK HAGEL, MAX CLELAND, CHUCK ROBB, and others support the effort to normalize our relationships with Vietnam. If they can do it, so can we.

Passing this resolution of disapproval on the Jackson-Vanik waiver would represent yet another reflection of animosities of the past at a time when Vietnam is finally looking ahead and making changes towards integration into the international community.

A retrenchment on our part by this disapproval resolution is not in America's short- and long-term national interest.

Accordingly, this Member strongly urges the rejection of House Resolution 58.

By law, the underlying issue is about emigration. That is what Jackson-Vanik is all about and that is what we ought to be addressing. Since March of 1998, the United States has granted Vietnam a waiver of the Jackson-Vanik emigration provisions of the Trade Act of 1974. As this is only an annual waiver, the President decided on June 3, 1999 to renew this extension because he determined that doing so would substantially promote greater freedom of emigration from that country in the future. This determination was based on Vietnam's record of progress on emigration and on Vietnam's continued cooperation on U.S. refugee programs over the past year. As a result, we are approaching the completion of many refugee admissions categories under the Orderly Departure Program (ODP), including the Resettlement Opportunity for Vietnamese Returnees, Former Re-education Camp Detainees, ''McCain Amendment'' sub-programs and Montagnards. The Vietnamese government has also agreed to help implement our decision to resume the ODP program for former U.S. Government employees, which was suspended in 1996. The renewal of the Jackson-Vanik waiver is an acknowledgment of that progress. Disapproval of the waiver would, undoubtedly, result in Vietnam's immediate cessation of cooperation.

The Jackson-Vanik waiver also symbolizes our interest in further developing relations with Vietnam. Having lifted the trade embargo and established diplomatic relations four years ago, the United States has tried to work with Vietnam to normalize incrementally our bilateral political, economic and consular relationship. This policy builds on Vietnam's own policy of political and economic reintegration into the world. In the judgment of this Member, this will be a lengthy and challenging process. However, he suggests that now is not the time to reverse course on Vietnam. Over the past four years, Vietnam has increasingly cooperated on a wide range of issues. The most important of these is the progress and cooperation in obtaining the fullest possible accounting of Americans missing from the Vietnam War. Those Members who attended the briefing by the distinguished Ambassador to Vietnam, a former Prisoner of War and former Member of this body, the Honorable ''Pete'' Peterson, learned of the significant efforts to which Vietnam is now extending to address our concerns regarding the POW/MIA issue, including their participation in remains recovery efforts which are physically very dangerous.

The Jackson-Vanik waiver does not provide Vietnam with any new trade benefits, including Normal Trade Relations (NTR) status. However, with the Jackson-Vanik waiver, the United States has been able to negotiate a new bilateral commercial trade agreement in principle with Vietnam. Achieving such an agreement is in our own short and long term national interest. Vietnam remains a very difficult place for American firms to do business. Vietnam needs to undertake additional fundamental economic reforms. A new bilateral trade agreement will require Vietnam to make these reforms and will result in increased U.S. exports. When the final version of this agreement is complete, Congress will then have to decide whether to approve it or reject it and whether or not to grant NTR. As the Jackson-Vanik waiver is only a limited prerequisite for any future trade agreement, the renewal of the Jackson-Vanik waiver only keeps this negotiating and approval process going—nothing more. However, terminating Vietnam's waiver through passage of the resolution of disapproval before us would certainly derail this entire process as well as rejecting the modest trade opportunities currently available to American businesses.

Mr. Speaker, contrary to the claims of some, renewal of the Jackson-Vanik waiver does not automatically make Vietnam eligible for possible coverage by U.S. trade financing programs such as those administered by the Overseas Private Investment Corporation, the Export-Import Bank, and the U.S. Department of Agriculture. The waiver only allows Vietnam to be eligible for such coverage and that country must still face separate individual reviews against each program's relevant criteria.

Mr. McNULTY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I rise today to support House Joint Resolution 58, the resolution to disapprove the Jackson-Vanik waiver to Vietnam.

This provision was first waived in 1998 on the premise that it would promote free and open emigration with Vietnam. Sadly, things have not turned out that way.

My colleagues, let us consider the facts. An average immigrant now must pay about $1,000 in bribes to have access to U.S. refugee programs, three times the average annual salary of a Vietnamese worker.

A recent report to Congress stated that over 15,000 former United States Government employees and their families have been denied exit visas, leaving them trapped in Vietnam.

In my hand I have copies of hundreds of unresolved constituent casework, unresolved because the emigration policy of the Vietnamese Government still results in far too many people being prevented from leaving Vietnam due to unfair decisions. These are the parents, the siblings, and the offspring of families who have fought communism for two decades.

I will support H.J. Res. 58 because I believe the Government of Vietnam has not earned the right to improve trade privileges.

I urge my colleagues to put pressure on the Government of Vietnam to meet the conditions of emigration and to improve their political and human rights record by voting ''yes.''

Do not surrender our principal leverage with this regime. Vote ''yes'' for free immigration. Vote ''yes'' for family reunification. Vote ''yes'' to end religious persecution. Vote ''yes'' to promote free speech and democracy. Vote ''yes'' to honor the values which we are sworn to uphold.

The fact is the Vietnamese Government does not meet the conditions of good emigration. And by rewarding Vietnam regardless of its lack of cooperation, we are sending them the wrong message.

Mr. ROHRABACHER. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. BURR). The gentleman from California (Mr. ROHRABACHER) has 11 minutes remaining. The gentleman from Illinois (Mr. CRANE) has 10 minutes remaining. The gentleman from Michigan (Mr. LEVIN) has 12 minutes remaining. The gentleman from New York (Mr. MCNULTY) has 9 minutes remaining.

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

Mr. Speaker, I rise in opposition to H.J. Res. 58 and in support of the President's waiver of the Jackson-Vanik amendment with respect to Vietnam.

In considering this resolution, I ask my colleagues to bear a few matters in mind. First, today's vote is not a vote on whether to give normal trade relations, NTR, to Vietnam.

For that to happen, the United States first must enter into a bilateral commercial agreement with Vietnam and that agreement must be approved by Congress.

Second, if we reject this resolution, as we did last year, the result would be a continuation of Vietnam's eligibility to participate in financing programs, those administered by OPIC, the Export-Import Bank, and the Department of Agriculture.

Those programs support U.S. exports to and investments in Vietnam and thereby enable U.S. businesses and workers to compete in Vietnam with businesses and workers from other countries.

The programs have been available since the President first waived Jackson-Vanik for Vietnam in April of last year. To cut them off now would be to pull the rug from under U.S. producers of goods and services. It would be a setback in our effort to improve U.S. relations with Vietnam and to encourage the development of a market economy in that country.

By contrast, continuing those programs for another year represents a small but important step forward. Importantly, it should bolster our efforts to encourage the development of the bases of a free market and rule of law in Vietnam.

Third, our trade negotiators have been negotiating a trade agreement with Vietnam, which is a prerequisite to giving Vietnam NTR.

On July 25, the U.S. trade representative announced that an agreement in principle had been reached. She also stated that the administration ''will now consult with Congress and others, and work toward completion of a formal Bilateral Commercial Agreement and a mutual grant of normal trade relations.''

We look forward to those consultations which would give us an opportunity to review negotiations to date and other trade issues and any other additional issues relating to trade of concern to us in the Congress.

At the June 17 Subcommittee on Trade hearing on relations with Vietnam, I cited a number of important issues that have to be resolved before we can agree to full normalization. Of particular concern is the pace of economic reform in Vietnam. They are taking steps to reform the economy, including steps to root out corruption, enforcement of intellectual property rights, and improvement of the reliability of government-published data.

Another area of concern that I mentioned at that time is the potentially disturbing effects that Vietnam's labor market structure, including the exploitation of child labor, may have on competition. Labor market issues are trade issues.

Progress on each of the foregoing fronts is necessary to ensure that the benefits of U.S. businesses and workers from normalization with commercial relations with Vietnam are real.

Our ambassador to Vietnam and our former distinguished colleague, Pete Peterson, testified before the Subcommittee on Trade of the Committee on Ways and Means. He stated, based on his active work as ambassador, as follows. I urge all to listen to the conclusions or the findings, the experiences of our ambassador:

''Vietnam has eased restrictions on emigration,'' he said. ''Over 500,000 people have left Vietnam for the U.S. under the Orderly Departure Program.''

Next: ''Vietnam continues to cooperate fully with the U.S. on locating Americans missing in action.''

Next: ''Last fall, the Government of Vietnam released several prisoners of conscience.''

He also said: ''Tolerance of religious worship,'' far, far from perfect, ''is improving.''

''In 1998,'' he also mentioned, ''there were 60 independently organized worker strikes protesting unfair wages and working conditions.

''The Government is in the process of writing legislation to protect the freedom of association.''

And lastly, that ''the United States,'' he says, under his leadership, ''continues to engage with Vietnam in a very frank dialogue on human rights. The most recent round in this dialogue took place at the assistant secretary level in mid-July.''

Members of Congress will be watching for further progress closely. For now, let us support the accomplishments that have been made to date toward normalization of our relationship with Vietnam. Let us take a cautious step forward by continuing the Jackson-Vanik waiver for Vietnam.

In short, let us keep intact the groundwork on which a meaningful and enduring relationship can be built. Support the waiver. Vote against H.J. Res. 58.

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

Mr. ROHRABACHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), the distinguished chairman of the Committee on International Relations, a veteran, and a great leader in international relations in this Congress.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of House Joint Resolution 58 offered by the distinguished gentleman from California (Mr. ROHRABACHER) in disapproving the extension of the Jackson-Vanik waiver for the Socialist Republic of Vietnam.

The issue before us is progress, progress on human rights, on freedom of religion, freedom of emigration, and obtaining the fullest possible accounting for our POW/MIAs from the war in Southeast Asia.

Simply stated, the Vietnamese Government has not demonstrated the progress on these issues to warrant an extension of the Jackson-Vanik waiver. Many of us have voiced our concerns with regard to the rapid pace of normalizing relations with Vietnam.

The President insists that extending the waiver of the Jackson-Vanik amendment and its ensuing privileges is in our best national interest and will encourage the Vietnamese Government to cooperate on many issues, including economic reforms, political liberalization, and respect for human rights.

OPIC guarantee and Export-Import Bank financing programs should be a reward for achievement and not offered as an incentive for future conduct.

Despite the opening of diplomatic relations 4 years ago, prisoners of conscience are still in prison in Vietnam. Many of our former comrades in arms are still unaccounted for in the Vietnam War.

The Vietnamese Government still arbitrarily arrests and detains its citizens, including those who peacefully express political and religious objections to government policies.

The hard-line communist government also denies its citizens the right to fair and expeditious trials and still hold a number of political prisoners.

Moreover, Radio Free Asia is continuously jammed, preventing the free flow of information which Congress has worked to promote.

Vietnam continues to ''severely restrict those religious activities it defined as being at variance with State laws and policies,'' as stated in the State Department Report on Human Rights Practices.

Along with a number of Members of Congress, I recently wrote to President Clinton expressing our concern over the persecution of the Unified Buddhist Church, the Catholic Church, Protestant Christians, and the Montagnards in Vietnam.

In conclusion, a proposed extension of the waiver of Jackson-Vanik would essentially reward a lack of progress on human rights, political liberalization, economic reform, and the POW/MIA effort. This is illogical.

Accordingly, I call upon our colleagues to vote ''yes'' on this resolution of disapproval of the extension of the Jackson-Vanik waiver and send a strong message that our Nation still values principle over profits.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to House Joint Resolution 58.

As a Vietnam War veteran, I empathize with many of the arguments that are made by opponents to this waiver. I, too, am concerned about freedom of emigration. I, too, want a full accounting for our MIA and POWs. I, too, am concerned about religious freedom. But I strongly disagree with how this solution proposes to resolve these problems.

Denying the Jackson-Vanik waiver for Vietnam will do nothing to further progress in any of these areas. In fact, it will have the opposite effect.

I hope my colleagues will take a moment to consider the changes that have occurred and that are occurring to Vietnam.

Vietnam is not the same country it was 30 years ago when I was there. Over the past 15 years, 500,000 Vietnamese have emigrated to the United States. Over 96 percent of the resettlement opportunities for Vietnamese returnees cases have been cleared for interview by Vietnam. On emigration issues, we are clearly headed in the right direction.

On POW/MIA accounting, we have had and continue to have substantial cooperation from the Vietnamese Government in all areas. On religious freedom, progress is also being made.

Three weeks ago, a high-level U.S. delegation traveled to Vietnam to engage in the seventh session of our annual human rights dialogue with Vietnamese officials.

At each of these meetings, religious freedom has been a major topic of discussion; and each time U.S. officials

have been able to report that progress is being made.

□ 1615

In October of this year, five American Catholic bishops will be visiting Vietnam, the first visit by an American bishop since 1975. This will be a momentous event.

Let me be clear. While there is progress, the situation in Vietnam today is far from perfect. But it is important that we put this vote in its historical perspective. In 1991, President Bush proposed a road map for improving our relations with Vietnam. To follow the road map, Vietnam had to take steps to help us account for our missing servicemen. In return for this cooperation, the United States was to move incrementally toward normalized relations. We have moved in that direction.

I urge my colleagues not to abandon decades of progress. Only with engagement can we have commerce and only with commerce can we have change.

I urge a ''no'' vote on this resolution.

Mr. MCNULTY. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I rise in strong support of H.J. Res. 58 and in support of trade agreements that put people before corporate profits, trade agreements that act as if human beings mattered.

Today we are debating whether to give the very same multinationals that last month succeed in gaining NAFTA for Africa and higher trade surpluses with China, whether to give those same multinationals more government-backed guarantees to protect their investments in another poor nation with a horrible human rights record, a nation with absolutely no worker rights or religious or political freedoms, the Socialist Republic of Vietnam.

Think about that, because that is what the President's waiver does. It is a green light for businessmen and businesswomen to take advantage of another people's misfortune, of their inability to organize political change in the face of overwhelming government opposition. We are asking our constituents, the men and women who voted us into office, to back American corporations that want to do business with a Communist dictatorship that reviles the very form of government that lets us debate this measure.

This is a government that for the last 20 years has arrested, tortured and put hundreds of thousands of people into prisons and reeducation camps for crimes like forming independent trade unions, for worshiping in churches, for, quote, using freedom and democracy to injure national unity.

The Vietnamese people should have the opportunity to earn better wages, to live longer and healthier lives, to enter into better relationships with the United States and the rest of the world. However, rubber-stamping the President's waiver makes a mockery of our Constitution and the provisions in the 1974 Trade Act that uphold human rights, that uphold worker rights, that uphold religious rights.

Mr. Speaker, I would hope that my colleagues would join us in affirming that human rights and those principles that our country stands for do count for something. We should not just waive them. I urge my colleagues to support this resolution and to support trade agreements that require nations to first enter the family of nations, agreements that support free trade between free people.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the very capable and distinguished gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, today's vote on the resolution of disapproval is really a vote on if we are truly dedicated to the hard work of getting a full accounting of the missing in action from the Vietnam War. As the Veterans of Foreign Wars has argued, passing this resolution of disapproval will only hurt our efforts at a time that they are receiving the access and cooperation we need from the Vietnamese to determine the fate of our POW/MIAs.

There is no more authoritative voice on this issue than our former colleague and now Ambassador to Vietnam, Pete Peterson, who supports the waiver. As a prisoner of war who underwent years of imprisonment in the notorious Hanoi Hilton, he should have every right to be skeptical and harbor bitterness against the Vietnamese. Yet he believes the best course of action is to develop better relations between our countries.

We have achieved progress on the POW/MIA issue because of our evolving relationship with the Vietnamese, not despite it. Without access to the jungles and rice paddies, to the archival information and documents, and to the witnesses of these tragic incidents, we cannot give the families of the missing the answers they deserve.

Our Nation is making progress in providing these answers. Much of this is due to the Joint Task Force-Full Accounting, our military presence in Vietnam who are looking into missing issues. I have visited these young men and women and they are among the finest and bravest and most gung ho soldiers I have ever met. Every day from the searches of battle sites in treacherous jungles or the excavation of crash sites on precarious mountain summits, they put themselves in harm's way to perform a mission they truly believe in.

It is moving to see these men and women in action, some of whom were not even born when our missing served, perform a mission that they see as a sacred duty. They tell me time and time again one thing: ''Allow us to remain here so we can do our job.''

This resolution before us today puts that at risk. I urge my colleagues to please vote against this resolution.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), a distinguished colleague who spent 6 years as a prisoner of war, a man who was a pilot, a man who fought for his country and a man who has a unique opinion on this issue that we are discussing today.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate what the gentleman says, but even with the Ambassador over there, we still are not getting into some of the places that we need to get into. If you send our military to do a job, they are going to do it, regardless of where they are, and they are doing that job over there.

But I ask you, who better than our Vietnamese Americans to know what should happen in Vietnam? No waiver. They do not want a waiver. If you recall in 1995, I think it was, or 1993, rather, Clinton said that he would have a full and accurate accounting of all our POWs. That is our President. Again, in 1995, if you recall, he flip-flopped and went back on his word and recognized them. And now we want to put another nose under the tent, or push the nose a little further and try to recognize them for trade. Even now, we still have over 2,000 unaccounted for servicemen in Vietnam. Our MIA, missing in action, families, deserve our full support and that means ''yes'' to no waiver.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

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

Mrs. BIGGERT. Mr. Speaker, H.J. Res. 58 is the wrong direction for us to take today. Who is hurt if we pass this resolution today? We are. It is the wrong direction for U.S. farmers and manufacturers who will not have a level playing field when they compete with their European or Japanese counterparts in Vietnam. It is the wrong direction for our joint efforts with the Vietnamese to account for the last remains of our soldiers, and to answer finally the questions of their loved ones here. And it is the wrong direction for our efforts to influence the Vietnamese people, 65 percent of whom were not even born when the war was being waged.

Let us not turn the clock back on Vietnam. Let us continue to work with the Vietnamese, and in so doing teach the youthful Vietnamese the values of democracy, the principles of capitalism, and the merits of a free and open society. I urge a ''no'' vote.

Mr. MCNULTY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, Vietnam should be able to trade with America, but only when Hanoi halts human rights abuses and establishes a fair, sound economic environment that embraces human rights.

It is clear that Vietnam is eager to have an economic relationship with the United States and is willing to take the steps necessary to do so. Unfortunately, they are not where they need to be and they will not get there unless we stand firm for democratic principles and for human rights for the people of Vietnam.

Vietnam embarked down the road to reform in 1986, achieving high economic growth of 8 percent per year with low inflation. As a result, the U.S. lifted economic sanctions in 1994 and normalized diplomatic relations in 1995.

It was all downhill from there. The economic growth did not produce democratic and market reforms. In addition to quashing the religious, political and social freedoms of its citizens and restricting their rights to emigrate, Hanoi has taken giant steps backward from fostering sound policies and stability to bolster its economy and attract foreign investors. Erratic decision making, government red tape and high overhead makes many businesses unviable.

The government's refusal to loosen its political domination and accelerate the transition to a market economy has brought the country to a critical juncture. We cannot abandon the Vietnamese people and American businesses at this critical juncture. In the case of Vietnam, trade sanctions can be an effective way of ensuring Hanoi chooses the path of reform. As we saw in South Africa, 5 years after the U.S. first imposed economic sanctions, the Pretoria government abolished apartheid. While some question the economic effectiveness of U.S. sanctions, economists agree that the psychological and political effects were of fundamental importance to eliminating apartheid.

Economic sanctions are not the right tool in every case. But when they are, they take time. They only are effective when we have the patience to wait for results. The people of Vietnam deserve the same patience.

Please support this resolution and join with the Vietnamese people in their struggle against communism and oppression.

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I have a certain degree of irony being here on the floor having this resolution debated today, when earlier this week we had former Secretary of Defense Robert McNamara here on Capitol Hill meeting and admitting basically that the college students were right 30 years ago and that the government and Mr. McNamara were not telling the American people the truth.

I think it is amazing for us to look at the progress that has in fact occurred over the last third of a century. We have heard referenced on the floor the 500,000 people that have been able to legally emigrate. We had opportunities today for Members of this assembly to meet with our former colleague Pete Peterson to talk about his experience with the progress in terms of religious freedom in Vietnam and the rebuilding of churches and pagodas, the progress on the MIAs where we have more accountability than any war in American history. Even in the area of democratic government, there were 61 people elected to the Vietnamese Assembly who were independents, who were not Communists. Consider this, given where they have been, that one even is a former South Vietnamese military officer.

Pete Peterson has made huge progress in his life's work of trying to bring 350 million people together between our two countries, the majority of whom in both countries were not even alive during the Vietnam War. I strongly urge a rejection of this resolution before us today. Reject the resolution in order to hasten the day when we can get beyond the tortured struggle that has, I think, divided our country unnecessarily and bring about a healing and an integration of the Vietnamese nation into the world economy and allow us to be able to deal honestly with the history that got us here in the first place.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. DAVIS) who represents thousands of Vietnamese Americans who know full well what repression their family members live under in Vietnam.

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

Mr. DAVIS of Virginia. Mr. Speaker, I rise today in support of H.J. Res. 58, disapproving the extension of emigration waiver authority to Vietnam.

As Members know, last year the President granted Vietnam a waiver of the Jackson-Vanik's condition, but not much really I think has been cited or documented in that last year. Boat People SOS, an organization located in my district, has informed me that there is rampant corruption in Vietnam and the Vietnamese government and it continues to exclude thousands of former political prisoners and former U.S. Government employees from participating in the U.S. refugee programs. On average, an applicant has to pay $1,000 in bribes to gain access to these programs. In a country where the average Vietnamese's salary is $250, how can an impoverished former political prisoner or former U.S. Government employee who the government already discriminates against afford a $1,000 bribe per person just to apply for these programs? Since last year's waiver, the Vietnamese government has not deemed a single case among this group of thousands to be eligible for the refugee program.

Corruption exists not only in the Vietnamese government but it also undermines U.S. exchange programs as well.

□ 1630

Our programs offer outstanding Vietnamese students the opportunity to participate and study in the U.S.; however, the Vietnamese Government excludes those students whose parents are not members of the Communist cadre.

I hope my colleagues will join me in supporting this resolution.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, a small business exporter of wireless telecommunications equipment from Torrance, California, had never sold to Vietnam. Telemobile's Japanese, French, and Canadian competitors all had the support of their home government's export credit agencies. Telemobile had no hope of selling to Vietnam until the President and Congress approved the Jackson-Vanik waiver last year allowing the Export-Import Bank and other Federal export promotion programs to operate in Vietnam. Then Telemobile won a $6 million contract with Vietnam to sell their product backed with the letter of interest from the Export-Import Bank.

The purpose of the vote today is to allow those types of partnerships so American companies can utilize our export credit agencies in order to have American jobs. With the already large U.S. trade deficit, we should not impose yet another sanction on our exports. We should vote against this resolution of disapproval.

Open letter to Congress from Telemobile is as follows:

TELEMOBILE, INC,
Torrance, CA, July 27, 1999.

CONGRESS OF THE UNITED STATES,
House of Representatives.

OPEN LETTER TO CONGRESS: I am President of a small electronics manufacturing company, employing about 100 people in the Los Angeles metropolitan area. I am writing to express my opposition to the resolution of disapproval regarding Vietnam's Jackson-Vanik's waiver (H.J. Res. 58) because it will have a serious impact on our business and our employees who live and work here.

Telemobile, Inc. is a manufacturer of wireless rural telecommunications equipment. We compete against Canadian, French, and Japanese manufacturers of similar equipment. They all have the support of their home governments in the area of trade promotion, including their government-supported export credit agencies. We had no hope of winning any business in Vietnam until the President and Congress supported a waiver of the Jackson-Vanik amendment last year. Since then, we received a Letter of Interest from the Export-Import Bank of the United States (Ex-Im) for a project we plan to do in Vietnam worth about $6 million. We would have never won this contract if we did not have the backing of the Ex-Im Bank. Even still, all of our foreign competitors tell our Vietnamese customers to abandon their project with us because their governments do not go through this annual Jackson-Vanik waiver process. Fortunately, the Vietnamese want to buy American products.

But if Ex-Im is forced to leave Vietnam because of the passage of H.J. Res. 58, then our Vietnamese customers will have no choice but to go with one of our foreign competitors. Thus, if this bill passes, the real-life

practical effect upon Telemobile is that the work on this $6 million contract will be transferred from the 100 employees here in Torrance, California to Canada, Japan or France. While a $6 million sale may be insignificant in the eyes of Washington, it is significant to our small business, which is 95 percent export-oriented.

I firmly believe that renewal of the Jackson-Vanik waiver is a necessary step in the process of normalizing our relations with Vietnam and would be good for the American people, as well as the business activities of American workers engaged in exports. Please oppose H.J. Res. 58.

Very truly,

W.I. THOMAS,
President.

Mr. LEVIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

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

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this resolution and in favor of the Jackson-Vanik waiver.

I rise in opposition to this resolution and urge my colleagues to uphold the current waiver from the Jackson-Vanik provision.

Mr. Speaker, the Jackson-Vanik provision of the 1974 Trade Act was intended to encourage communist countries to relax their restrictive emigration policies.

At the time, the Soviet Union was prohibiting Soviet Jewry from emigrating to the U.S. and Israel.

It specifically granted the President the power to waive restrictions on U.S. government credits or investment guarantees to communist countries if the waiver would help promote significant progress toward relaxing emigration controls.

The co-author of this provision, Senator Scoop Jackson was a staunch anti-communist.

Yet, he was willing to consider incentives to encourage the Soviet Union to relax its emigration policy.

Vietnam is experiencing a new era, driven by a population where 65% of its citizens were born after the war. Vietnam today is thirsty for U.S. trade and economic investment.

Last year, Charles Vanik, former Member and co-author of the Jackson-Vanik provision, sent me a letter expressing his strong opposition to the motion to disapprove trade credits for Vietnam.

Ironically, the economic incentives provided in Jackson-Vanik are all one sided favoring U.S. firms doing business in Vietnam.

A waiver of Jackson-Vanik does not establish normal trading relations with Vietnam.

The Vietnamese Government has made tremendous progress in meeting the emigration criteria in the Jackson-Vanik amendment.

Despite problems of corruption and government repression, there is reason to believe that our presence in Vietnam can improve the situation and encourage its government to become less isolated and to follow the rule of law.

Through a policy of engagement and U.S. business investment, Vietnam has improved its emigration policies.

As of June 1 of this year, the Vietnamese Government had cleared nearly 20,000 individuals, or 96% of applicants, for interviews under the Resettlement Opportunity for Vietnamese Returnees (ROVR).

The Immigration and Naturalization Service has approved 15,833 ROVR applicants for admission to the United States as refugees—14,715 of which have left Vietnam for the U.S.

According to the State Department, we are also obtaining ''the fullest possible accounting'' of our missing in action from the Vietnam War.

Just last week, the U.S. and Vietnam finalized the terms of a bilateral trade agreement to address issues ranging from import quotas, import bans, and high tariffs to financial services, telecommunications, and other issues that are critical to opening Vietnam to U.S. products and services.

U.S. Ambassador to Vietnam, Pete Peterson, our esteemed former colleague and former POW, has been one of our nation's strongest advocates for expanding trade with Vietnam. Renewing the Jackson-Vanik waiver will increase market access for U.S. products and services in the 12th most populous country in the world.

Disapproval of this waiver will have several negative outcomes. It will discourage U.S. businesses from operating in Vietnam, arm Soviet-style hardliners with the pretext to clamp down on what economic and social freedoms the Vietnamese people now experience, and eliminate what opportunity we have to influence Vietnam in the future.

I can see nothing gained by overturning the waiver and urge my colleagues to defeat this resolution.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute, and I understand that the gentleman from Illinois (Mr. CRANE) will also yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CRANE. Yes, Mr. Speaker, I yield 1 minute as well to our good colleague and friend from San Diego, California (Mr. CUNNINGHAM).

The SPEAKER pro tempore (Mr. BURR of North Carolina). The Chair recognizes the gentleman from California (Mr. CUNNINGHAM) for 2 minutes.

Mr. CUNNINGHAM. Mr. Speaker, for some of us this issue is very, very difficult, when heart, economics, pain are all tied up into one. I understand the version of the gentleman from New York (Mr. MCNULTY) of this, and I understand the gentleman's, and what I would do is point out a couple things on each side because I still do not know how I am going to vote on this issue.

When one lives through Private Ryan, it is very difficult for something like this, and one side we see economics, like the gentleman from Illinois (Mr. MANZULLO) talked about for his constituents, and on the other side, Mr. Speaker, I went with the gentleman from Kentucky (Mr. ROGERS) to Vietnam. He asked me to go four times, and I said no, it is too hard, and then he said, Well, Pete Peterson asked you to come and help raise the American flag for the first time in 25 years.

I saw American children there, Eurasians, that can not be helped by this on one side, but yet I saw very strong Communism. As a matter of fact, the Communist premier told me, he said, Duke, we don't engage in free trade. I can't do this quickly. He is very open, he said, because it will put us out of a job, which meant Communism.

To me on one side that says, Hey, American involvement is good because it hammers away at Communism; but yet on the other side I see where not even Pete Peterson can be there when an American citizen is tried in their courts, and it is difficult, Mr. Speaker.

I had a young lady in my district named Foo Lee, had to work a year. Her whole family escaped in a boat, lives in my district, and the mom had to stay behind because they knew that if they were caught, they would be put into a reeducation camp, and not many people survive; and it took a year to get her back into the United States and rejoined with the family.

And on that side it is very hard for this. I look at that we cannot go in with intellectual property rights, but on the other side we have the same problem with China, and I voted for trade with China, so why not for this? And it is one of the more difficult. For most of my colleagues it is not, but for us, and Sam, and I understand both sides of this issue. I see my friend Pete Peterson spent 6 years as a POW there, and it is very difficult to look at heart, to look at logic, to look at economics.

Mr. Speaker, I will not chastise anybody for either side of this vote.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding this time to me, and what I would like to do is address my remarks to all of my colleagues, but especially to the gentleman from California (Mr. CUNNINGHAM).

As a young soldier in Vietnam, I like to speak to my colleagues through the eyes of many young soldiers in Vietnam where we would every once in a while help corps men deliver babies, some alive and some dead. We as very young men saw leprosy for the first time. We saw the eyes of the dying Viet Cong. We saw the eyes and looked into the eyes of dying young Americans and said good bye. We laughed and cried with the Vietnamese people, the very old and the very young.

One incident, we moved into a small little village, pulled an old man out of a grass hut with one leg, and the old woman in the grass hut began to cry because we thought he was shooting at us and we were going to take him away. And a little girl about 10 screamed and cried and grabbed at our clothes as we were walking this old man away from the village, and then suddenly we young soldiers just stopped. We looked into the eyes of the old man. The old woman froze in fear as to what might happen next, and the little girl just stopped crying, and then the old man looked at us, and we looked back at him, and we suddenly realized something. We were just all people together caught in a horrible struggle, none of which we created.

There was an Israeli soldier in 1967 that said, We need to learn to love our

children more than we hate our enemies. We can never forget the pain of the past. But in this vote I think it is time that we start a new future for us, for the Vietnamese children.

We remember the quote from President Kennedy at the Berlin Wall where he said:

''We all cherish our children's future, we all breathe the same air, and we are all mortal.''

Let us vote for America and Vietnam.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Speaker, on August 3 in 1492 Christopher Columbus set sail on a new journey across the Atlantic, and he set sail with new maritime instruments, a quadrant, an astrolabe, a cross staff, that helped him find the shores of the Bahamas. Today the new instruments to help us navigate to help our workers, to help our businesses, navigate the complicated world of international trade are access to OPIC, agricultural loans and Ex-Im Bank loans. That is why we should reject this resolution and allow us the opportunity for Boeing to compete against Airbus and sell our planes to Vietnam.

Now Pete Peterson, a good friend of mine, has been mentioned as our ambassador who spent 6 years as a POW. Pete Peterson will never forget, nor will Congress forget the MIAs, and we are ripping up highways and searching in mountains for every clue to find those MIAs, and we will never forget the 58,000 soldiers that were lost in that war.

But it is also time for us to move in a positive way to bring Vietnam into the community of nations.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH) one of the most distinguished and ferocious champions of human rights in this body.

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

Mr. SMITH of New Jersey. Mr. Speaker, a few weeks ago the U.S. sent a representative to Vietnam to conduct a human rights dialog with the government there. At the conclusion of the dialogue the Vietnamese government issued a statement essentially denying that the U.S. had any right whatsoever to concern itself with human rights outside of its borders. However, less than 2 weeks later, with the obligatory dialogue out of the way, the U.S. sent another representative to Vietnam, and this time we signed an agreement in principle to give MFN, or normal trading status to Vietnam, sending a clear message to the Hanoi dictatorship that they can safely ignore everything else we say about human rights and still get what they want from our government.

Mr. Speaker, let us be very clear on one thing. There is no freedom of immigration from Vietnam. If there were, there would be no need for this waiver. The administration could simply certify that Vietnam complies with the Jackson-Vanik freedom of immigration requirement. Instead, by waiving the requirement, the administration has conceded that there is no such freedom.

Mr. Speaker, the only significant human rights concession the Vietnamese Government has made in order to get the waiver was to finally begin letting us interview people under the rover program. Now I happen to be a very enthusiastic supporter of this program, and for the RECORD Members will recall that I was the prime sponsor of the amendment on this floor that stopped us from doing what I think would have been very, very cruel, and that would be to end the CPA, the Comprehensive Plan of Action, to just send the people back without giving them any opportunity to get re-reviewed after some bogus reviews were done, or interviews.

The refugee program, the rover program, works when there was a real push, and the ambassador, Pete Peterson, did do a good job in pushing when he had the effort of ourselves holding up the waiver. 13,000 people were cleared, but as soon as the waiver was granted, the clearances slowed right back to a trickle.

Mr. Speaker, let us not forget the prisoners of conscience; let us not forget the Catholic priests and the Buddhist monks. The religious persecution situation has gotten worse since last April when additional restrictions on exercise of religion was put on those people.

Mr. Speaker, I urge support for the gentleman from California's (Mr. ROHRABACHER) resolution.

Mr. Speaker, a few weeks ago the United States sent a representative to Vietnam to conduct a ''human rights dialogue'' with the government there. At the conclusion of the dialogue, the Vietnamese Government issued a statement essentially denying that the United States had any right at all to concern itself with human rights outside its own borders. Less than two weeks later with the obligatory dialogue out of the way, the United States sent another representative to Vietnam. This one signed an ''agreement in principle'' to give Most Favored Nation status to Vietnam—sending a clear message that the Hanoi dictatorship can safely ignore everything we say about human rights, and still get what it wants from our government. Because the waiver of the Jackson-Vanik freedom of emigration provisions is a prerequisite to MFN, the communist regime—and its victims—are watching today's vote very closely.

Let use be clear, Mr. Speaker, on what this vote is about. It is about U.S. taxpayer subsidies for one of the worst dictatorships in the world.

And let's be clear on one other thing: there is no freedom of emigration from Vietnam. If there were, there would be no need for a waiver. The Administration could simply certify that Viet Nam complies with the Jackson-Vanik freedom-of-emigration requirement. Instead, by waving the requirement, the Administration has conceded that there is no such freedom. Yes, the government allows some people to leave, when it is good and ready. But for many thousands who have been persecuted because they were on our side during the war, Vietnam is still a prison.

Finally, I hope my colleagues understand that this is not a vote about free trade. It is about subsidies—corporate welfare for Communists. Since the President gave the waiver in March of 1998, the U.S. taxpayers have been paying for Eximbank and OPIC subsidies of trade and investment in Vietnam. Many of these taxpayer dollars subsidize ventures owned in large part by the government of the Socialist Republic of Vietnam.

Overregulation and widespread corruption make Vietnam a terrible place to do business. Starting this year, foreign businesses in Vietnam are no longer allowed to hire Vietnamese employees directly, but must go through the government. No only does this practice encourage corruption, it also excludes victims of persecution from what for many is the only potential source of employment available to them. In addition, according to a recent Ministry of finance audit, 5.8 billion dollars—one third of Vietnam's total civil service assets—are unaccounted for. Most of the money reportedly was spend on luxury items for high-ranking communist officials. So U.S. taxpayers are now forced to compensate businesses for the greed and inefficiency of their partners in Hanoi.

The only significant human rights concession the Vietnamese Government made in order to get the waiver was to finally begin letting us interview people under the ''ROVER'' program (Resettlement Opportunities for Vietnamese Refugees). Now I happen to be an enthusiastic supporter of this program was prime sponsor of the amendment to ensure that the Boat People refugees weren't sent back. ROVR was the compromise, it provide a new interview for people who managed to escape Vietnam but were forced back—althought many were refugees. They were promised that as soon as they got back, the U.S. would interview them and resettle them if they were eligible for our protection. But of course the Vietnamese government broke its promise. For over a year and a half they hardly let us interview nobody. Finally, when we really held their feet to the fire, they cleared 13,000 people. But as soon as the waiver was granted, the clearances slowed back to a trickle.

In fact, the emigration situation has become worse since the waiver. In the last year, communist officials reportedly have been demanding much larger bribes in exchange for access to U.S. refugee programs. An average emigrant must pay about one thousand dollars in bribes—more than three times the average annual salary of Vietnamese workers. In some cases, government officials have demanded tens of thousands of dollars from eligible refugees.

Finally, we must not forget the prisoners of conscience. Hanoi imprisons Catholic priests, Buddhist monks, pro-democracy activists, scholars, and poets. Last April, the regime placed additional restrictions on religious exercise and permanently appropriated properties that it had confiscated from different churches. When we complain to the Vietnamese Government, they just respond that ''we have a different system.'' They need to be persuaded

that a system like this is not one that Americans will subsidize.

The lesson is obvious: the Vietnamese Government has no trouble clearing refugees for interview when it really wants to. But once they get what they want from us, they have no interest in allowing people to leave. So we should disapprove the Jackson–Vanik waiver at least until the government allows all the refugees to leave: not only the returnees who are eligible for the ROVR Program, but also those who never left Vietnam and are still trapped there, including longterm re-education camp survivors and former U.S. Government employees. Many of these people are members of the Montagnard ethnic minority who fought valiantly for the U.S. and have suffered greatly ever since.

The list of human rights violations goes on and on. Vietnam enforces a ''two-child per couple'' policy by depriving the parents of ''unauthorized'' children of employment and other government benefits. It denies workers the right to organize independent trade unions, and has subjected many to forced labor. The government not only denies freedom of the press, but also systematically jams Radio Free Asia, which tries to bring them the kind of broadcasting they would provide for themselves if their government would allow freedom of expression.

Mr. Chairman, the Vietnamese Government and its victims will both be watching this vote. We must send the message that economic benefits from the United States absolutely depend on decent treatment of Vietnam's own people. We may not be able to insist on perfection, but we must insist on minimal decency.

Mr. MCNULTY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. SANCHEZ) who represents the largest number of Vietnamese Americans in the country.

Ms. SANCHEZ. Mr. Speaker, I would like to ask my colleagues to explain to Dr. Giang why the Communist government of Vietnam should be rewarded and granted the Jackson-Vanik waiver. On March 4 of this year, Dr. Giang was a respected geophysicist and writer and was arrested in Hanoi for allegedly possessing anti-Communist documents. Unfortunately, this was not the first time that he had been harassed by the authorities for peacefully expressing his viewpoints.

In January of 1997, he wrote an essay and argued the universality of human rights and concluded that the world needs to unite its actions for human rights.

□ 1645

In March of 1997, Dr. Giang was also summoned to appear before the Communist Party for a session of public accusation. After a storm of international protest of governments and human rights organizations, Dr. Giang was finally released. In fact, I went to Vietnam in April to try and find him. Officials in communist-ruled Vietnam never explained to Giang why he was arrested on March 4 or formally charged.

In my hand, I have a copy of a letter that he sent to my office detailing his current situation. I would like to share his thoughts with you today.

It says,

Dear Ms. Sanchez: I am still being restricted by a police writ which bans me to go elsewhere outside my residence. This oppression causes me to suffer in my home detention status. Even so, I am not dejected in this indignant circumstance. I will always aspire for better conditions and freedom and democracy for our people. Thank you again. I pray that global allegiance for democracy and human rights will spread far and wide as we build greater victories for all people.

This is one of the many examples of human rights abuses which occurs in Vietnam. The United States must take a stand on human rights, and we must say enough is enough. We have an opportunity to send a signal to Vietnam, that human rights cannot be ignored.

Vote ''yes'' on House Joint Resolution 58.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia, Mr. BOUCHER.

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

Mr. BOUCHER. Mr. Speaker, I rise today in support of the President's decision to extend the Jackson-Vanik waiver for Vietnam and in strong opposition to the resolution of disapproval. The Jackson-Vanik waiver process is designed to promote immigration from countries that do not have market economies. In the case of Vietnam, the waiver is working as intended.

Since the waiver was granted, Vietnam has made steady progress under both the ROVR and the orderly departure programs. If the waiver is rescinded through the passage of this resolution, that progress, which depends entirely upon the cooperation of the Vietnamese government, will almost certainly be reversed.

We have now negotiated a bilateral trade agreement with Vietnam and progress is being made on human rights and on religious freedom matters.

I urge the Members to reject this resolution and, in doing so, to give a vote of confidence to the very fine work of our former colleague, the Ambassador to Vietnam, Pete Peterson, and his excellent staff, under whose guidance this outstanding progress is being made.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. GEORGE MILLER).

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

Mr. GEORGE MILLER of California. Mr. Speaker, earlier this year I had an opportunity to travel to Vietnam and to talk to members of the business community, to the international environmental community, to workers, to representatives of labor organizations, and to U.S. manufacturers and had an opportunity to travel throughout the country. I think that my conclusion is that the waiver can continue to be justified because of the progress that is being made.

I think it is also clear that the waiver helps to empower our ambassador, Pete Peterson, who may be the greatest catalyst for change inside this country, so that he can continue his work to get Vietnam to improve its human rights conditions, to improve its labor conditions, to improve its environmental conditions and so many of the other issues that are of concern to all of us here.

This is not about not being concerned about human rights, labor conditions, or any of the rest of it. It is about whether or not we can have a process where we can continue to make progress. Unlike the vote last week on China, where I voted against extending the relationship with China because, in fact, there we have gone backwards, here we have an opportunity to continue the progress forward.

We will have much debate on the trade agreement and whether or not that can be justified or not be justified, but the fact of the matter is, in this particular case, the continued waiver for another year so that we can continue to monitor, continue to work with the government of Vietnam on all of these issues, is a positive step that we should and can take today.

Mr. Speaker, I rise in opposition to H.J. Res. 58 so that we might continue the existing waiver of the Jackson-Vanik restrictions as they apply to Vietnam.

Mr. Speaker, I had the opportunity to travel to Vietnam earlier this year on official business to attend an international environmental conference, to inspect labor conditions at factories that subcontract for United States manufacturers, and to meet with our Embassy officials on a broad range of United States-Vietnam issues.

Vietnam today is a country struggling to become a player in the global economic market. It is once again a major agricultural power and is the world's second largest exporter of rice. Hundreds of foreign companies are investing in this nation of 80 million people, the 12th largest population in the world, because of its key role in Asia and its educated and diligent work force. Most of the representatives of American businesses with whom I spoke in Vietnam praise the local business opportunities and actively promote the normalization of economic relations so that trade between the United States and Vietnam, now less than $300 million a year, can expand and investment can flourish.

The conditions for waiving Jackson-Vanik are quite specific, and in my view, Vietnam has met those tests and should again be granted the waiver as it was last year by nearly 100 vote margin in the House. Jackson-Vanik was developed to use our economic leverage to force political and immigration reforms, and it has had the desired effect in Vietnam where we have seen significant and steady movement towards expanded emigration.

Our Ambassador, who is our former colleague and a distinguished Vietnam veteran, Pete Peterson, has documented broad cooperation by the Vietnamese government with the emigration program and has even noted that in some cases, it has been impossible to fill the slots allocated for some categories of

applicants. Ambassador Peterson has also noted expanding religious activity and I was able to observe the expanded construction of churches in northern Vietnam. Lastly, the Vietnamese and United States governments now operate a Joint Task Force that conducts interviews, archaeological digs, genetic testing, and other efforts to locate the remains of United States soldiers and pilots. Nearly 400 remains have been repatriated since the end of the war, several just this past month.

Vietnam has a considerable way to go to fully open its economy and bring it into conformity with international standards on transparency. Moreover, I remain concerned by the continued denial of labor rights by the government, including the fundamental right to join an independent labor union. Some of these issues will be addressed when we have the opportunity later this year to debate the United States-Vietnam Trade Agreement.

Last week, this House voted on granting normal trade relations to China, and many members took the floor to denounce, rightly I believe, that nation's continued repressive government and its unacceptable human rights record. It is terribly important that, during this current debate, we distinguish what is different in Vietnam from the Chinese example. For Vietnam has made and continues to make major steps forward on economic reform, is cooperating on emigration and MIA issues, and is showing promising signs of political liberalization. If we see retrenchment in Hanoi, then I believe many of those who today are prepared to vote for this waiver and for expanded trade between our countries will reconsider their decision.

We vote to waive Jackson-Vanik in recognition of Vietnam's changing political system and to encourage further liberalization. But understand that the Congress and the American people are serious about assuring that open trade is also fair trade: that working men and women in America are assured that their counterparts in Vietnam labor under reasonable conditions and with the enjoyment of basic human and labor rights recognized by international law.

The continued waiver of the Jackson-Vanik restrictions should be voted by the House tonight to recognize Vietnam's steady steps towards reform. Similarly, the Congress should expect that the waiver of Jackson-Vanik will promote a continuation of democracy in Vietnam, unlike the China case where despite expanded trade relations, political reform has worsened.

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

Mr. Speaker, Jackson-Vanik, this waiver we are talking about, yes, it deals with immigration. For the record, I have a statement issued by the United States embassy in Bangkok on July 14 of this year stating that the orderly departure program has some severe problems. So much for all the progress we have made for Jackson-Vanik just in terms of the immigration issue.

We are also told that there has been so much progress in other areas, especially in the area of democratization, which is not directly to Jackson-Vanik. But the fact is today all of us understand that we are sending a message to Vietnam, and that by moving forward in the area of Jackson-Vanik, we are giving them the idea that they can get away with the type of repression that they have been getting away with and still have better trading relations and make more money off their relations with the United States.

I have something here, a report just yesterday, August 2, talking about in Hanoi where the government in Hanoi has declared they will not tolerate any other political parties except the Communist Party of Vietnam. I will submit both of those for the record.

Let us get right down to brass tacks. Over this last year since we came here and went along with the Jackson-Vanik waiver that this administration has decided to give to the communist government of Vietnam, there has been no human rights progress. There has been no political parties that have been able to be formed. There has been no more free speech. There has been no examples whatsoever of more freedom of the press. There have been many examples also of repression of religious individuals. So we have no progress on that front whatsoever.

I would hope that my colleagues, maybe they can enlighten me to the parties that are springing up in opposition to the Communist Party or these other examples of freedom of speech or freedom of press or freedom of religion that are nonexistent. Please, tell us about that.

No, that does not exist in Vietnam. That is why we will not hear about that and have not heard about it in this debate.

A constituent of mine, Mr. Ku Noc Dong, went back to Vietnam. He is an American of Vietnamese descent. He went back, and within 1 day he was thrown in jail. For what? For passing out leaflets talking about liberty and justice. He is imprisoned as we speak.

Do not tell me there has been human rights progress in Vietnam. There has been none, and by moving on this legislation, we are giving the stamp of approval of this Congress on that type of behavior by this regime.

Let me just suggest something else. We have heard about the progress in MIA/POWs. I totally reject that contention. I am afraid that some of our other Members, including our former distinguished Member, Mr. Peterson, are sadly misinformed about what is going on in this effort.

I have two pictures that were taken that I would submit for the record of MIA/POWs who were incarcerated in Vietnam. Their remains were never returned. Plus, none of the records of the prisons that held our POWs has ever been made available to us after requests for those records of 5 years.

Mr. Speaker, I would suggest that this body vote against the Jackson-Vanik waiver, and send the Vietnamese communists a message that we stand for freedom.

VIETNAM COMMUNISTS SAY TO KEEP SINGLE-PARTY SYSTEM

HANOI, Aug. 2, 1999 (Reuters).—A top ideologue from Vietnam's ruling Community Party said on Monday that Hanoi would not tolerate a multi-party system.

''The Communist Party of Vietnam is the leader of Vietnam's entire society, we will not accept any other parties or a multi-party system,'' said Dao Duy Quat, deputy head of the party's powerful Ideology and Culture Commission. He was speaking at a rare news conference held for foreign media and diplomats that discussed party-building and a two-year criticism and self-criticism campaign.

But one veteran diplomat in Hanoi was unconvinced, questioning how legitimacy could be gauged when Vietnam's vast internal security machine went to such lengths to isolate or silence contradictory voices. ''They want power, on that there is no compromise,'' he said. ''They stamped out all opposition in the past—even those groups that supported the same aims—and see absolutely no reason to liberalise.''

Some foreign governments and international human rights groups say Vietnam imprisons people for the peaceful expression of political or religious beliefs—a charge that Hanoi denies. Quat said the party would not repress minority views unless people violated the law. Anti-socialist activities in Vietnam are treated as a crime.

MEMORANDUM

JOINT VOLUNTARY AGENCY ORDERLY DEPARTURE PROGRAM, AMERICAN EMBASSY, BANGKOK, JULY 14, 1999

Re request for refugee statistics and assessment of ODP cases.

ODP Cases: The Socialist Republic of Vietnam has frequently determined applicants did not meet ODP criteria, despite our confirmation that they did; many applicants are still awaiting interview authorization. . . . As of July 9th, there are 3,432 ODP refugee applicants and 747 ROVR applicants awaiting Vietnamese Government authorization for interview. . . . ODP has continually received requests from applicants for assistance in dealing with local officials; many applicants originally applied to ODP as long ago as 1988 but have yet to be given authorization by the Vietnamese Government to attend an interview.

Impact of Jackson-Vanik Waiver: It would not appear that Jackson-Vanik had a telling impact on ODP activities. . . . Staff are of the opinion that there has been little, if any, indication of improvement in the Vietnamese Government's efforts to deal with remaining ODP cases.

Mr. LEVIN. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I, along with I think probably 30 of my colleagues last week, had an interesting dinner meeting with Bob McNamara. If there is any lesson that he has learned in looking back on Vietnam, it is really hearing and receiving, giving the wrong messages and not talking to each other. We really have an opportunity right now to heed some of the lessons that he talked about.

Vietnam is making progress, contrary to the previous speaker. There is a great deal of evidence which our former colleague, the Ambassador, has articulated to us, and the press has as well. It is a relationship that can continue to be good for the United States as we are moving a young nation towards moving into the community of nations, of living within international standards. It is a region in the world

that for 4,000 years has faced uncertainty and conflict.

What we are talking about is normal trading relationships. That is really what the issue is about. Obviously people can see it differently, but I urge the defeat of the resolution.

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

Mr. Speaker, as I grow older, I try to keep my priorities in proper order. I am not always successful at that, but I work at it. That is why when I get up every morning, the first two things that I do are to thank God for my life and veterans for my way of life, because had it not been for my brother Bill and all those who gave their lives in service to this country through the years, had it not been for people like SAM JOHNSON and Pete Peterson and JOHN MCCAIN, who endured the torture as prisoners of war, had it not been for people like Pete Dalessandro, a World War II Congressional Medal of Honor winner from my district who was just laid to rest last week in our new Veterans National Cemetery in Saratoga, if it had not been for them and all of the men and women who wore the uniform of the United States military through the years, I would not have the privilege of going around bragging about how I live in the freest and most open democracy on the face of the Earth. Freedom is not free. We paid a tremendous price for it.

So today, Mr. Speaker, based upon the comments that I made earlier and on behalf of all 2,063 Americans who are still missing in Southeast Asia, I ask my colleagues to join me, the American Legion, the National League of POW/MIA Families, the National Alliance of POW/MIA Families, the National Vietnam Veterans Coalition, the Veterans of the Vietnam War and the Disabled American Veterans in supporting this resolution of disapproval.

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

Mr. Speaker, there have been arguments raised here, ones that I think are worth listening to by all of us, regardless of our position on the issues, and I respect the disagreements that I have with some of my colleagues, but I think personally that if you examine the evidence, you will realize that the hope for mankind in the future lies in moving down this path of expanding our relationships with one another and especially expanding our economic relationships.

□ 1700

Keep in mind, too, that as Ambassador Peterson told a group of us this morning, 65 percent of the population over there has been born since the end of the Vietnam War. The overwhelming majority of these people know nothing about it except what they have heard from those who preceded them.

In that regard, I think it is important to note, too, that we have a recent report that just came out from the U.S. Ambassador for International Religious Freedom, this was in July, last month, mentioning that three-fourths of the population are nominally Buddhist now, an estimated 6 to 7 million are Roman Catholics, and there are a variety of other religious affiliations, including Mormons in Vietnam. In addition to that, they are growing in population.

I think further that it is important for us to recognize that in the last national election there, and that was last year, this was not an absolute Communist dictatorship in place. There were almost two candidates running in every race for their national assembly, 800, and 450 seats. The result was the election of 61 National Assembly members who are not members of the Communist party, and as indicated earlier, one of those 61 was a major in the South Vietnamese army, a former major.

We have also something else, I think, to keep in mind. That is a point that the gentleman from California (Mr. CUNNINGHAM) brought up, the response he got from a Communist he spoke to while he was there who said that they cannot advance free trade because that would put him out of a job. Think about that for a moment, Mr. Chairman, a Communist cannot participate in the advancement of free trade because that will put him, a Communist, out of a job; to which I say, amen. That is a fringe benefit.

The immediate benefit is the material benefits to the people of Vietnam, and the material benefits here as we advance down that path creating expanded free trade worldwide.

I would remind Members also, this is not a vote on normal trade relations. This simply provides an expanded opportunity for increased business contact in Vietnam. I would urge all of my colleagues to vote no on H.R. 58. I think it is in the best interests of our country and the best interests of the people of Vietnam.

Mr. WOLF. Mr. Speaker, I rise in strong support of H.J. Res. 58. I do so because I am deeply concerned about the human rights situation in Vietnam which has not improved despite normalization of relations between the U.S. and Vietnam.

Religious persecution has continued to intensify. I submit for the RECORD a recent Reuters story about The Venerable Thich Quang Do, head of the Unified Buddhist Church of Vietnam (UBCV). This 80-year-old Buddhist leader has been in prison for over twenty years. Before we rush down the path of providing U.S. taxpayer dollars to businesses wanting to get into Vietnam, we must consider people like Thich Quang Do.

Earlier this year, the Religious Liberty Commission of the World Evangelical Fellowship issued a report describing the intense persecution of Christians in the Hmong minority group in Vietnam's Northwest province and as well as members of the Hre and Bahnar minority groups. It has pages and pages of testimony from persecuted believers and edicts from the Vietnamese government regarding its anti-religion policies.

The U.S. should be keeping the pressure on Vietnam to improve its human rights record, not rewarding them.

MONK URGES HANOI TO FREE BUDDHIST LEADER

(By Andy Soloman)

HO CHI MINH CITY, Vietnam, Aug. 3 (Reuters)—A dissident Buddhist monk in Vietnam has demanded the country's communist rulers immediately release from detention the aged patriarch of the banned Unified Buddhist Church of Vietnam (UBCV).

Thich Quang Do, head of the UBCV's Institute for the Propagation of the Dharma and a former long-term political prisoner, said 80-year-old Thich Huyen Quang should either be tried or unconditionally released.

The patriarch is detained at Quang Phuoc pagoda in central Quang Ngai province. The United Nations and international human groups say he has been held without trial since 1981.

Hanoi rarely makes mention of Quang, but routinely denies it detains or jails people for the peaceful expression of religious or political views.

''On what grounds have they detained him for nearly 20 years?'' Do said in a recent interview at the Buddhist monastery where he lives in the former Saigon.

''If he is guilty of a crime he should be put on trial, but they can find no (legitimate) reasons.''

Quang and Do were prominent Buddhists who led protests in the former South Vietnam against the U.S.-backed Saigon regime during the Vietnam War.

''During the night there is nobody, he is alone. We are very worried about his health during the night. If anything happened to him there would be nobody to help,'' Do said.

He added that Quang has no official documents or identity papers and is therefore unable to travel.

''All his visitors are checked and questioned. We ask for international help to put pressure and use influence to press the government to release him as soon as possible,'' Do said.

Following World War Two, Quang led Buddhists against French colonial forces, but he also opposed the communist Viet Minh, who jailed him from 1952–54.

In the years following the end of the Vietnam War in 1975, the victorious communists banned the UBCV and replaced it with the state-sponsored Vietnam Buddhist Church.

Quang, Do and other UBCV activists remained a constant thorn in the side of the Hanoi authorities.

In March, 72-year-old Do secretly travelled for his first meeting with Quang in 18 years, but he was detained by police and questioned for hours before being escorted back to Ho Chi Minh City.

Abdelfattah Amor, the U.N. Special Rapporteur for Religious Intolerance, in a visit to Vietnam last October, said he was prevented from travelling to meet the patriarch and was physically barred by security personnel from meeting Do.

In a report, Amor slammed Vietnam for failing to allow basic religious freedoms—a charge Hanoi rejected.

Do, who has spent much of the last 20 years under detention or in prison, was freed under an amnesty last September after serving three-and-a-half years of a five-year sentence for offenses connected with attempts to send relief supplies to flood victims in 1994.

The SPEAKER pro tempore (Mr. BURR of North Carolina). All time for debate has expired.

Pursuant to the order of the House of Friday, July 30, 1999, the joint resolution is considered as read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

The SPEAKER 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 130, nays 297, not voting 6, as follows:

[Roll No. 365]

YEAS—130

Aderholt
Andrews
Baker
Barcia
Barr
Bartlett
Barton
Bilirakis
Bonilla
Bonior
Bono
Brown (OH)
Bryant
Burton
Buyer
Canady
Carson
Chabot
Chenoweth
Coble
Coburn
Collins
Cook
Costello
Cox
Cunningham
Davis (VA)
Deal
Diaz-Balart
Doolittle
Duncan
Ehrlich
Emerson
English
Everett
Forbes
Frelinghuysen
Gibbons
Gillmor
Gilman
Goode
Goodling
Graham
Green (TX)
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hoekstra
Holden
Hostettler
Hunter
Hutchinson
Hyde
Jackson-Lee (TX)
Jenkins
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kennedy
King (NY)
Kingston
LaHood
Lazio
LoBiondo
Lofgren
Martinez
McCollum
McIntyre
McKinney
McNulty
Menendez
Mica
Miller (FL)
Miller, Gary
Norwood
Paul
Pelosi
Pombo
Porter
Radanovich
Regula
Riley
Rivers
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun (KS)
Sanchez
Sanders
Saxton
Scarborough
Schaffer
Serrano
Shadegg
Shuster
Slaughter
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Strickland
Stump
Stupak
Sweeney
Talent
Taylor (NC)
Thornberry
Thune
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Wamp
Weldon (FL)
Weldon (PA)
Wolf
Wu
Young (AK)

NAYS—297

Abercrombie
Ackerman
Allen
Archer
Armey
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Burr
Callahan
Calvert
Camp
Campbell
Cannon
Capps
Capuano
Cardin
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gonzalez
Goodlatte
Gordon
Goss
Granger
Greenwood
Gutierrez
Hall (OH)
Hastings (FL)
Hastings (WA)
Herger
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Inslee
Isakson
Istook
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Largent
Larson
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McGovern
McHugh
McInnis
McIntosh
McKeon
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Petri
Phelps
Pickering
Pickett
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rodriguez
Roemer
Rogers
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Salmon
Sandlin
Sanford
Sawyer
Schakowsky
Scott
Sensenbrenner
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tiahrt
Tierney
Toomey
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Woolsey
Wynn
Young (FL)

NOT VOTING—6

Bilbray
Lantos
McDermott
Metcalf
Mollohan
Peterson (PA)

□ 1722

Mr. DAVIS of Illinois and Mr. POMEROY changed their vote from ''yea'' to ''nay.''

Messrs. HAYWORTH, KINGSTON, STRICKLAND, GIBBONS, ROTHMAN, BUYER, SMITH of Texas, and WELDON of Florida changed their vote from ''nay'' to ''yea.''

So the joint resolution was not passed.

The result of the vote was announced as above recorded.

Mr. SERRANO. Mr. Speaker, on rollcall no. 365, it has been brought to my attention that I was recorded as voting AYE. I seem to recall pressing the red button for a NAY vote. So that there is no misunderstanding of my position, I wish for the record to indicate that I should be recorded as a NO vote.

APPOINTMENT OF CONFEREES ON H.R. 2587, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2587) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. BURR of North Carolina). Is there objection to the request of the gentleman from Oklahoma?

Mr. MORAN of Virginia. Mr. Speaker, reserving the right to object, we have no objection to this motion. We do want to use this opportunity, though, to thank the gentleman from Oklahoma (Chairman ISTOOK) and congratulate him for the 333 to 92 vote on final passage of the D.C. appropriations bill.

I do not know that anybody in this body is aware of this, but over the past 20 years, no D.C. appropriations bill has ever passed the House of Representatives with a higher margin of votes. This strong bipartisan support reflects a vote of confidence on a number of positive developments in the district. It is important to understand that that was unprecedented, virtually unprecedented to get that kind of margin of support for a D.C. appropriations bill.

It is really for three reasons, a strong fiscal picture that includes a budget surplus that will make it possible for the first time in a decade to cut any taxes for D.C. businesses and residents. We have got a new mayor and city council who are committed to revitalizing the district, its businesses, its infrastructure and schools, and its public services.

Thirdly, we have a new chairman who has made every effort to familiarize himself with the affairs of the District and played a fair and an even hand with District officials, with the gentlewoman from the District of Columbia (Ms. NORTON), and with myself.

I believe the strong bipartisan support, however, also reflects confidence that at least two of the riders that both the administration and many in Congress have objected to can be modified in conference.

I am speaking of the commitment of the gentleman from Oklahoma (Chairman ISTOOK) to revisit provisions restricting the District from using even its own funds to pursue legal redress in Federal court on its voting rights claim.

□ 1730

The amendment of the gentlewoman from the District of Columbia (Ms. NORTON) to allow local funds to be used on this lawsuit lost on a tie vote, and the chairman of the appropriations subcommittee has given us a commitment that he will try to fix that because it was so close in the House.

The second issue is the needle exchange program. As my colleagues know, the amendment offered by the gentleman from Kansas (Mr. TIAHRT) prohibits the use of Federal or local funds for any needle exchange program in the District. The amendment goes even further to prevent any private organization or individual from offering a needle exchange program if they are in receipt of other Federal funds.

This amendment ties the hands of the District to respond to a public health crisis. D.C. has the highest rate of HIV infection in the United States, and intravenous drug use is the second leading cause. It is the most likely cause that we can reduce with action that we might take, or at least enabling the District to take such action.

It is wrong that the District suffers from the most restrictive language of any other city in the country, hampering its ability to stem the spread of AIDS. No such ban would ever be considered in any other jurisdiction where the other 113 needle exchange programs are operated throughout the country.

Since the Senate is silent on restricting the District's needle exchange program, many are confident that this language will be modified in conference. I hope this will be the case so that the final conference report will be a document we can all support and, thus, will be signed by the President.

Mr. Speaker, I thank the chairman for letting us express our views on this again. We are not going to try to instruct the conferees. We had an overwhelmingly positive vote, I hope we can continue that spirit in conference, and I hope we can bring back a bill to this floor that will get the same type of overwhelming vote in support of it and get a bill signed by the President.

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

Mr. MORAN of Virginia. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Speaker, I very much appreciate the gentleman's very positive comments, and like him, I am committed to accenting the positive on this bill.

As we know, I certainly made a commitment, which I intend to honor fully, regarding working something out on the local funding of the litigation that the gentleman described.

We are both aware of the issues surrounding the needle program, and there is a privately funded needle program operated. We certainly do not intend anything that would go beyond the language the President signed into law last year.

I do not think we are in a position where he would take the extreme action of vetoing something, but I look forward to working with the gentleman on this and all other issues in this conference.

Mr. MORAN of Virginia. Mr. Speaker, reclaiming my time, I will just conclude that the President has indicated that if we could get that language that said no Federal funds could be used for such a program, that would certainly be acceptable to him, and I believe to the body of this House, in the conference report.

But again let me conclude where I started. I thank the chairman for his cooperation and his leadership on this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BURR of North Carolina). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ISTOOK, CUNNINGHAM, TIAHRT, ADERHOLT, Mrs. EMERSON, and Messrs. SUNUNU, YOUNG of Florida, MORAN of Virginia, DIXON, MOLLOHAN and OBEY.

There was no objection.

ANNOUNCEMENT OF PASSING OF ROBERT H. MOLLOHAN, FORMER MEMBER OF THE HOUSE FROM WEST VIRGINIA

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

Mr. RAHALL. Mr. Speaker, it is with a great deal of sorrow that I rise to announce to the body the passing of a former Member of the House of Representatives from West Virginia, Robert H. Mollohan.

Bob Mollohan served the United States Senate early in his career as Clerk of the Senate Committee on the District of Columbia from 1949 to 1952. He was elected to this body in 1953, where he served until 1957, at which time he ran for governor of West Virginia.

He returned to the House in the 91st Congress, serving from 1969 to 1983 when he retired, and returned to the family insurance business in Fairmont, West Virginia.

Bob Mollohan is the father of our distinguished colleague and dear friend, ALAN B. MOLLOHAN, who succeeded his father when he was first elected to fill his seat in 1982.

Robert Mollohan served with distinction during his time in the House, working for the people of his Congressional District for 17 years. He was a compassionate and caring representative of his people, and a pillar of his community throughout his lifetime.

Indeed, Mr. Speaker, it was not until he retired from this body that this corner back here became known as the Pennsylvania Corner. Prior to that, it was known only as the West Virginia Corner.

He will be sorely missed by West Virginians who will remember his dedication, his compassion, and his thoughtful, caring nature. Robert Mollohan was greatly beloved by his people for his tireless efforts to bring quality and dignity to the lives of West Virginians, and for his deep personal commitment to making sure that their government served them well.

But more, he will be missed by his family. Our thoughts and prayers go out to Mrs. Robert, Helen, Mollohan, who survives her husband, and to his son, Representative ALAN B. MOLLOHAN, his wife, Barbara, and children, and to other family members as they mourn the great loss of a husband, father, and grandfather, Robert H. Mollohan.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2670, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–284) on the resolution (H.Res. 273) providing for the consideration of the bill (H.R. 2670) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WORKPLACE PRESERVATION ACT

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 271

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 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. 987) to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard or guideline on ergonomics. 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 Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed two hours. The bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be

printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

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

House Resolution 271 is a modified open rule, providing for the consideration of H.R. 987, the Workplace Preservation Act.

The purpose of this legislation is to ensure that the National Academy of Sciences completes and submits to Congress its study of a cause-and-effect relationship between repetitive tasks in the workplace and physical disorders or repetitive stress injuries before issuing standards or guidelines on ergonomics.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and the ranking member of the Committee on Education and the Workforce.

The rule also provides that the bill shall be open for amendment at any point and limits the amendment process to 2 hours.

The rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Additionally, 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, the rule provides for 1 motion to recommit with or without instructions.

Mr. Speaker, House Resolution 271 is a modified open and fair rule for consideration of H.R. 987. The rule provides for debate and amendments on this measure to consume up to 3 full hours. This is an extremely fair rule, given the amount of work Congress must complete this week.

The Workforce Preservation Act is a brief and simple measure that prohibits OSHA from promulgating an ergonomics standard until the National Academy of Sciences completes its study and reports the results to Congress.

Mr. Speaker, this body has long been concerned with the issue of sound scientific definitions of these types of workplace injuries. This bill merely requires OSHA to base their definitions on sound, scientific data.

Last year, Congress authorized and American taxpayers paid almost $1 million for the nonpartisan National Academy of Sciences to conduct a comprehensive study of all the available scientific literature examining the cause-and-effect relationship between repetitive tasks in the workplace. The study is currently underway and is expected to be completed within a 2-year time frame, and would be ready by mid-2001.

Mr. Speaker, the study of ergonomics is one of OSHA's top priorities. This bill recognizes the importance of this study and requires that the most up-to-date scientific information is analyzed and included. This bill will in no way prohibit or deny OSHA the opportunity to create these standards. Rather, it will make sure that we get the most accurate information based on sound science.

Mr. Speaker, I would like to commend the chairman of the Committee on Education and the Workforce, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. BLUNT), the sponsor of this legislation. I urge my colleagues to support both this rule and the underlying bill.

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

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

Mr. Speaker, the Republican majority spends a lot of time opining about how they want to help working men and women in this country. Yet, Mr. Speaker, at a time when the Occupational Health and Safety Administration is poised to issue a rule which seeks to protect American workers from workplace hazards which can lead to serious injury, the Republican majority wants to call a time-out.

H.R. 987 does nothing to help working men and women in this country, and the Republican majority should not waste the time of this House by saying that it does. This bill is nothing more than another attack by the majority on establishing workplace protections that might very well save American businesses money in lost productivity, worker compensation claims, and disability insurance. If the House is going to call time-out, Mr. Speaker, it ought to be on the consideration of this bill and not on the health and safety of the American workforce.

Mr. Speaker, work-related musculoskeletal disorders cost employers between $15 and $20 billion a year in workers compensation costs. Ergonomic injuries and illnesses are the single largest cause of injury-related lost workdays, with nearly 650,000 lost-time injuries each year. These injuries are found in every sector of our economy and cause real pain and suffering.

Women workers are particularly victimized by ergonomic injuries and illness. They represent 69 percent of workers who lose time due to carpal tunnel syndrome, 63 percent of those who suffer repetitive motion injuries, and 61 percent who lose work time to tendonitis.

□ 1745

In fact, Mr. Speaker, nearly half of all injuries and illnesses to women workers are due to ergonomic hazards.

Mr. Speaker, H.R. 987 proposes for at least another year and a half the promulgation of a rule that will provide needed health and safety standards for American workers. There is sound scientific evidence that shows that workplace factors cause musculoskeletal injuries and that show these injuries can be prevented.

Many employers have seen the benefit in improving workplace conditions to prevent these injuries and have, as a result, seen injuries fall and productivity rise.

If the Republican majority really wanted to do something for working men and women in this country, they would drop their opposition to these workplace protections and withdraw this bill.

I urge a ''no'' vote on the rule providing for consideration of H.R. 987 and a ''no'' vote on the bill.

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

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER.)

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of this open rule.

Mr. Speaker, I also rise in strong support of H.R. 982. It is a very simple bill. It simply says that the National Academy of Sciences must complete its study on ergonomics and report to Congress before OSHA promulgates a proposed or final standard.

Clearly, the will of the House is that an almost million-dollar study on ergonomics by the National Academy of Sciences, NAS, should be completed before we rush to regulate. Science should precede regulation, not the other way around.

Let me just summarize the following points in support of the bill: first, ergonomics regulation would be a substantially mandated cost on the American companies and the American economy. OSHA's own estimates show that draft regulation could cost an additional $3.5 billion annually. I believe that cost is greatly underestimated.

Before we consider imposing this standard on the American people, let us have the scientific and medical proof to back it up.

Second, there is no question that there is a great deal of scientific and medical uncertainty and debate about ergonomics. If OSHA regulates before the causes are understood, OSHA may very well regulate the wrong thing and impose a lot of unnecessary costs without benefiting workers.

Third, Congress and the President agree that we need a comprehensive study of ergonomics by NAS. The purpose of the study is to inform Congress, the Department of Labor, employers and employees about the state of scientific information on ergonomics. Only then can we determine whether a broad ergonomics regulation is appropriate. To issue a regulation before NAS completes its study is an outrage and a gross waste of taxpayers' funds.

Fourth, an appropriations letter does not take precedence over the will of Congress in calling for an NAS study.

Finally, the fact that OSHA has worked on ergonomics for over a decade is irrelevant since Congress decided the issue needed further study.

Moreover, the fact that there has been substantial study with no conclusions about ergonomics suggests that more study is needed before imposing a nationwide standard at a great cost.

In conclusion, I urge the Members to vote for the rule and H.R. 987.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the rule.

H.R. 987 is a measure of how antagonistic the majority of the Republican majority is to the interest of working people.

Despite 7 years of unprecedented prosperity under the Clinton administration, there remains much that this House can do to improve the well-being of workers. We should be considering legislation to make a job pay a decent salary and increase the minimum wage. We should be ensuring that all workers have affordable health care. We should be expanding pension coverage. We should be ensuring better family leave coverage.

Instead, Mr. Speaker, this rule makes in order a bill that will result in hundreds of thousands of workers suffering avoidable serious injury in the workplace.

We should not let special interests downplay the seriousness of ergonomic injuries and illnesses.

Imagine suffering from a workplace injury that prevents one from lifting anything over a half a pound. Imagine being disabled, so disabled that one cannot hold a book to read to their child. Imagine being unable to caress their newborn or to give him or her a shower or a bath.

Mr. Speaker, there is no excuse for further delaying OSHA's ergonomic standard.

The National Academy of Sciences study is a review of existing scientific literature. It is not intended and will not produce new information. Two previous studies of the existing scientific literature, one by NIOSH and one by NAS, have already confirmed that ergonomic injuries and illnesses are work related and that they cannot be prevented by workplace interventions.

More importantly, Mr. Speaker, practical experience by thousands of companies has proven that ergonomic injuries and illnesses can be significantly reduced. Passage of H.R. 987 only ensures that some employers will continue to ignore the working welfare of the workers for that much longer.

So, Mr. Speaker, I urge a ''no'' vote on this rule.

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

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES).

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

Mr. HAYES. Mr. Speaker, I rise today in support of this rule and in support of the Workplace Preservation Act.

During the Easter recess, I embarked on an industry tour in my district in North Carolina. The industries of the 8th district are primarily agriculture and textile related.

I visited eight small- and medium-sized manufacturers, including Cuddy Farms in Monroe and Clayson Knitting Mill in Star. These companies and many others like them represent the backbone of our district's economy.

The number one concern on their minds was the new ergonomics regulations being considered by OSHA. They were truly fearful of the burdensome regulation that would not only create more paperwork and costly, unneeded changes but would also hinder communications between employer and employee.

All too often it appears as if the government is slightly behind the times. The current unemployment rate is so low that in many parts of the country employers do and in fact must offer the most attractive work environment in order to recruit and retain employees.

As one employer from the district wrote to me, ''My company is begging for employees from laborers to drivers to high-tech computer operators. We are doing everything we can to attract employees.'' Plant managers, human resources managers, and office managers are more than willing to work with their own employees on grievances and workplace conditions rather than plow through layers of government bureaucracy.

The number of manufacturing jobs is on the decline. We are seeing more and more jobs going to Central America and overseas because, frankly, our government is making the cost of doing business in the United States too high for too many companies.

Rural areas in our Nation are being hit hardest by the decline in manufacturing jobs. Keeping more unsubstantiated government regulation on these industries will only encourage them to continue to flee.

Mr. Speaker, there is no question that politically powerful forces are at work here. Why else would OSHA hastily recognize a casual relationship between repetitive tasks and repetitive stress injuries without complete scientific documentation?

I urge my colleagues to support this legislation and allow the National Academy of Sciences to complete its work. With all the facts, Congress can step back and prudently evaluate the need for new ergonomic guidelines. We must resist another in a long line of attempts to impose costly restrictions upon employers and employees with the one-size-fits-all Federal approach.

Please support the rule and this bill.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, every time I tour a plant in my district I run into workers, especially women, who are wearing wrist braces. When I ask them about their problem, the answer over and over again is the same: carpal tunnel syndrome.

Where does carpal tunnel syndrome or many of those other injuries come from? They come from workers having to do the same thing hundreds of times and thousands of times without properly designed equipment and work stations. And workers I see are not isolated examples.

Repetitive motion injuries affect 650,000 workers each year. That is more than the number of people who die each year from cancer and stroke. Those injuries account for more lost workday injuries than any other cause, especially for women workers. Nearly half of all workplace injuries for women are due to repetitive motion problems.

Now, there are those in this body who say there ought to be more delay in protecting those workers, but they are virtually alone in the world. Every industrialized country has recognized that there is more than enough evidence to move forward on a repetitive motion standard.

Most progressive businesses recognize it is their duty to protect workers and to protect their stockholders from the economic impact of huge amounts of lost work time.

But a powerful band of economic royalists in this country and in this Congress continue to fight that protection, and it is time to get on with it.

In 1990, that well-known ''radical'' liberal Elizabeth Dole said that it was time to move forward on this. In 1995, the Republican majority attached a rider blocking the issuance of draft regulations. In 1996, they tried to prevent OSHA from even collecting the data on repetitive motion injuries.

In 1997, they tried to block it again but failed. At that time, the National Institutes for Occupational Health and Safety conducted a detailed review of

more than 600 scientific studies on the problem, and they found a strong correlation between workplace conditions and worker injuries.

That study was peer reviewed by 27 experts throughout the country. But that was not good enough for some of my colleagues. So in 1998, they pushed the National Institutes of Health to fund another study at the National Academy of Sciences. They convened 65 of the world's leading scientists, and again they found evidence that clearly demonstrates that specific intervention can reduce injury.

But that is not good enough for some of my colleagues. They want yet another delay. That delay does not hurt anybody in this room. The only repetitive motion injury that Members of Congress are likely to get are knee injuries from continuous genuflecting to big business special interests who want us to put their profit margins ahead of worker health.

Maybe the time has not come for my colleagues. But, by God, it has come for those workers. We need action and we need it now. No delays. No foot dragging. No excuses. We need action and we need action now.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I appreciate the gentleman yield me the time. I appreciate the opportunity.

Mr. Speaker, I want to address myself to the rule first because that is what we are debating. I have heard it said here today that we should not wait any longer for the scientific evidence to be evaluated by the National Academy of Science, what we should immediately do is proceed to pass rules and regulations.

That is a little bit like going into a waiting room of a sick patient and saying, let us just not do any diagnostic testing, let us go ahead and operate. It is risky business.

Secondly, I want to agree completely that this is about the cost to American business and the safety of American workers. In a period of unprecedented prosperity, in a period of full employment, the last thing an employer wants for a moment is to have workers getting hurt on the job, because there are not good replacements, because we are fully employed.

They want workplace safety. But the last thing they want, also, is conflicting scientific data dictating to a bureaucracy to go ahead and establish rules and regulations preceding a final determination.

In committee on this bill, whether my colleagues agree with the bill or not, no one can argue that professionals and physicians from both sides of the musculoskeletal disorder syndrome agree that there were conflicting data and it was time to have a decision.

Mr. Speaker, I believe we should move forward with what will be a very contested debate. To vote against this rule makes no sense. When the debate on the rule is over and the rule passes, I think the evidence will come forward that we are doing what is right for workers and what is right for the employer and what is right for America, to depend on conclusive evidence and not conflict opinions.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. OWENS).

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

□ 1800

Mr. OWENS. Mr. Speaker, I rise in opposition to this rule, but I welcome the opportunity to discuss the platforms of the two parties in respect to the lives of working people and what kinds of programs we would like to offer for working people.

One party is clearly against working families and they express it in many ways. This particular piece of legislation has a symbolic significance far beyond what you see written on the paper. It is one part of an overall attack by the majority Republicans on working families.

I think the President has made it clear in his message on this bill what we are about here today and it is pretty simple. The administration has written that it strongly opposes enactment of H.R. 987, a bill that would unnecessarily delay the Occupational Safety and Health Administration's issuance of a protective standard on ergonomics until the National Academy of Sciences has completed a second study of the scientific literature regarding musculoskeletal disorders and ergonomics.

I think that it is very clear that what the Republican majority is saying is, let the workers suffer, let the working families suffer. Six hundred thousand people are affected yearly by these work-related musculoskeletal disorders, but it does not matter, let the workers suffer. They are only working families. We are Republicans. We care only about the upper income and we want to spend our time getting benefits out to them in the form of a massive, $794 billion tax cut over 10 years.

I would like to see all of the Members come to the floor and use this opportunity. I think we may have about 3 hours to discuss the working families of America and which party really represents them and their welfare. Let them suffer for another 2 years, that is what the immediate concrete message is. So what?

We have had studies. The studies clearly show that there is a cause and effect. The new studies that the NAS will be attempting and continuing to undertake relate to intervention strategies. How do you intervene to prevent these disorders. How do you intervene to lessen the impact of the kinds of unhealthy working conditions in the workplace? They want to go on gathering evidence and data which can go on forever and that is the way that any scientific gathering of evidence should take place. But why make the workers wait before you issue standards and you begin the process of intervening to lessen the impact of the injuries?

The Republicans say, let them wait. Small businesses and even big businesses are going to suffer because the amount of workmen's compensation payments will continue to go up. It is around $20 billion a year now, related to these various disorders, and there have been many successful attempts by businesses to install ergonomic standards and to take steps to deal with the ergonomics of the workplace which have benefited the businesses as well as the workers.

By preventing OSHA from formalizing these procedures and allowing DSHA to do what some businesses have done and what the State of California has done with their standards; by preventing OSHA from moving forward with the number of positive kinds of developments that have taken place, we are going to force more workers to suffer unnecessarily. We have case histories of workers in every State in the union; terrible things have happened in terms of injuries that have wrecked whole families. No, people do not bleed a great deal, they do not have concussions, it is not the kind of dramatic workplace accident situation that you have in the construction industry, but the slow death that is taking place more and more as we increase our digital world and people are more and more sitting before keyboards, eyestrain, all kinds of carpal tunnel syndromes from the actions of the wrists, all kinds of disorders are developing rapidly that injure more and more workers. More and more women, also, are drawn into this, more and more women incidentally who happen to be the wage earners and their families have been drawn into this.

Why let the workers suffer? Let us get it over with. Let us get the standards out there and stop the suffering of the workers. The Democrats want to stop the suffering.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BONILLA).

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

Mr. BONILLA. Mr. Speaker, the American worker makes up the lifeblood of our economy and we can all agree in this Chamber that our utmost concern is their safety and well-being in the workplace. Every employer in America understands that it is to their advantage and the employee's advantage to keep workers healthy and happy on the job. In fact, we should all be celebrating today here that because of the safety measures that have been taken in the private sector. Working with some folks in OSHA, we have dropped employee injuries by 17 percent. The number of injuries dropped by 17 percent since 1995 because of the

changes that employers have made in the workplace. There is no crisis at hand. Let us be honest about what we are debating here. We are debating a power grab by a government agency and by America's big labor unions who are trying to get a stranglehold on America's businesses both small and large. The debate we have here today is about the rush to promulgate and to write a rule dealing with repetitive stress injuries, with ergonomics, something that would be far more dangerous to the American worker if it is written too fast versus waiting for sound science to guide them versus having political science guide them.

Imagine for 1 second if OSHA rushes to write a rule without sound science, a one-size-fits-all rule that would apply to florists as it would to people who work in manufacturing plants, to people who work in auto parts stores, at restaurants and on farms and ranches throughout this country. What a nightmare this would be for the American workers. They would suddenly have their bosses having to spend gobs of money, money that could go to raises and better benefits and instead trying to comply with a one-size-fits-all regulation.

Let us all remember that the first draft that OSHA had of this rule was 600 pages long. Imagine if you are working in a bakery out in the heartland in America, you are working in a dentist's office, in a lab, in an auto parts store or a restaurant and you suddenly saw this regulation show up on your doorstep. That is why the calculation of what this would cost the American workers in this country is at about $4 billion, because this is the kind of penalty we pay in our American society when we have a one-size-fits-all regulation hastily written and showing up at the doorstep of America's workplaces.

All we are asking in this bill and in this rule is to allow us to stop the rush. There is no need to rush. We can wait for the sound science to take over and have the political science take a back seat so that we can do this the right way. There is no guarantee. When this National Academy of Science study is ultimately completed, it could in fact recommend that an ergonomics regulation move forward. We understand that. But let us let the scientists decide, let us let the researchers decide. Let us not turn this process over to a power-hungry Federal agency and labor unions that are also behind it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

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

Mr. VENTO. Mr. Speaker, I rise in opposition to this rule and in opposition to this measure which is not letting the scientists decide, it is not letting the experts at OSHA decide. It is putting it here on the floor in a political way and letting all the experts here, the political experts, decide.

This is not something being pushed by labor. If labor is interested in it, they are only interested because they are trying to protect the safety and health of workers. This is not some arcane problem that exists with regards to workers. Almost half the injuries that occur on the part of workers are related to repetitive stress type of injuries.

If we wait another year, another year and a half, we are going to have another million people that are injured in this way. For those of you that love science, it sounds like you like it just to study. You do not want to apply the science. It is time we take the knowledge and information we have and put it in place so that we can protect the workers that are intended to be protected by the Occupational Safety and Health Administration that has been working on this for a decade, that depended upon 600 studies to base their decision upon. Over 2,000 articles and reviews were written of those studies and endless hearings to make certain as to the appropriateness of such rule.

This bill is just an effort to study this into infinity, to frustrate the implementation of a legitimate law and rule. What is the cost? The cost in the end is a very high cost, because it means that individuals that are on the job, that are trying to work, will have to lay down their bodies, they will cripple their bodies simply to earn a living. That is really what this is about.

We have to open our eyes up and begin to see what is happening. This is like some bad film. ''Eyes Wide Shut'' on the other side, disregarding reality is what we really have here with regards to this repetitive stress issue. Open them up to the people you shake hands with when you are out campaigning and they draw their hand back because of the injuries that they have sustained in the world of work. We can change it. We can make it better.

This Congress ought to take its political act and go home with it and leave the experts that are supposed to be working on this issue and rule do their job. We should defeat this rule and defeat this bill.

This measure, H.R. 987, seeks to study to infinity worker injuries and yet again delay Occupational Safety and Health Act (OSHA) action on rules that would govern and prevent such injuries. This is no less than a frontal attack on all of OSHA to frustrate, dismantle and renege on worker safety embodied in the Occupational Safety Health Act. Repetitive work related motion trauma is not some arcane, isolated occurrence—nearly half of all workplace illnesses documented are caused by such repetitive motion, ergonomics.

Each year injuries which result from such work-related musculoskeletal disorders harm nearly 650,000 workers and are estimated to cost businesses $60 billion dollars in worker compensation payments and other costs. More than 100 different injuries can result from repetitive motions causing painful wear and tear to the bodies of working men and women. Women are especially affected by this problem, comprising 60 to 70 percent of those injured in many categories.

This repetitive injury OSHA rule is an all too common case of good news, bad news. The good news is that for almost every job that results in such injuries, there are alternative methods of performing work which can decrease the risk of harm. The bad news is that there isn't a focus on such prevention, and in fact some want to frustrate implementation. In February 1999, OSHA released a discussion draft for an ergonomics standard which would implement the use of ergonomics in the workplace. This draft proposal is an important step toward protecting workers from musculoskeletal disorders in a way which allows employers the flexibility to adopt solutions that fit their workplaces.

The legislation we are debating today, H.R. 987, is euphemistically titled the ''Workplace Preservation Act.'' This bill is an unnecessary tactic which could ultimately result in thousands more workers being needlessly injured on the job—650,000 in one year more. Proponents of H.R. 987, playing a game of delay, mock and question the soundness and effectiveness of a well researched ergonomics standard, all the time wrapping themselves in ''sound science''. However, both a 1998 National Academy of Science study and a 1997 National Institute for Occupational Safety and Health study provides scientific evidence linking musculoskeletal disorders to the job. A document based on 600 research studies of such injuries and 2000 scientific articles build a solid foundation upon which to act. Even beyond official studies, there is practical proof that ergonomics programs work. The draft standard that OSHA is developing is actually based on programs which have been implemented and proven successful in various work sites across the country. OSHA would be irresponsible and derelict in its duties to not act upon such a clear record which pinpoints the cause of one half of workplace illnesses.

We have waited long enough to address this problem, any opposition by Congress now will serve to needlessly delay the process even further. For every day that we waste on redundant research, life-altering impairment which could have been avoided will occur. It is truly a travesty that our workforce continues to suffer serious disabling injuries while Congress debates whether or not a known solution should be set in place. Clearly, this is exactly the kind of issue that OSHA was created to address, and attempts to block this organization from implementing solution to improve harmful work environments are disingenuous, misdirected and counterproductive.

This Congressional measure to delay sound OSHA action should be identified for what it is; ''The Right to Risk Worker's Health Act.'' Enough is enough—too many bodies and limbs have been needlessly worn to numbness and a life of pain and permanent injury. We owe it to elemental common sense and fairness to accord workers the OSHA rule and safeguard, to prevent working conditions which force them to sacrifice their health and cripple their bodies to earn a living.

Mr. Speaker, I will oppose this harmful legislation and encourage my colleagues to do the same.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I cannot believe the rhetoric I

am hearing today. I listened to the gentleman from Texas (Mr. BONILLA). He is absolutely on track. All that is happening is a takeover by big government trying to interfere in individuals' lives.

Last year, the Congress and the President agreed to spend nearly $1 million on a study, and it is going to be completed in 2001. Why can we not wait until then? OSHA instead wants to rush forward and eliminate thousands of jobs and cost us billions of dollars while failing to assure the prevention of one single injury. Some single industry estimates go as high as 18 to $30 billion of cost. It is going to cost our businesses money. That means you, the consumer, the taxpayer, you are not only going to pay taxes, you are going to pay higher costs on everything you do.

Let me just tell my colleagues something. When I was down at Homestead Air Force Base as commander, we had a little platform out on every level in a three-story barracks that our men lived in. OSHA came in and said you have to put a rail around there so when the guys get out there to clean the windows, they will not fall off. And furthermore, they have to have a hook to hook on that rail to make sure that if they do fall off, they will not fall and hurt themselves.

Now, that is your government at work. Let me tell you what happened. A hurricane came through and destroyed that base totally. It does not anymore exist. So we got rid of the OSHA requirement in that way.

Mr. Speaker, we need water here pretty bad. I hope we get a hurricane and just push OSHA out to sea.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KLINK).

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

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me this time. It is very plain to me that this rule should not be on the floor and this bill should not be on the floor. This is probably the biggest health and safety vote that we will see this year if not this Congress. The impact that ergonomic injuries have had on workers will touch every part of the family of labor. If this is such a big organized labor deal as some of the speakers have talked about, then that tool of organized labor, Elizabeth Dole, back in 1990 when she was Secretary of Labor, and I do not think anyone has ever accused her of being that closely aligned with organized labor, but her comment was that these injuries, and this is a direct quote, ''one of the Nation's most debilitating across-the-board worker safety and health illnesses of the 1990s.'' Ms. Dole was right then and she is right today.

Business has to recognize the need to incorporate a new philosophy. We have to be able to adjust the way we manufacture, to adjust our equipment rather than asking workers to adjust their bodies to the way we manufacture. If we do that, the workers will be healthier and they will miss fewer days of work; workers' comp costs are going to go down, productivity would be higher, jobs would be secure and, yes, profit margins for our companies would go up.

Let us look at the figures in 1997. There were 620,459 lost workdays due to workplace ergonomic injuries. These injuries were overexertion, repetitive motion, carpal tunnel syndrome, back injuries. This represents 34 percent, over one-third, of all the workdays that were lost by injured workers were due to ergonomic injuries.

There has been some discussion on the other side about what this might cost the employers of this Nation. Someone threw out the figure of $4 billion. I do not know if that is true, I do not know if it is an exaggerated figure, but these ergonomic injuries each year cost business and workers between 15 and $20 billion.

We ought to take a look at what Red Wing Shoes did. Here is an example of a company that modified its work stations. This was not an inexpensive thing for them to do. It cost them money. But at Red Wing, they reduced their workers' comp costs by 75 percent over a 4-year period.

There was also some discussion on the other side about the fact that studies have not been done yet. The fact is the studies have been done. If you take a look at the NIOSH report it says, and I am quoting here, NIOSH director Dr. Linda Rosenstock, it found strong evidence of its association between musculoskeletal disorders and work factors such as heavy lifting.

Then we go to this bill, H.R. 987, in the ''Findings'' section, you quoted exactly the opposite. You say that there is insufficient evidence to assess the level of risk that workers have from repetitive motion.

□ 1815

When the finding section of their own bill is exactly opposite of the finding that is actually in the study, no wonder they brought a cockeyed bill to the floor, because they do not know how to read the findings.

Whoops, I am sorry.

What was it Gilda Radner said? Excuse me.

My colleagues have got to read the finding section. NIOSH has found that in fact repetitive motion does cause injuries. We have seen it; we have heard the stories. People who injure themselves on the job through ergonomic problems, they cannot comb their children's hair, cannot wash dishes, cannot sweep the floors at home.

This bill should go down; the rule should go down. In fact, we should not even be here.

Mr. REYNOLDS. Mr. Speaker, I yield myself as much time as I may consume just to make out a simple point that House Resolution 271 is a modified and open, fair rule for consideration of H.R. 987. The rule provides for the debate and amendments on this measure to consume up to three full hours. It is an extremely fair rule, and given the amount of work that Congress is needed to do to complete its work this week, there will be ample time to have great debate on the merits of the legislation.

But I remind my colleagues my view is we have a fair and open rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the Committee on Education and the Workforce.

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

Mr. GOODLING. Mr. Speaker, I want to make sure that everybody understands exactly what we are doing today. No one is saying that we are here to say that there will not be any ergonomic regulations in the future. In fact, I am sure there will be, but it seems to me, if there are going to be, then we should have the best scientific knowledge we possibly can so we do it right because we may just do the opposite of what we should be doing to try to help the people who we are trying to help.

I would point out very quickly to my colleague from Pennsylvania that the NIOSH study also said additional research would be very, very valuable, and that is what it is all about. That is what it is all about; that is what the discussion is all about.

We said in legislation, agreed by the President and by the Congress, that we would spend up to almost a million dollars of taxpayers' money to get the kind of scientific knowledge that we need in order to make sure what regulations are promulgated, that they are done properly, that they are done to help. That is all this legislation says:

Get the study, colleagues asked for the study, they are willing to pay taxpayers' dollars for the study, get the study, use it, and then write the regulations that go with it.

As my colleagues know, we have had 2 years of hearings where we have heard, if nothing else, a lot of inconclusive evidence, a lot of people who are not positively sure what the cause is and are not positively sure how to solve the problem. That is why we are asking the National Academy of Sciences to help us, help us determine what the problem is, help us determine what the direction is that we should be going.

We had one of the finest back surgeons, one of the most prominent back surgeons in the country who said after years of his study and years of his dealing with the issue he found that in many instances it is not physical factors like how often you lift or how often you bend. In fact, he said that it is in many instances nonphysical factors, just stress in life, not enjoying one's job, and I think we can all relate

to that. Get down low enough, boy, people can have aches and pains. We all go through that process.

And so here is a back surgeon, a prominent back surgeon who made that statement. So again, all the hearings that we have had, there is so much indecision as to what is the proper way to go, what do we specifically know and how do we handle the issue? And so all we say is, wait, get the study. We are paying almost a million bucks for it, and then see whether you can promulgate regulations that will truly help the men and women that we are trying to help.

So no one is here trying to prevent forever ergonomic regulations. We are here saying let us do it right, let us get the scientific evidence first, and then proceed.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

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

Mr. Speaker, today we vote on legislation to block OSHA from protecting America's working men and women from workplace injuries and illnesses caused by ergonomic-related issues. My colleagues have the figures, but they bear repeating. Each year more than 2 million workers suffer these injures, more than 640,000 workers lose time at work, and each year this costs the economy $15 to $20 billion in worker compensation, an overall $60 billion, all things considered.

I oppose this legislation and support workplace protection for American workers.

What is ergonomics? What is that word? What does it mean? Ergonomics and what are ergonomic-related injuries? Ergonomics is the science of adapting the workplace to the physical needs of the workers such as giving telephone headsets to telephone operators to avoid cradling the phone to reduce neck and shoulder pain, a work place that is poorly adapted to workers' causes, ergonomics injuries.

One type of injury, repetitive motion injuries frequently mentioned here, is caused when a worker repeats a specific motion hundreds or thousands of times. For example, secretaries and office workers who type all day at their computer keyboards often suffer wrist and arm injuries.

Similarly, America's poultry workers who cut up and sliced up the chicken parts for our meals repeat the same cutting and slicing motion hundreds of time an hour each day as they cut up thousands of chickens for our meals. The cumulative stress of these repetitive motions cause secretaries, poultry workers, and other workers to suffer health problems.

But I want to get personal about this, Mr. Speaker. I want to talk about one particular poultry worker.

Betty Yvonne Green. Betty worked as a chicken fillet puller for seven years. Her job required her to use her thumbs to separate the fillet from the bone, cut the tips off the fillet with scissors and then place the product in a tub. Betty performed this task 16 to 17 times a minute for 2½ hours straight without a break.

In 1984, Betty began to feel pain in her right arm and reported it to her supervisor, the directors of personnel and the plant manager. They all told her there was nothing wrong and she would have to live with this problem. Management felt her pain did not warrant medical assistance, and nothing was to be done until Betty went to her personal physician.

Betty's doctor found that both her rotator cuffs had been torn and required surgery. She went back to work after both surgeries, but was unable to continue to do her fillet job. She worked some light duty, but to no avail. Betty was terminated by the company for what they said was excessive absenteeism. She was denied unemployment and only received workers compensation after retaining an attorney.

On behalf of Betty Yvonne Green and many, many workers throughout this country who deserve our respect, in fact deserve our protection, I urge our colleagues to vote no on this so-called Workplace Preservation Act. Indeed it should be called the Workplace Persecution Act because that is exactly what it does to the American worker. We can study this thing to death. Of course we are always open to more science, but we have to also know when we have enough science to proceed and learn many more ways that we can do better in the workplace, but not to deny, not to deny what has been fully documented by NIOSH, which has been fully documented by the National Academy of Sciences as a relationship between repetitive motion and ergonomic disease.

I urge my colleagues to vote ''no.''

Mr. REYNOLDS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM).

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

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Texas (Mr. FROST) says that the Democrats are for working people, for working men and women, but yet every piece of legislation that they had out of here in support are against 90 percent of the working people. But if it is for the union bosses, they will support it. In 1993, they put the highest tax on the American people possible and increased the tax on middle-income workers, and this year they are trying to stop tax relief for those same workers. Salting for the unions where the unions go in and just destroy a small business, not even looking to overtake that business. That is wrong, but yet our union brothers over here support it.

Davis-Bacon, that increases inflation 15 to 35 percent of construction for school buildings, but yet will they waive for the children? No, they will support the unions. Now we are asking for a scientific study, and I would say that even Republicans, we need to go one step further because when colleagues say based on science you need to look at who pays for the science. Is it the Republican groups or the Democrat groups, and people need an individual peer review to be fair, a nonpartisan independent review. Sometimes that does not exist, and I will give into that and we need that.

As my colleagues know, in the office the people that work with computers all the times, they have carpel tunnel. There is good scientific basis that we need to help those people and provide the pads and make sure there is rotation and lights, and we have some pretty good science on it. But the problem is our colleagues want to go in without a study or agenda instead of science, and we are saying, no, let us back it up with the science to show so there will not be a big input on it, and I brought up yesterday www.dsa/usa.

Democrat Socialists of America, progressive caucus, has a 12 point agenda: government control of health care, government control of education, government control of private property, and guess what? Union over small business and cut military by half, by 50 percent, and it is to support the union. That is their working men and women, but not the 90 percent of the people that have all of the other jobs.

My colleagues should put their mouth and money where their rhetoric is. Support the people, the working men and women.

Who is for this? The union bosses. Who is against it? Chamber, NFIB, every small business group out there because they know that the only thing that my colleagues are focusing on is the union bosses who give them their campaign finance money. Admit it. Why do they fight against 90 percent of the small businesses and workers every single bill that we have? They do not support the networking men and women in this country; they only support the union members.

As my colleagues know, I take a look at the gentleman from Missouri (Mr. GEPHARDT) who gets up here and says, Oh, the poor lady in the red dress, not again, and he talks about the working men and women and the class warfare, only the rich versus the poor.

Well, cut out the rhetoric. Do things based on science; the environmentalists, the same thing. We want environmental changes. Do my colleagues think we want bad environment, the Republicans over the Democrats? We just want it based on good science, and then we want a peer review. The same thing with ergonomics. We want a good science and peer review so they do not destroy the 90 percent of the jobs that are out there in favor of their union bosses.

And that is what we are asking, Mr. Speaker. We are tired and tired and tired of the Democrats' rhetoric trying

to make points for the year 2000 where they get their campaign money, and that is what they support.

If colleagues really support the working men and women, support the Republican position on this.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. PETERSON).

Mr. PETERSON of Minnesota. Mr. Speaker, I rise today in opposition to this rule and this bill, and I would hope that we could cut back a little bit on the rhetoric.

First of all, people need to understand this talk about this study. There is no study that is going on. All that is happening is it is going to be a compilation of a bunch of studies that have already been done. So we need to get that clear.

Second thing I think that people need to understand is that it would help if somebody would have talked to the people in the department that are actually working on this.

□ 1830

I have met with Secretary Jeffers more than once and talked to him about this proposed rule that they are looking at. They have been working on it a long time. There is a lot of science that has gone into this. I do not think a lot of people that are talking on this floor have actually looked into what this is about.

This only applies to manufacturing and manual lifting businesses, where 60 percent of these injuries take place. If you do not have an injury, this is not going to apply to you. It only applies when you have an injury where there is ergonomics involved, and at that point, you have to come up with a way to deal with it.

If you have got a situation where it is only one injury and you are a small employer, they have something called a quick fix where you can go in and work on this without having to put a plan together. So they have listened to small business, they have tried to make this workable, and if anybody sat down and read this, they would understand that.

The other thing is that businesses that have gone out and actually worked on this have found it to be cost effective. It saves money for their company, and it is good for their employees. This afternoon I talked to 3M. They have an ergonomist on their staff. That person has saved them money. It is better for the company and better for the workers. This is something that clearly works. So I hope that people will focus on what is really going on here.

Back in October of 1998, then appropriations Chairman Livingston and the gentleman from Wisconsin (Mr. OBEY) sent a letter to Alexis Herman saying we are funding this NAS study and it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.

Well, it looks to me today like what is going on here is delay, and is contrary to what was said. So I urge my colleagues to reject this rule and reject this bill.

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER) the Chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time, and I assure him I will reserve time for my friend from Louisiana and will not fill out the entire hour here.

Mr. Speaker, I rise in strong support of the rule and congratulate my friend from Buffalo for his super management.

We have an expression that we have been trying our doggonedest to successfully implement around here in the 106th Congress, and we call it regular order. We try to, as much as possible, follow regular order.

Frankly, that is exactly what the gentleman from Pennsylvania (Chairman GOODLING) is trying to do with this legislation. We authorized $1 million for the National Academy of Sciences to come up with some sort of finding before the Occupational Safety and Health Administration proceeds with implementation of its regulations on ergonomics.

The fact of the matter is, nothing, as has been said by several of my colleagues, nothing prevents them from moving ahead. But what we are saying is get every bit of information you possibly can so that you come up with good public policy.

Now, that will be unique for OSHA in the eyes of many, because a number of us have been very critical of the fact that regulations that they over the years have imposed have been extraordinarily costly to the private sector, and, in turn, to the consumers of this country.

But, obviously we are all wanting to deal with the problems of stress-related repetitive actions that people take in their work, so all we are saying is let us do it right. This is a very fair and balanced rule which allows for a free-flowing debate, while at the same time recognizing that most of my colleagues with whom I have spoken over the last few days want us to complete our work by the end of this week so we can go home for August. This rule allows us to have a debate and do it in a fair way, and also get this, and I hope the rest of our work, done. So I urge support of the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I thank my friend from Texas for yielding me time.

Mr. Speaker, I rise in opposition to the rule. I listened intently to my friend from New York, a member of the Committee on Rules who spoke about this rule a few minutes ago, and I wanted to make several points about the rule.

We are operating here under the facade that this will give, as the chairman of the Committee on Rules just said, a free-flowing and open debate about worker safety.

I want to point something out: There are many of us who believe that OSHA is understaffed, that OSHA does not have enough inspectors to go find workplace violations and do something about them. But, if I am not mistaken, and my friend from the Committee on Rules can correct me, an amendment that would add inspectors to OSHA's inspection force would be ruled out of order because it is not germane.

There are many of us who are concerned about sick building syndrome, about people going to work, day after day, in buildings where the heating and air conditioning systems do not work properly and they cannot breathe properly and their asthma is aggravated or their other breathing related disabilities are aggravated, and many of us believe OSHA should do something about that. An amendment that would address that problem would be out of order because it would not be germane.

In fact, it is almost impossible to think of any amendment that could be offered under this bill that would do anything other than kill this regulation or delay this regulation that would be germane.

So let us get the record straight here. There are dozens of important worker safety issues that confront this country. None of them, none of them, are in order for debate under this rule on the floor. The only thing we can do is either accept or reject this attempt to delay, and I think ultimately defeat, the new ergonomic standard by OSHA.

So let us be very clear about this, that this is an open rule in form only. Every other consideration in worker safety is not in order. That is why the rule should be defeated.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York, Mr. CROWLEY.

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

Mr. CROWLEY. Mr. Speaker, I rise today in strong opposition to my good friend from Buffalo, New York, a fellow New Yorker, to this rule and to, even more importantly, to H.R. 987, the Workforce Preservation Act.

Injuries resulting from workplace stress and strain have long been studied. We cannot continue to needlessly put off a standard by the Occupational Safety and Health Administration. There is overwhelming scientific evidence supporting the belief that ergonomically unsafe conditions result in repetitive strain injuries, also called RSIs.

Approximately 700,000 serious workplace injuries result from ergonomically unsafe working conditions. This

accounts for 31 percent of all injuries and illnesses involving lost workdays. The cost of these lost workdays has been estimated to be between $15 and 20 billion.

Now, these are not made-up injuries, they are not fantasies in workers' minds. These are real injuries, not only costing billions of dollars, but destroying people's everyday lives, people who can no longer work in their chosen professions, no longer cook at home, no longer play the guitar, no longer ride their bicycles even, and even no longer picking up their little children. That is what we are talking about here.

I cannot understand how my colleagues could want to delay the implementation of a standard that would not only reduce pain and suffering but save the business community of this country billions of dollars each year. I applaud last year's appropriation funding of the National Academy of Sciences study of ergonomic injuries. However, that is no reason to delay the implementation of a highly researched and needed OSHA standard. Stand up for working Americans, stand up for healthy workplaces. Vote against this rule, H.R. 987, to help prevent thousands of injuries and save employers up to $20 billion a year.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to the rule and to the bill. Like many of my colleagues, I feel as if I am in a time warp. Last year when the latest NAS scientific review was funded, there was an agreement that this study should not and would not block or delay a proposed rule on ergonomics. Yet here we are again.

The bill is not about the need for more research. Both NAS and NIOSH have conducted exhaustive reviews of the scientific literature and concluded that this is a compelling workplace safety and health issue.

This is about delaying the implementation of sensible regulations that OSHA has crafted after consulting with and taking advice from employers around the country on the actions those employers have taken to prevent workplace injuries.

There is simply no need to further delay OSHA from issuing a standard or guideline. In fact, there is an urgent need to let them move ahead to prevent these workplace problems.

Each year more than three-quarters of a million serious and chronic disorders related to repetitive motion, heavy lifting, or awkward postures occur in our workplaces. These ergonomic injuries cost billions annually.

Let me remind colleagues this is a women's health issue. Women are five times more likely to develop carpal tunnel syndrome than men, one of the most painful ergonomic problems. Women are disproportionately represented in the jobs and workplaces where ergonomic hazards are the most common.

We know that many ergonomic problems are preventable. OSHA's draft proposal provides clear guidance to employers and employees on how to prevent ergonomic injuries, relieve the suffering, and save billions in healthcare and productivity costs.

Let us stop delaying. Let us give OSHA the authority they need to work with employers to prevent these serious health problems. I urge a ''no'' vote.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

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

Mr. TAUZIN. Mr. Speaker, I am often asked when I am at home, when is the government going to live by the same rules and by the same procedures that it asks other Americans to live by? For example, if I wanted to get a permit from the government in an area that might be considered a wetland, I have got to go through all the procedures of finding out whether or not an EPA assessment is required, and we have to file all those reports before we can get a permit.

If I have a drug I want to sell in this country, I cannot say to the FDA, let me sell it first; we will do the scientific work later on, whether or not it works or whether or not it is going to hurt anybody.

Americans are subjected to a simple rule when it comes to many of those agencies; get the science done, and then we will tell you whether you can do something or not.

What the gentleman from Pennsylvania (Chairman GOODLING) is doing, what this rule proposes, is a simple proposition, that this agency, OSHA, ought to get its good science done before it issues a regulation. It ought to have in front of it the best science possible to make the best rule that is the most efficient in our society. Not that it should not regulate, not that this is not a problem in the workplace, we know it is, but it ought to do it right, it ought to do it efficiently, and, most importantly, it ought to do it according to the best science.

Now, this Congress funded that good science. This Congress put out nearly $900,000 to get that work done. All the gentleman from Pennsylvania (Mr. GOODLING) is asking is that that work be completed so that we can have the best rule, the most efficient rule, one that works, without causing undue cost or burden on the rest of the citizens of this country who pay their taxes and go to work every day and expect to be treated decently in our society.

They are asking, is this government agency going to live by the rules we have to live by? Is this government agency going to do the good science first before it imposes a regulation on us, the same way we are required to do the good science first before we can get a permit from this government? It is that simple.

Please support this rule, and please support the gentleman from Pennsylvania (Chairman GOODLING) in the bill.

Mr. FROST. Mr. Speaker, I urge the rule be defeated, and I yield back the balance of my time.

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

Mr. Speaker, in closing, as an up-through-the-ranks legislator of town, county and State before getting elected to Congress, and as a small businessman, I have watched small businesses, I have watched farmers, I have watched local volunteer fire companies, and I have watched local municipalities hindered by OSHA when they were asked to enforce regulations that were sometimes hastily written and created by Federal bureaucrats.]

□ 1845

Mr. Speaker, this body has long been concerned about the issue of sound scientific definitions of these types of workplace injuries. The bill merely requires OSHA to base their definitions on sound scientific data.

Last year the Congress authorized and American taxpayers paid almost $1 million for the nonpartisan National Academy of Sciences to conduct a comprehensive study of all the available scientific literature, examining the cause and effect relationship between repetitive tasks in the workplace. The study is currently under way. It is expected to be completed within a 2-year time frame, and would be ready by 2001.

As my colleague, the gentleman from Texas (Mr. BONILLA) said, we should make sure that OSHA bases its regulations on sound science, not political science.

Mr. Speaker, I urge my colleagues to support this fair rule and the underlying bill.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 271 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. 987.

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. 987) to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a study or guideline on ergonomics, with Mr. SHIMKUS in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the

gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

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

Mr. Chairman, H.R. 987 is a very simple bill. It ensures that the National Academy of Sciences completes the congressionally mandated study of ergonomics and reports its findings to Congress before OSHA promulgates a proposed or final standard.

As I said during the debate on the rule, everyone knows that eventually there probably will be standards and regulations, but certainly we should make sure that science precedes regulation, not the other way around. We get in real trouble when we reverse that.

There is a great deal of scientific and medical uncertainty in this debate about ergonomics. Our Subcommittee on WorkForce Protections, as I indicated also during the discussion of the rule, has had many hearings during the last 2 years. The only thing that was certain was that there was a great deal of uncertainty.

I indicated that even a very well known back surgeon indicated that, with all of the work that he has done, he realizes that in many instances, it is distress in life and job dissatisfaction. Well, I sure hope that OSHA does not start writing regulations in relationship to distress in life and job dissatisfaction, or we will be in real trouble. So we really need to wait, because that is what the Congress said.

Who said that in the Congress? Three hundred thirty-three Members, 333 Members said that there should be an in-depth scientific study, and we will put up almost $1 million for that purpose, agreed to by the President, agreed to by the Congress. Three hundred thirty-three voted for that legislation that contained that.

Now all of a sudden we hear, oh, but two people said that they do not have to pay any attention to what the Congress said and what the law said. That is a pretty interesting turn of events. Two people said? That probably was the best kept secret. Probably 331 others who voted for it did not know that. They thought that as a matter of fact, they were saying let us get the facts before we write regulations.

So again, I would hope that we remind ourselves that it was we, the Congress, 333 Members, who said it is very necessary to get this additional information by a nonpartisan group, by people who do this for a living, people who are scientists, before we delve into regulating something that we are not sure will help or hurt the very people we are trying to help.

Any time a broad government regulation like this proposal goes into effect, livelihoods of our constituents are in jeopardy, so we want to make very, very sure that we have the facts, the scientific facts, so that we can write regulations that as a matter of fact will help, not hurt. One-size-fits-all could really do great damage to the very people we are trying to help.

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

Mr. CLAY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in opposition to this bill. Mr. Chairman, there is such a thing as political speech, and courts have sanctioned it under the first amendment. In reality, it allows politicians to exaggerate incidents, to embellish facts, and still maintain protection under that first amendment.

What we just heard is a perfect example of political speech. Members will probably hear it over and over from that side today. President Clinton never agreed to delaying the issuance of ergonomic rules while the study is being conducted.

Of course, they are entitled to political speech, according to the Federal courts. Mr. Chairman, H.R. 987 prohibits the Secretary of Labor from promulgating any standard or guidelines on ergonomics until the National Academy of Sciences completes a study. This bill is simply one more attempt to delay and ultimately block the issuance of critical ergonomic workplace guidelines which are needed to reduce an epidemic of work-related stress and strain injuries.

Ergonomic injuries and illnesses remain the most common, the most serious health risk workers face, and ergonomic illnesses and injuries remain the single largest cause of injury-related lost work days. In 1997, there were more than 600,000 lost workday injuries and illnesses due to overexertion, repetitive motion, and other bodily reactions related to ergonomic hazards. This represents 34 percent of all lost workday illnesses and injuries.

Work-related musculoskeletal disorders cost employers between $15 and $20 billion in workers compensation costs each year. Women workers are particularly victimized by ergonomic injuries and illnesses. For example, women are 69 percent of those who lose work time due to carpal tunnel syndrome.

The contention that we do not know enough to regulate in this area is disputed by the overwhelming majority of scientific opinion, and has been disproved by the real world experiences of thousands of employers who have taken steps to address ergonomic hazards and have substantially reduced injuries as a result.

This bill is opposed by the AFL-CIO and all the major labor organizations that represent working people. It is contrary to the recommendations of the major occupational associations, the National Institute of Occupational Safety and Health, and the clear conclusions of the National Academy of Sciences.

Additionally, President Clinton will veto this bill if it reaches his desk.

Mr. Chairman, how odd, how unfortunate, that the first significant labor bill to come to the floor of this Congress attempts to strip working people of their rights, instead of enhancing them. We should be taking action on behalf of working families to pass a comprehensive Patients' Bill of Rights, to pass an increase in the minimum wage, and to address inadequate family leave and retirement savings of workers.

This bill says a good deal about the misguided priorities of the majority and the failure of this Congress to take action on behalf of working families.

Mr. Chairman, I urge Members to oppose this anti-worker legislation, and I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri (Mr. BLUNT), the author of the legislation.

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

Mr. Chairman, where I am from, and where my friend, the gentleman from Missouri (Mr. CLAY) is from, the State of Missouri, $1 million is still a lot of money. It may not be a lot of money here in Washington, but it is a lot of money where I am from.

I keep asking myself as I hear this debate, as I have looked at this issue over the last several months, why are we spending this money? Why did the administration agree to this study? Why did the Congress appropriate the money? Why are we spending the money?

We are spending the money because the one weekend study that NAS has already done is not adequate. We are spending the money because there is a tremendous lack of clarity and agreement on these issues. In fact, if Members read the draft standard, I think it is clear why we are spending the money. The draft standard is not clear. The draft standard is ambiguous.

The reviews on the draft standard, from the SBREFA panel, the Small Business Review Panel, to all kinds of journals that have reviewed this, have talked about the problems the draft standard would create. We need to be sure, when we talk about people's jobs, that we are talking about specific and certain facts.

One of the facts we hear here tonight is the groups that are disproportionately affected by these kinds of injuries. I am sure later we will eventually hear what the source for that is, but I would tell the Members that the whole work force is ill affected by standards that are not based on sound science.

My concern is that as we look at these standards, as we look at the liability, as we look at the vagueness if those did become the standards, that people who are in the business of creating jobs, people who are in the business of sustaining jobs, would have to look at these standards, and their push would be not to hire more people but their push would be to make a greater capital investment instead of a people investment, because of the way the standards are written.

In our country, a person's job has a degree of sanctity to it that I think we have to be careful about here in Washington if we treat that casually. If we decide that, based on the instincts of some bureaucrat over at OSHA who had not lifted anything that day heavier than a pencil, that that is the person who is going to decide what is hard to do at the workplace and somebody's job winds up eliminated because of that, I think that is a serious concern. I think that is a serious problem.

I think there is much evidence as to why we need this standard. The SBREFA group said that the draft standard was a problem. One of the reasons was the vagueness. One of the reasons was the vagueness of the terms. Well, this study will solve problems like that. This study will create the sound science. This study will create an atmosphere where people are encouraged to show up at a safe workplace every day, but that their jobs are still there.

This is about people's jobs. This is not about some political play here in Washington, this is about people's jobs. It is about a $1 million study, and it is about seeing that study before the final regulation is drafted.

Mr. Chairman, I urge support of the bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, back in the seventies, I was the human resources manager at an electronic manufacturing company. At one point we started to see a large number of repeated stress injuries. It was not hard for us to figure out why the problems were occurring, because our printed circuit board assemblers were using the same motions repeatedly to insert electronic components into their printed circuit boards. But it was difficult to figure out why it was happening and what was the solution.

So I did something that most of those who speak so negatively about OSHA on the other side probably would think very odd. I asked CAL OSHA to come to our company and help us work through our problems. With their help, we changed some of our assembly processes and the symptoms stopped.

Mr. Chairman, we knew that it was important to protect our workers from injuries because if we did not, our company was not going to be able to become a Fortune 300 company, which, by the way, it did.

□ 1900

But it would not have without a healthy workforce.

Mr. Chairman, all businesses and all employers and all employees will benefit from ergonomic standards. We already have sound science regarding the problems caused by repetitive motion. The problem appears that, when the Republican majority disagrees with science, they insist on more studies. They hope that science will eventually support what they want it to say.

H.R. 987 is an inexcusable delay tactic. It is a tactic that benefits no one, not business, and certainly not workers. I urge my colleagues to oppose it. A vote against H.R. 987 is a vote for workers.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. BOEHNER), chairman of the Subcommittee on Employer-Employee Relations.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the Committee on Education and the Workforce, for yielding me this time, and I appreciate his efforts and my colleagues' efforts for bringing this bill before us.

Mr. Chairman, I rise tonight in favor of H.R. 987, the Workplace Preservation Act. I am sure that if we went out and explained this bill to most Americans, they would wonder why we are even here tonight having to debate this.

First, let us be very clear about this. We are not prohibiting OSHA from regulating ergonomics. We are simply saying that before OSHA issues a set of sweeping new regulations that impact millions of employees and employers, we ought to at least look at the science that we paid for just a year ago and what the American people paid for when Congress appropriated $980,000 to the National Academy of Sciences to take a comprehensive look at this issue. We are simply saying let us let good science precede regulation, not the other way around.

If OSHA meets its current timetable, the final ergonomics regulations will be in place before the National Academy of Science's studies are even finished. Not only will the efforts of the National Academy be wasted, but the money that the taxpayers put up last year for the study will be wasted as well.

Mr. Chairman, that is just not acceptable. That is why we are here to pass H.R. 987 tonight. OSHA's decision to disregard the need for sound science, not to mention the will of this Congress, is an example of the kind of bureaucratic arrogance that is making Americans cynical about their government today.

Many questions remain about the nature of the relationship between workplace activities and these types of injuries. But OSHA has concluded that it does not need to wait for medical and scientific communities to answer these questions. OSHA has decided it already has the answers, and it is going ahead with its new regulation as it sees fit.

I think we can all agree that this kind of bureaucratic free-wheeling is wrong. Mr. Chairman, the debate today is not about whether we need to assure the safety in the workplace for the American workers. There can be no debate about that. The debate today is about whether we expect regulatory agencies to base their rules on medical evidence and sound science. I do not think there can be any debate about that either, Mr. Chairman.

So I urge my colleagues on both sides of the aisle to support the bill of the gentleman from Missouri (Mr. BLUNT), H.R. 987, and allow the taxpayers to get their money's worth for the science and the study that we paid for last year before proceeding down this very dangerous path.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, recently I traveled to the Eastern Shore of Maryland and the district of the gentleman from Maryland (Mr. GILCHREST) to learn about the poultry industry and to talk with some of the people who have been suffering injuries in the Nation's chicken processing plants.

Chickens are processed on something akin to an assembly line. Most of the actual cutting up is done hand by hand, chicken by chicken, day after day, hour after hour.

One of the cutters that we talked to was a woman named Sharon Mitchell. She made her living as a cutter on the line, standing on a wet concrete floor, in a factory as cold as a refrigerator, with a knife in her hand, deboning breasts and thighs.

Earlier today, as I was in my office, I had the sound off, I had it on mute, and I was watching the screen and this debate, and the gentleman from Louisiana (Mr. TAUZIN) was making this motion.

Sharon Mitchell makes that motion. She told us as we were sitting there, ''You try to do this.'' I invite everybody who is watching me today to do this. Because she does this 50 times a minute, 8 hours a day, at least 5 days a week. I want my colleagues to feel the repetitiveness of what this is about.

That means that Sharon Mitchell performs the same cutting motion 3,000 times an hour, 24,000 times a day, 120,000 times per week, and more than 6 million times a year. It is no wonder that the poultry industry has a hard time keeping healthy workers.

Ergonomic industries are the leading cause of turnover, 100 percent in some of the plants. Do my colleagues know what the wage is, the average wage for people who do this 6 million times a year, 3,000 times an hour? Five dollars and sixty-one cents.

Ergonomic injuries affect virtually every economic sector in the country, truckers, nurses, cashiers, computer operators, construction workers, meat cutters, assembly line workers. 600,000 Americans are hurt every year from these injuries.

Workers compensation costs related to these injuries top $20 billion a year. Study after study have documented the problems, beginning with studies under the Bush administration a decade ago.

So ignoring Sharon Mitchell's concern and that of the literally thousands

of people that work with her will not make this go away.

Now, several companies like Ford and 3M and AT&T, for example, have adopted a low-cost measure to prevent these injuries from happening. It is time that we follow their lead.

I will never forget that woman standing there with tears in her eyes doing this and suggesting to us that we can do better. Think about it. One hundred percent of the workers in some of these plants turn over every year because of these injuries.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from Colorado (Mr. SCHAFFER).

Mr. SCHAFFER. Mr. Chairman, I appreciate the gentleman from Pennsylvania for yielding me this time.

Mr. Chairman, my first job out of college was in a salmon cannery in Alaska. The opportunities for injury associated with repetitive motions were ones our employers new an awful lot about and upon which they spent a lot of time ensuring safety came first. They understood it to be an economic issue, as well as one that, in the context of humane treatment of employees and compassion of workers, was an integral part of business.

I have often said that standing boot deep in fish heads, gut, and entrails was probably the best training that I ever received for serving in Congress. But I also point out that OSHA's decision to move forward on regulations without benefit of thorough study is a classic example of the phrase often used in business ''ready, fire, aim.''

Our goal here in proposing this bill's passage is to arrive at a set of goals, rules, and regulations that actually hit the mark, that actually are useful goals and regulations that actually can, with some confidence, be attributed to a safer workplace.

Now, it is rare for the current President and the current Congress to agree so completely on such a topic, but in October of 1998 both the executive branch and the Congress did agree that a comprehensive study by the National Academy of Sciences of the medical and scientific evidence regarding musculoskeletal disorders be initiated. That study was and is to become the basis for future OSHA regulations. That study is not yet completed. This is the one fact that we need to keep in mind.

It is often argued that the fact Congress requested and funded the study by the National Academy of Sciences does not matter because there was some kind of letter signed by the chairman of the Committee on Appropriations and the ranking member telling OSHA it was not barred from going forward with its intended regulations. But the fact of the matter is, while everyone knew about the study, no one, with the exception of a few Members of Congress, was aware of the letter. It certainly would not stand up in any court as the basis for expression of legislative intent.

Second, the opponents argue that OSHA has worked on ergonomics for almost a decade and that fact somehow makes the NAS study irrelevant. Well, again, Congress and the President agreed to fund the comprehensive study by the National Academy of Sciences just in October, not 10 years ago. We, Congress, decided the issue needed more study, and we were willing to spend nearly a million taxpayer dollars to finally get the comprehensive and impartial look at the scientific and medical evidence before OSHA should regulate.

Looking back, 10 years is instructive in one regard. Ten years ago, the Department of Labor claimed that ergonomics-related injuries accounted for about 3 percent of all workplace injuries and illnesses. OSHA now claims that ergonomic-related injuries account for 34 percent of workplace injuries.

Now, that huge difference is not just because of an increase in injuries. In fact, workplace injuries have been declining in recent years. The difference between the 3 percent in 1990 and the 34 percent that OSHA refers to today is simply due to the Department of Labor's changing definition.

There has not even been a consistent, uniform definition of what injuries would be addressed by an ergonomics regulation. Now that in itself is a good indication of the scientific and medical uncertainty itself surrounding this issue and why we need the NAS study that OSHA wants to ignore.

A vote in favor of H.R. 987 is an exercise in prudent judgment and a responsible step towards sound workplace safety regulation. To reject this bill is to advance the misguided philosophy of ''ready, fire, aim.''

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Chairman, it would be good to have a few facts on the record. I think it is important to take another section from the President's veto message where he states that the administration agreed to the inclusion of funding for this study based on a clear understanding that the study would not be used as a reason to delay OSHA's proposed ergonomic standards.

H.R. 987 would reverse this agreement by forcing OSHA to wait up to 2 years before issuing a standard in expectation that the conclusions of a new NAS study were different from those reached by NAS just last year and already reached by the National Institute for Occupational Safety and Health which completed an exhaustive study in 1997.

Both of these studies concluded that musculoskeletal disorders are caused by physical forces in the workplace and that ergonomic solutions can reduce those forces and the incidence of MSDs. These two studies do exist. They keep saying they do not exist. This NAS study was completed in 1998, published in 1999.

The conclusion reached here in the study is that: ''better understanding of the course of these disorders would provide information that would assist in formulating strategies for tertiary intervention.''

So the new studies, the continuing studies will seek ways to intervene. There is certainly room in this complex area for studies for a long time to come. I hope that we do not stop after we complete 2 more years of study. But there will be an ongoing set of gathering of evidence and development of intervention strategies that will make it safer for the people in the workplace. That is no reason to delay.

What we really hear today is a clear statement of the Republican platform on the workplace. The workplace is not a place that they want to make safe for the workers. They are indicating their great contempt for workers, as they have indicated repeatedly. OSHA, of course, is a major target.

They have several bills which attack OSHA, and they always give them strange names or names that camouflage the real intent. There is the ''Science Integrity Act,'' which is actually a bill to allow businesses with financial interest in particular regulations to place their own experts on the peer review panels. That is a majority Republican bill for OSHA.

There is a ''Safety Advancement For Employees Act,'' and that is a bill to exempt penalties to employers who violate the OSHA standards.

There is the ''OSHA Reform Act of 1999'' which would totally eliminate OSHA's enforcement of standards in its protection of whistle blowers. Then there is the ''Fair Access to Indemnity and Reimbursement Act'' which would chill OSHA enforcement by awarding attorney fees to businesses whenever OSHA lost a case.

They are consistent. They have been plugging away at OSHA for a long time. They are consistently hostile to working families. That is what we are hearing today. It is good that we are having this debate to have the destructive Republican platform for working families clearly stated on this floor.

□ 1915

Mr. GOODLING. What is the division of time at the present time, Mr. Chairman?

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GOODLING) has 17 minutes remaining, and the gentleman from Missouri (Mr. CLAY) has 18½ minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MCKEON), our erstwhile subcommittee chair.

Mr. MCKEON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 987, the Workplace Preservation Act.

For years, the issue of ergonomics has been fiercely debated. Unfortunately, many would like to make this a partisan debate, when, in fact, we all want what is best for the American worker. Therefore, in order to best address the issue, last year Congress and the President agreed to fund a comprehensive 2-year study to look at the scientific evidence surrounding repetitive tasks and workplace injuries.

I supported this provision when it was included in last year's omnibus bill because it provided a commonsense solution to a very difficult issue. As such, I was alarmed when I heard that OSHA was moving forward earlier this year on a proposed ergonomics standard barely before the study had begun. Consequently, I cosponsored H.R. 987 and voted for it when it was considered by the Committee on Education and the Workforce.

To me, this bill is very basic. It simply says that the Labor Department must wait to move forward until the fundamental medical and scientific questions surrounding ergonomics are answered. We owe that to the Members of this body who supported the provision. We owe that to the taxpayers, who funded this million dollar study. We owe it to the thousands of businesses who would be accountable to the new standards. And most importantly, we owe it to the American workers who deserve a safe and healthy workplace.

Again, I urge all my colleagues to vote for H.R. 987.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the distinguished ranking member for yielding me this time and for his leadership on this issue, as well as the ranking member on the subcommittee of jurisdiction, the gentleman from New York (Mr. OWENS).

Mr. Chairman, I think it is quite ironic that many people have said in the course of this year that this century began with violence in the Balkans and it is ending with violence in the Balkans. So too with this issue. This century began with the muckrakers, with Ida Tarbell and Upton Sinclair pointing out dangers in the workplace for American workers. They showed the exploitation of the worker. And here we are at the end of the century, much enlightened, much improved, but not completely.

And ironically, the new information technology age has presented new and additional challenges. As more people work on keyboards and look at screens, it presents more possibilities for ergonomic disease. So let us not ignore the history of it. We look with great embarrassment at what happened at the beginning of the century. We know so much more now. We owe it to the American worker to do better.

But I do not ask my colleagues to take my word for it. In saying this, I am joining the major national occupational and safety health groups, which believe that existing science supports the need for an ergonomics standard and oppose H.R. 987. The American Public Health Association, the American Nurses Association, the American Association of Occupational Health Nurses, the American College of Occupational and Environmental Medicine, representing over 2.7 million safety and health professionals, have documented the need for and support an ergonomics safety standard to protect workers from workplace injuries.

The American College of Occupational and Environmental Medicine is America's largest occupational medicine society concerned with workforce health, and they have said and I quote, ''There is adequate scientific foundation for OSHA to proceed with a proposal and, therefore, no reason for OSHA to delay the rulemaking process.''

The American Public Health Association's national women's groups, according to Women Work, the National Network for Women's Employment, all urge a ''no'' vote on this resolution. I urge my colleagues to join them.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. EHLERS) from the committee.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me this time. I am very sympathetic to the problems of ergonomics. That may not be a statement that my colleagues have heard too much from this side of the aisle, but I am sympathetic for reasons relating to the ailments I have encountered, and I will amplify on that during debate later on.

At the same time, I still support this bill, because I have learned that the issues revolving around some of the things I have had, including a herniated disk in my back, and surgery for that; carpal tunnel syndrome, with surgery on both hands for that; and chronic asthma, I have learned that all of these issues are extremely complex as related to the workplace.

These issues are so complex that it is important that we do the National Academy study. I want to make certain that we do it not because we are trying to delay the issue or somehow avoid the issue, I think it is important to wait until the National Academy study is finished simply because we should have the result of the National Academy study before any final decisions are made on precisely what we should do, and what the best approach is regarding ergonomics.

So I support the bill. I think it is very important that we do take the time to deal with the complexities of the issue, make certain that whatever we decide in this body or through the regulatory agencies is the appropriate approach, the right way to deal with the problem, so that we actually come up with good solutions rather than just have individuals sitting at desks saying, well, this makes sense, let us do this, let us do that, let us try this.

We have to make certain we do it right. So I urge you to vote for this bill, demonstrate our ability to be patient and study the complexities of the issue before taking action.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I rise in opposition to the Workplace Preservation Act, which bars OSHA from issuing vital ergonomics standards until the National Academy of Sciences has completed its study on this issue.

This legislation is unnecessary. The NAS study duplicates work that has already been completed by the National Association for Occupational Safety and Health. OSHA could have published regulations this year if it could move forward on this issue. This is another scheme to prohibit OSHA from carrying out its mandate, which is to protect employees across the country from hazards of the workplace.

Ergonomic injuries are the most common serious workplace health problems that face workers. Each delay means another 620,000 employees involved in everything from heavy lifting to data entry will suffer injuries associated with repeated trauma such as carpal tunnel syndrome. One of three workers' compensation dollars goes to repetitive stress injuries. The number continues to rise.

Let me just mention that, in fact, ergonomic guidelines are good for employees and are good for business. Let me give my colleagues two examples from the State of Connecticut. In New Haven, at the Ives Company, which is a hardware manufacturer, they reduced employee injuries by 90 percent by cutting out manual lifting. Aetna Life redesigned its workstations and productivity increased by 64 percent. Businesses can win. Ives cut its injury costs from $88,400 to $8,700. Aetna calculated its productivity increase and brought it to $621,000 annually.

Ergonomic guidelines are good for hard-working men and women. They are good for businesses, large and small. We need to end this delay, and we need to support progress. We need to support and protect hard-working men and women and save money in health care costs and lost wages.

I urge my colleagues to oppose this bill.

Mr. GOODLING. Mr. Chairman, may I have the division of time again?

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GOODLING) has 13½ minutes remaining, and the gentleman from Missouri (Mr. CLAY) has 14½ minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON), a member of the committee.

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of H.R. 987, as introduced by the distinguished gentleman from Missouri.

I rise to make really two points. The first is based on experience. In the State of Georgia, for years, where I worked in the legislature on workers compensation legislation, without question, the preponderance of the cases that went to final court were cases over musculoskeletal disorders. I believe if we were to check the other 50 States in the United States of America, we would find also the preponderance of those cases that had to go to court were over musculoskeletal disorders. And we would also find that in every case a physician of renown, a physician with experience, testified on behalf of the injured party and on behalf of the business. And decisions fell on both sides. And why? For a very simple reason. It is a very difficult task to determine exactly what the cause was.

To wait for scientific data to be conclusive is important, and to wait for this study that has been funded to come back before those regulations is also very important.

But I also want to address what the gentleman from New York (Mr. OWENS) said. This is not a battle of us against workers and someone else for them. This is not a battle against the lady that the gentleman from Michigan (Mr. BONIOR) mentioned, who over and over repeated those motions. But it is a battle over looking at all the interest of regulation.

So let me personalize the story. Let me talk about James Abney, a doctor in Marietta, Georgia, who employs his wife and two dental assistants. A few years ago, when a major problem in our country arose over the possible spread of AIDS in the use of dentistry, and many will remember that case, immediate regulations came down which caused the acquisition of almost $40,000 in additional equipment, additional techniques, additional coverings in treatment and additional policies.

None of us would argue that was not the appropriate response, but they were so quick, and in the absence of data, that over half of those within a year were repealed as being unnecessary. But the $40,000 was not paid back to Dr. Abney.

Businesses deserve the right to have scientific data before business does what it will do, and that is take care of the best interest of its workers.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

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

Earlier, one of our colleagues said this was ready, fire, aim. I think what we really have here is ready, aim, delay, delay some more, delay forever, if we can.

They talked about this being an effort not to prohibit, but it is in fact an effort to delay this for up to 2 years.

They talked about wanting to make sure they have all the studies before there are some sweeping regulations. The irony is that their proposed study would merely review existing information in literature.

This is the same group standing up saying delay, we want to await the National Academy of Sciences report that rejected the National Academy of Sciences report saying that there should be statistical sampling in the census. They threw that out. But now, because it is to their benefit to wait and delay, they want to wait for the National Academy of Sciences report.

There are reports out there, Mr. Chairman. Let me say that the National Institute of Safety and Health has already had the most comprehensive compilation of review research on this issue to date. And the relationship between those types of injuries and the exposure to the workplace risk factors was shown. They have identified over 2,000 studies of work-related injuries and hazards, two thousand.

They selected 600 of the studies for detailed review based on well-accepted criteria, that included strength of association, consistency, temporality, and coherence of evidence. Twenty-seven peer reviewers examined that document, including epidemiologists and other scientists, physicians, ergonomists, engineers, industrial hygienists, employers and employee representatives. Based on that review of the scientific evidence, they had a substantial body of credible research that showed strong evidence of association between those types of injuries and work-related physical factors.

The NAS study in 1998, Mr. Chairman, reviewed the same body of evidence, but it supplemented that evidence by including reviews of biomechanical and other control intervention studies. They then had scientists review it and had panel discussions. They had a 10-member steering committee prepare the report. They had a peer review by an additional 10 scientists.

Mr. Chairman, I think my colleagues get the point. This is ready, aim, delay, delay, delay.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume to again remind everyone that NIOSH said that an in-depth study would be very, very beneficial.

Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I rise in support of H.R. 987. Prior to my service here in the House, I was a trial lawyer in Omaha, Nebraska. Now, I know that is not necessarily a term of endearment on this side of the aisle; but it does give me certain experiences and insight into issues such as this because as much as 50 percent of my practice was representing people with injuries, worker compensation claims.

I represented many clients who suffered from repetitive motion injuries, the most common of which is to the wrists, known as carpal tunnel syndrome, and I sympathize with these folks. I have seen it affect people minimally, and I have seen it affect them seriously, some enough to lose their jobs.

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I have learned from speaking to many medical experts and reading a great many medical studies on this subject that there is much controversy on the cause of these injuries, including how much repetitive motion versus trauma is necessary to cause the onset of symptoms.

Until we know more facts about the various causes of repetitive motion injuries, how do we know the best method to avoid reducing these injuries? We are only guessing at the best way to protect workers.

I am concerned that without the National Academy of Sciences study, we may allow regulations that have the unintended consequences of one extreme doing nothing and the other exacerbating injuries or causing different types of injuries. And I am not willing to accept that risk.

Mr. Chairman, I support H.R. 987; and I urge my colleagues to join me in voting for it.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

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

Mr. Chairman, I urge my colleagues to vote against H.R. 987, the so-called ''Workplace Preservation Act.'' Perhaps it ought to be called ''Woman Out of the Workplace Act.'' Because this legislation is against working women.

This bill is about our aunts. It is about our mothers, our sisters. It is about women who have many responsibilities not only in the workplace but at home that when they have a repetitive motion problem it compounds their life.

H.R. 987 would stop the writing of regulations that protects workers, primarily women, who suffer the crippling and painful injuries caused by repetitive motion.

Each year, according to the AFL–CIO, 400,000 women workers suffer injuries from ergonomic hazards. Sixty-nine percent of all workers who suffer from carpal tunnel syndrome are women.

Now, everyone has their personal stories. A dear aunt of mine who worked as a secretary required surgery in both wrists to deal with carpal tunnel. I have a sister who worked as a meat cutter who because of repetitive motion injury could not do her job anymore; and then when she tried to file a workers comp claim, the company fought her.

That is typical, also. It is not just the people get injured; it is that they often cannot get help, so they are victimized further.

Besides the physical and emotional costs caused by these workplace injuries, there is a huge economic cost. workers compensation costs of repetitive motion injuries is $20 billion each

year. So this, of course, hurts families, but it also hurts businesses in reduced productivity. It cuts business profits. It increases claims. It increases litigation.

This is time for new thinking. We are entering a new millennium. Let us have new thinking and let us start by voting ''no'' on H.R. 987.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. HILLEARY), another member of the committee.

Mr. HILLEARY. Mr. Chairman, I am proud to stand before this House today as a cosponsor and strong supporter of H.R. 987, the Workplace Preservation Act.

Do not let some of the opponents of this legislation fool us. They say that if this legislation passes, workers will be subject to an endless amount of illnesses and workplace injuries.

However, they seem to forget that passage of this bill maintains the status quo and simply allows the National Academy of Sciences to complete a study on ergonomics to ensure the safety of American workers.

In last year's omnibus appropriations bill, Congress gave the Clinton administration almost $1 million to complete this study. That is the law. The President signed the bill. He agreed to do this study as a prudent first step.

What I do not understand is why we should not wait until the National Academy of Sciences study comes back with that study paid for by Mr. and Mrs. American taxpayer before we make a decision on the issue. It is silly to throw the American taxpayers' money down the drain in order to prematurely enact a regulation that has been referred to as counterproductive.

While the administration continues to threaten to enact a regulation on ergonomics before a study is completed, I find their actions akin to a doctor delivering a treatment before diagnosis. There is no scientific certainty in the causes, the diagnosis, prevention, and correction of workplace injuries, and we should not hastily make rules without having proper scientific evidence.

Meanwhile, the potential impact of the administration's regulatory scheme could reach into the billions of dollars. OSHA estimated the compliance cost within the trucking industry alone at $257 million and $3.5 billion for all industries. Private studies have estimated that it might cost as much as $6.5 billion.

Now, who is going to pay for this additional cost? Consumers? Businesses, of course, will pass on this new cost to those who purchase products. So not only are we throwing away the $1 million the taxpayers give us, but we are also telling them that they would have to pay more in order to provide food and other items for their families.

Another claim my colleagues may hear is that ergonomics regulations will help the American worker. Yet, these regulations also alarm many of the people that they are designed to help. Several workers who would be covered under an ergonomics standard make their money based on the number of items they deliver. If we restrict the amount they can officially deliver, the workers themselves lose money.

So let us see, where does this leave us?

The American taxpayers. They lose under any new regulation because we are throwing $1 million of their money away and forcing them to pay higher prices.

American business? They lose because it will likely cost billions for them to comply with these prospective regulations.

Does the American worker win? No. Many of them will lose because they will receive less in salary and commissions thanks to the new regulations. And some of them will lose their jobs altogether to off-shore labor.

Let us protect hard-working Americans and not establish uncertain ergonomic standards.

I urge a ''yes'' vote on H.R. 987.

Mr. CLAY. Mr. Chairman, may I inquire as to how much time remains on both sides?

The CHAIRMAN. The gentleman from Missouri (Mr. CLAY) has 10½ minutes remaining. The gentleman from Pennsylvania (Mr. GOODLING) has 7 minutes remaining.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

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

Mr. KIND. Mr. Chairman, I thank the ranking member for yielding to me the time.

There has been a lot of reference this evening in regards to the money appropriated last fall in the omnibus appropriations bill for the 2-year NAS study. While that may be true, the legislative history behind that was also perfectly clear. At least it was on this side, and it was with the chairman and ranking member of the Committee on Appropriations when they wrote to Secretary Herman a letter in which they stated, ''We are writing to make clear that by funding the NAS study, it is no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.''

Mr. Chairman, as a member of the Committee on Education and the Workforce, I rise in opposition to H.R. 987. And let us also be clear that if H.R. 987 does pass tonight, it will be the fourth time in 5 years in which this Congress was able to effectively block any movement, any progress, on issuing ergonomics rules from the Department of Labor and OSHA.

Proponents of the legislation claim that there is not enough science to justify moving forward. This, however, is an issue that has been studied to death, over 2,000 studies exist examining ergonomics.

As my friend from Massachusetts (Mr. TIERNEY) already indicated, in 1997 the National Institute of Occupational Safety and Health evaluated over 600 of those 2,000 studies; and they concluded that there is a substantial body of credible evidence showing the cause and effects of repetitive motion and injuries in the workplace.

I am concerned that Members are using the 2-year NAS study as an excuse to go into a four-corner offense and just delay, delay, and delay and hope that no rule is every promulgated.

Quite frankly, I do not understand why. There are a lot of companies in western Wisconsin that are already implementing their only ergonomic standards in the workplace, one of which is 3M, one of the largest manufacturing companies in the Nation, three fairly large significant plants are located in my district. And they are doing it for two reasons: first, because they recognize the need for it and, second, because it makes good business sense.

In fact, the chief ergonomics officer for 3M, Tom Alban stated, ''Our experience has shown that incorporating good ergonomics into our manufacturing and administrative process can be effective in reducing the number of and the severity of work-related MSDS, which not only benefits our employees but also makes good business sense.''

3M's evolving ergonomics process has been effective at reducing the impacts of these disorders on their employees and their business.

From 1993 to 1997, 3M has experienced a 50-percent reduction in ergonomics-related OSHA recordables and a 70-percent reduction in ergonomics-related lost time. I think that is another good reason to vote against this legislation tonight.

I would encourage my colleagues tonight to stand up for working families. Do what a lot of good businesses are already doing. Allow OSHA to move forward on implementing rules on ergonomics standards. It makes sense. It makes good business sense. And in the long run it is going to help the working people in this country.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, I rise in support of the bipartisan Workplace Preservation Act.

I do so because of a very simple premise: we cannot prescribe a solution until we diagnose the problem. Doctors know this. In fact, every day they examine patients' symptoms hoping to discover the underlying disease. But no doctor will ever order a specific medication until he or she is satisfied the actual sickness has been discovered.

Mr. Chairman, I believe it would serve us well to remember this analogy as we consider this issue. Workplace injuries is a serious matter. There is no question this issue is an important concern to millions of Americans. But there are a great many questions as to the cause and effect of ergonomics.

In fact, over the last few years, many of the country's leading physicians and researchers on injuries of hand, back, and upper extremities have testified before Congress that the causes and impact of these disorders are not easy to discern.

Are they caused by too much typing on a computer or too many hours in front of a scanner? We do not know. But we need to know, and we are trying to find out.

That is why last year Congress appropriated $890,000 for the National Academy of Sciences to conduct a study of all the available scientific literature examining the cause-and-effect relationship between repetitive task and physical pain. The study is scheduled to be concluded by the middle of the year 2001.

Yet, amazingly, in a March hearing before the Subcommittee on Workforce Protections, the Assistant Secretary of the Office of Health and Safety Administration vowed that issuing an ergonomic standard was the agency's top priority for this year.

Mr. Chairman, I urge my colleagues not to confuse motion with action. I am afraid that is exactly what the Office of Health and Safety Administration is about to do.

Congress had it right last fall. Let us take our time and let us do it right. Let us put science before politics, and let us determine exactly what the problem is before we prescribe the solution.

I hope all of my colleagues will support this common sense bill, which simply requires the Secretary of Labor to wait for the National Academy of Sciences to complete their study before it issues any new regulations.

Is this too much to ask? After all, is this not what we expect when we do see our doctors? Why should we expect our Congress to do anything less?

Mr. Chairman, let us get our facts straight before we legislate. Let us pause before we determine a cause. I urge my colleagues to support this bipartisan bill.

Mr. CLAY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member for yielding me the time.

Mr. Chairman, I rise in strong opposition to the passage of H.R. 987, the Workplace Preservation Act. It is merely another delaying tactic. We have seen this every year when this matter comes up.

H.R. 987 requires the Secretary of Labor to wait for the completion of another National Academy of Science study. We have had many studies. This delay is simply not supportable by the evidence. Scientific literature supported by safety experts already shows that the workplace factors cause musculoskeletal disorders.

The National Academy of Sciences and National Institute for Occupational Safety and Environmental Medicine have clearly demonstrated the relationship between ergonomic problems and the onset of these disorders.

The American College of Occupational and Environmental Medicine has confirmed that there is adequate scientific foundation for the OSHA to proceed.

Since 1995, we have seen one request after another for a delay. The Department of Labor is prepared to issue these standards. We need the standards to prevent injuries.

It is incomprehensible why an industry that is suffering from $20 billion of losses because of these injuries is still seeking to block the issuance of standards which could save these injuries and in fact keep the workers at the workplace producing the goods, producing the values that these industries fully need.

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I hope that this bill will be defeated and that the workers' safety will come first.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD), a member of the committee.

Mr. NORWOOD. I thank the gentleman very much for yielding me this time.

Mr. Chairman, I rise today in strong support of H.R. 987, the Workplace Preservation Act, and I commend the gentleman from Missouri (Mr. BLUNT) for pushing this bill.

The purpose of this bill is pretty clear and I think very compelling. It requires the Secretary of Labor to hold off before issuing standards or regulations on ergonomics until the National Academy of Sciences completes a study on the actual cause of ergonomic injuries.

This Congress has spent nearly $1 million to determine with some degree of accuracy just what is the status of medical science with respect to the diagnosis and the classification of ergonomics problems. Why in the world OSHA would want to proceed before we have a good understanding of this is frankly beyond me. I do not know how many hearings over the last 3 years I have sat through where scientists and doctors have come before us and testified they do not know or understand the cause-and-effect relationship between work activities and musculoskeletal disorders.

Now, what is ergonomics? It is simply a repetitive motion syndrome. If you take two people and both of them work and in their work they move their hand like this all day in doing their job, that is in fact repetitive motion. The question may be, will one of them have a carpal tunnel, will one of them have a musculoskeletal pain? If that is the case, why does one have it and not the other? We do not understand that. Medicine does not understand why one does and one does not. In addition to that, one of those two people may go home at night and knit and they use that motion over and over again. If they have musculoskeletal pain, the question then would be, what caused it? Is there a direct correlation between that motion and the pain? Is that pain being caused by knitting every night or is that pain being caused by working every day?

Never fear, OSHA is here. OSHA is an agency that is incompetent in writing these standards. OSHA cops are incompetent in regulating people on this subject. The business community, it is true, is working very, very hard to try to make the workplace an easier place, in lifting, in turning, in twisting, in doing the same repetitive motion all day. They frankly are doing a pretty good job. Why is OSHA wanting to regulate that? Well, it is an agency that likes to regulate. They are trying their best to give themselves something else to do. We all know agencies up here spend a lot of the taxpayers' money getting studies to say exactly what they want to say. What the doctors and scientists tell us is that they do not know for sure. There is not a direct correlation. OSHA, of course, tells us it is very sure, that it knows, and it is sure they know what to do.

Mr. Chairman, we should absolutely wait until this study is complete. Use good science.

Mr. CLAY, Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, I want to thank the ranking member for yielding me this time.

American workers should not have to wait for OSHA to proceed with its ergonomic standards. In fact, 16 years ago while an MBA student, we as future employees and employers were studying ergonomic standards and what to do in the work area. This is not new.

Scientists and researchers have documented over and over again that musculoskeletal disorders, or MSDs, are related to workplace risk factors. These disorders affect people of all types of occupations, laborers, nurses, accountants, and many of us here know about the injuries personally.

For example, my first job in high school was scooping ice cream 20 hours a week, 6 years. That job involved the same motion over and over and over again 20 hours a week. I still have problems with one of my wrists today.

It is estimated that every year, over 600,000 workers suffer from work-related MSDs. For many workers, these injuries are debilitating, causing constant and intense pain. It is estimated that these work-related injuries cost employers between $15 and $20 billion a year in workers' compensation.

We need to allow OSHA to proceed with its ergonomic standards. I ask that my colleagues vote ''no'' on this bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Chairman, we all know in Congress and throughout the country that smoking is bad for you and that cigarettes can do great harm to your health and possibly kill you. We also know that repetitive stress disorders and ergonomics hurt, harm, put people out of work to the number of 600,000 people a year.

Now, we did not wait with cigarettes to identify every carcinogenic agent before we finally said, ''We are going to do something about cigarettes.'' We have had 2,000 studies on ergonomics and what they do to people to harm them doing the same thing over and over in the workplace. We need to now act. That is why people in our home States send us here.

Now, who supports this kind of action? I have a press release here from the Secretary of Labor:

''These painful and sometimes crippling illnesses now make up 48 percent of all recordable industrial workplace illnesses. We must do our utmost to protect workers from these hazards not only in the red meat industry but all U.S. industries.'' Secretary Reich? No. Secretary Herman? No. That is dated August 30, 1990. That is Secretary Elizabeth Dole. Secretary Elizabeth Dole.

Now, who else supports this on science that we need to act and act now? Well, the list goes on and on. The American College of Occupational and Environmental Medicine, a pretty reputable organization. The National Advisory Committee on Occupational Safety and Health. I would go with them. The National Academy of Sciences. Those are pretty good organizations, Mr. Chairman.

When you have businesses like Intel and Chrysler and 3M and Ford Motor Company out there doing this in the workplace, we need to act now.

Mr. CLAY. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me this time. I rise in strong opposition to this bill.

There is something attractive about the argument that we should just wait and listen for more science. But that was the argument that was made prior to 1990 when Secretary of Labor Elizabeth Dole said, ''It's time to do this.'' And that was the argument that was made prior to 1992 and Secretary of Labor Lynn Martin said, ''No, it's time to do this.''

Mr. Chairman, this is not about more science or when we do this because, I assure you, there will be another attempt later on to stop this regulation. This debate is about the merits of this regulation. I would ask my Republican friends, Mr. Chairman, to think about doing what comes naturally to them and, that is, trusting the marketplace.

This regulation reminds me of the furor that took place in the late 1960s and early 1970s about unleaded gasoline. There was a proposal to have a Federal law that would eventually bar the use of leaded gasoline by making us make cars that could not use it. We were told at that time it would be the end of the auto industry, the end of the gasoline industry, it would cripple domestic producers of automobiles. It would raise costs. It would be a disaster. But we went forward and did it, anyway.

What happened? The marketplace responded. People throughout American industry built a better mousetrap. The amount of ambient lead in our air dropped dramatically and so did the price of gasoline, in real terms.

I believe here as well, if we set a clear standard that says you shall protect your workers from repetitive stress syndrome, it will say to a whole class of inventors and entrepreneurs and good businesspeople, there is profit in finding ways to do that. Different kind of chairs, different kind of screens, different kind of keyboards on computers. The market will respond. Trust the market. Let entrepreneurs get to work in finding safer working conditions to help workers stay safer.

Mr. Chairman, this is going to be a very close vote. I would urge Members to consider the merits and reject this bill.

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

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 1½ minutes.

Mr. GOODLING. Mr. Chairman, two quick observations: One, OPEC has a lot to say about the price of gasoline. Secondly, they always say if you are going to get a campaign, you have to get to be known. Elizabeth could not have paid for any more attention than she got this evening. She certainly is known all over the country, if she was not before, after this debate and I am sure she thanks all of you for giving her that great opportunity this evening.

Let me again say that so many times we rush into things, so many times we do legislation, so many times we promulgate regulation without any scientific knowledge as to will this help the people we are trying to help or will it not?

Last October, 333 Members of this House of Representatives, the Senate, the President said, ''We believe that the National Academy of Sciences should do an in-depth study so that when we regulate, we regulate to help, not regulate to harm.'' They also said at that time, we should pay $800,000 of taxpayers' money to do it. All we say now is, ''Let's see what they say,'' so that we do it. Let us not regulate and then see that we have caused more problems than we have cured. Let us regulate with the scientific knowledge before the regulations are written.

Again, I would ask all to vote in favor of the legislation and try to help those that we want to protect in the workplace. Vote ''yes'' on this legislation.

Mr. PAYNE. Mr. Chairman, the implication of the so-called ''Workplace Preservation Act'' is clear—passage of this bill will do nothing more than unnecessarily delay the adoption of a standard for ergonomics in the workplace. As a matter of fact, the only thing preserved by H.R. 987 is the employers' ability to further exploit the hard-working American laborer.

Since 1990 the number of workers that have suffered from MSDs totals over 5 million people. Adoption of this bill won't do anything to help our workforce, rather it would only ensure that another 1 million workers will suffer the same fate. And as if these 5 million injured workers isn't enough evidence that something has to be done, we have studies from the National Institute of Occupational Safety and Health and the National Academy of Sciences that conclude that musculoskeletal disorders can be reduced and prevented through ergonomic intervention in the workplace.

The evidence is comprehensive and clear this request for more research is a weak attempt to stall the adoption of safe ergonomic conditions for our hard-working laborers. We already know what must be done to provide our workforce with safe working conditions and we therefore owe it to every American worker to vote against this bill, H.R. 987.

Mr. HOLT. Mr. Chairman, I oppose H.R. 987, the Workplace Preservation Act.

The human body is a complicated machine. There is a lot we are still learning about the body, how it works, and how to protect it. Far be it for me as a scientist to say that we should avoid studies to get the facts. I expect, in fact, that we will learn a lot about the human body and how to take care of it in the workplace for decades to come.

But several of my colleagues here have talked about the unpredictability of workplace injuries. They may not be sure why they have back problems or other injuries. Well, in fact that is the point. Because the human body is so complicated, in many cases, it is difficult to determine the cause of an individual musculoskeletal disorder.

If we could identify the cause of injury in each case, we could rely on the employer's altruism or self-interest or worker's comp findings or even the threat of a lawsuit to see that each individual threatening situation was taken care of. But it is in just such circumstances where we have statistical evidence about this complicated machine that we need the kind of general regulations and protections that OSHA provides. We want to continue the effort to obtain the best evidence, but that is not a reason to delay providing guidelines.

There is now concrete evidence. There are clear relationships between occupational assignments and musculoskeletal injuries. See the National Research Council, National Academy report and the NIOSH report. There are clear techniques and equipment for reducing injury or, as the National Academy says, specific interventions.

Ergonomic guidelines are not antibusiness. There are hundreds of outstanding businesses around the country that are working on ergonomic solutions and applying ergonomic remedies. There is an industry total of something like $20 billion a year lost due to ergonomic injuries. And we have to remember there are hundreds of thousands of people who are not able to pick up and hug their children due to ergonomic injuries.

So what we need, of course, are good studies and good facts, and I hope we will continue to get them. But we have now enough knowledge about specific interventions in the workplace that will help reduce this cost to our economy and, more important, will reduce this harm and pain and suffering to individuals. We don't need political delay.

Congress should vote against H.R. 987.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to express my opposition to the passage of H.R. 987, the Workplace Preservation Act.

H.R. 987 requires the Secretary of Labor to wait for completion of a National Academy of Sciences study before issuing regulations creating standards or guidelines for ergonomics in the workplace.

This delay is unnecessary. Scientific literature supported by safety and health experts already shows that workplace factors cause musculoskeletal disorders. The National Academy of Sciences and National Institute for Occupational Safety and Environmental Medicine have clearly demonstrated a relationship between ergonomic problems and the onset of musculoskeletal disorders.

The American College of Occupational and Environmental Medicine has confirmed that ''there is an adequate scientific foundation for OSHA to proceed . . . and no reason for OSHA to delay the rulemaking process while the National Academy of Science panel conducts its review.''

Duplicative studies are doing nothing to prevent injuries already being suffered by millions of workers in all sectors of society: nurses, meatpackers, cashiers, computer users, and construction workers. Since 1995 the implementation of ergonomic guidelines have been repeatedly blocked, and this opposition has resulted in over 6 million workers suffering preventable injuries. Workers' compensation costs have totaled $20 billion annually.

Further delay will be even more costly to industries as well as to workers. Clearly, we cannot afford to wait any longer for the issuance of workplace standards on ergonomics.

For the health and safety of America's workers, I urge my colleagues to vote against the passage of H.R. 987.

Mr. PACKARD. Mr. Chairman, I would like to express my support for H.R. 987, The Workplace Preservation Act. This legislation will block proposed OSHA rules regarding ergonomic injuries until a scientific study comparing work place conditions and repetitive stress injuries is complete.

It is estimated that if the OSHA rules are put into effect, it could cost American businesses an extra $3.5 billion per year. H.R. 987 simply allows for the completion of the study by the National Academy of Sciences, which is expected in the next year, to discover if in fact there is a link between repetitive stress injuries and work conditions. Completing this study before implementing this costly regulation is simply common sense.

The fact is, these regulations could cost our country billions of dollars without guaranteeing the prevention of a single injury. Small business is the engine which drives our economy. We owe more to small business owners than to blindly allow implementation of these potentially devastating regulations. We must correct this proposed federal rule.

Mr. Chairman, I agree American workers should have the best working conditions. However, I do not believe we are moving forward to prevent work place injuries by initiating rules that may not even address the problem. I urge my colleagues to support the further examination of these regulations by voting in favor of H.R. 987.

Mr. STARK. Mr. Chairman, I oppose H.R. 987, the Workplace Preservation Act.

This legislation would prevent the Occupational Safety and Health Administration (OSHA) from promulgating a desperately needed rule on ergonomics. H.R. 987 will needlessly subject hundreds of thousands of workers to occupational injuries while yet another study is completed.

Repetitive injuries are one of the leading causes of work-related illness. More than 647,000 Americans suffer serious injuries and illnesses due to musculoskeletal disorders, costing businesses $15 to $20 billion annually in workers' compensation costs. Total costs of these injuries are estimated at $60 billion a year.

Ergonomics is the science of fitting the job physically to a worker—for example, by altering chairs, adjusting the speed of an assembly line, or using special braces to ease back strain from lifting heavy loads. A federal ergonomics standard is needed to protect American workers from those organizations who refuse to protect their employees. Unfortunately, the majority leadership would rather kowtow to industry and delay promulgation of an inevitable standard.

For the past several years, OSHA has been working toward the implementation of a regulation designed to reduce workplace injuries attributable to ergonomic factors in the workplace. OSHA has advanced a draft proposal that would provide an urgently needed health and safety standard for working Americans. The proposal draws from the businesses that have successfully prevented ergonomic injuries or reduced their severity in the workplace.

The issue of ergonomics and its impact on workplace injuries has been studied. It has been documented that ergonomics prevent workplace injuries. For example, in 1997, the National Institute of Occupational Safety and Health produced a study demonstrating the validity of the science underlying an ergonomics standard. A 1998 review by the National Academy of Sciences also found that musculoskeletal disorders in workers are caused by ergonomic hazards in the workplace.

A nursing home in Maine implemented ergonomics changes in the workplace. The nursing home cut their number of lost workdays from 573 in 1991 to 12 in 1996 by investing $60,000 on patient lifting devices and instituting a policy banning the lifting of patients unless there was more than one worker present to assist. This saved the employer more than $730,000 annually in workers' compensation premiums as a result of this policy. This nursing home provides a clear example of the potential benefits of a uniform ergonomics standard.

Despite the multiple studies already completed, the FY 1999 Labor, Health and Human Services Appropriations Act provided $890,000 for the National Academy of Sciences (NAS) to review the scientific literature on the issue of work-related musculoskeletal disorders. The study was expected to take at least 24 months to complete. However, on October 19, 19998, Appropriations Chairman BOB LIVINGSTON and Ranking Democrat DAVID OBEY assured Labor Secretary Alexis Herman in a letter that ''by funding the NAS study, it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.''

Unfortunately, nine months later, the Republicans have broken their promise. This bill requires OSHA to delay its work until yet another government study is concluded. The facts are clear—providing guidance to employers and employees on ergonomics will prevent tens of thousands of injuries, alleviate considerable human suffering, and save billions of dollars.

We should not have to wait for completion of yet another study to tell us what we already know. We must defeat H.R. 987. I urge my colleagues to join me in opposing H.R. 987.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for 2 hours and is considered read.

The text of H.R. 987 is as follows:

H.R. 987

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 ''Workplace Preservation Act''.

SEC. 2. FINDINGS.

(a) Congress finds the following:

(1) The Department of Labor, Occupational Safety and Health Administration (OSHA) has announced that it plans to propose regulations during 1999 to regulate ''ergonomics'' in the workplace. A draft of OSHA's ergonomics regulation became available in January 1999.

(2) A July, 1997, report by the National Institute for Occupational Safety and Health (NIOSH) reviewing epidemiological studies that have been conducted of ''work related musculoskeletal disorders of the neck, upper extremity, and low back'' showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions. Such characterization would be necessary to write an efficient and effective regulation.

(3) An August 1998, workshop on ''work related musculoskeletal injuries'' held by the National Academy of Sciences also reviewed existing research on musculoskeletal disorders. It also showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions.

(4) The risk of OSHA imposing a ''solution'' to ailments and disorders that are grouped as ''repetitive stress injuries'' and ''musculoskeletal disorders'' before sufficient information about the diagnosis, causes, and prevention of such injuries and disorders is shown by the fact that such disorders have often increased in workplaces and industries in which OSHA has focused ergonomics-related enforcement actions under the General Duty Clause of the Occupational Safety and Health Act, while such disorders have been decreasing in workplaces generally.

(5) In October, 1998, Congress and the President agreed upon a comprehensive study by the National Academy of Science of the medical and scientific evidence regarding musculoskeletal disorders. The study is intended to evaluate the basic questions about diagnosis and causes of such disorders. Given the level of uncertainty and dispute about these basic questions, and Congress' intention that they be addressed in a comprehensive study

by the National Academy of Science, it is premature for OSHA to decide that a regulation on ergonomics is necessary or appropriate to improving workers' health and safety before such study is completed.

(6) The estimated costs of OSHA's proposed ergonomics regulation range from OSHA's low national estimate of $20,000,000,000 to some single industry costs of $18,000,000,000 to $30,000,000,000. Any regulation with this potential impact on the Nation's economy merits a sound scientific and medical foundation.

SEC. 3. DELAY OF STANDARD OR GUIDELINE.

The Secretary of Labor, acting through the Occupational Safety and Health Administration, may not promulgate or issue any standard or guideline on ergonomics until the National Academy of Sciences—

(1) completes a peer-reviewed scientific study of the available evidence examining a cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders or repetitive stress injuries; and

(2) submits to Congress a report setting forth the findings resulting from such study.

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

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.

Are there any amendments to the bill?

Mrs. CLAYTON. Mr. Chairman, I move to strike the last word.

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

Mrs. CLAYTON. Mr. Chairman, I rise to speak in strong opposition against the Workplace Preservation Act. I do that with recognition that what we did in the appropriation bill last time when we indeed funded $890,000 for a study to be completed by the National Academy of Sciences was the right thing to do.

Mr. Chairman, I think the question is, why is this bill needed? Why is this act needed? Assuming the very best intention, the sponsors of this bill say this act is needed because we have a study that is in progress, a study that indeed would give us additional scientific information as to how best to respond to the illness caused by repetitive motion. I support that study. I think we ought to go forward and complete that study.

But that reason is so faulty on its premise. Why delay the issuing of higher standards before you get that? You do not do that with cancer, you do not do that with AIDS, you do not do that with any other illness. You work with the scientific knowledge you have, because you want to alleviate the illness there may be.

□ 2000

In fact, if this study is completed, and I hope it is, and I think it will give us valuable information, it would supplement what is already there.

By the way, in 1998 I think the gentleman from New York (Mr. OWENS) put it poignantly. In 1996 there was a study. Again in 1998, the year we passed this bill, there was a study that showed a direct relationship, a cause factor, between the illness suffered and the repetitive motion.

So there is not any question that indeed there is evidence, scientific evidence.

Now do we need more studies? Of course we do. Even after the next study is completed, if we are true to trying to relieve this illness, we will always have to do diligent, frugal and always doing the kind of research that will allow us to gain the best scientific method.

I say we should really be about protecting our workers with the current science we have now as we seek additional science. They are not in contradiction with each other. This is only a stalling tactic, to use it as a reason to do nothing. We should not see this as a reason to stall; we should see this as a reason to look forward for additional information that gives us additional ways in which we can respond to the workers.

So I urge our colleagues to understand that this study completion does not deny and should not prevent us from having enough scientific data to go into the workplace and say we need to raise these standards, and if we get additional information, as I hope we will, we will have the courage again to say that we need to refine that.

Consider also there are already companies not waiting for these studies. They are doing it on their own. Why? Because they want to protect their workers. They also want to have a more productive workforce.

In my district alone, I know many of the workers compensation claims I get from workers are related to repeated motion, and those people are suffering severely. They are not producing for their workers, and they are certainly not producing for themselves.

So this bill needs to be defeated. It is flawed in its logic, and it is only a stalling tactic that should be recognized for what it is. We should be protecting the workers with the clear, scientific data we have in hand, and there is sufficient scientific data to know.

In fact, I heard one of my colleagues say that there have been thousands of studies, and this is not something new. This is something that will be evolving as we go forward, and to use this as a tactic to not do anything clearly is seen by the workers as a way of not respecting their rights, and I think we do a dishonor.

We indeed support this. I urge a defeat of the Workplace Preservation Act.

Mrs. NORTHUP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, tonight, as we consider this bill, I think it is important that we consider the consequences that the bill will have. I think it is interesting that the bill is called the Workplace Protection Act, and I would just like to point out that maybe what we are really doing by passing this bill is protecting the jobs that we have in the workplace today.

The truth is that we all know that we are in an international competition in that we are working hard to make sure that our jobs stay here in the United States, and so every time we consider the costs that are involved in jobs, we have to consider that what government does may create such high costs that we drive additional good jobs, good jobs for working men and women, overseas.

As we look at workers compensation, it is a very delicate balance that we have designed the workers compensation program for. We are trying to balance the very important aspect of protecting workers who are injured on the job, to provide for their medical expenses, to pay them a portion of their missed wages and to help them get back to work as quickly as they possibly can.

At the same time we are eager not to just write a blank check because the Congress does not write the blank check; the workplace writes the check for paying for these workers' costs, and so if we drive workers compensation costs higher and higher, if we begin to incur a super amount of costs that have not been paid for in the past, what we really do is encourage our companies to finally realize that, if they are going to compete internationally, that they are going to have to move these workplaces overseas in order to avoid an absolutely unassumable cost.

Mr. Chairman, we know that the human body wears out. All of us that have moms and dads know today that they are getting hip replacements; they are getting knee replacement operations. As my colleagues know, I myself after fixing dinner for years for a family of 6 children find that slicing up food has caused my thumb joint to wear out. The fact is who can say whether it is that or the fact that I sit at a desk now and write that has caused that thumb joint to wear out.

So, Mr. Chairman, before we enact huge new costs on the workplace, a workplace that might steal away our best jobs, we ought to have the science to figure out whether or not these are work induced, what we can do to prevent them and make sure that we do not create an enormous cost that take away our good jobs.

As my colleagues know, the truth is today that Congress could pass workers compensation laws that would cover everything. We could cover employees that get sick and miss a day because they caught a cold or caught a virus or the flu at work. We could cover everything for our workers, and all of us who care about workers would like to do

that. But if in doing that we caused some of our best jobs to leave this country so that they could continue to be competitive, we would create the worst for our workers.

Secondly, the effect we have is that we supersede all State laws here. What we do is we not only say this is a new standard, not only do we say this has to be prevented, but we say all workers who have an injury and suffer an injury get super benefits over and above any other benefits that are established in State laws today.

We would say they get a hundred percent of their weekly pay; we say that this has to continue for 6 months, and so all the State programs right now that are designed in a way to help the worker and the employer have the incentive to get the worker back to work so that they can have the best resolution of this and they can have the opportunity to get back to work, all of that is lost.

It creates an incentive for every worker, no matter what the particular cause is, to see to it that their injury would fall under the repetitive motion scheme so that they would get more than anybody else in their workplace that would have an injury under any other scheme. We take away all of the ways that workers compensation has been designed to fairly meet workers' needs and workers' compensations for injuries and instead drive everybody into this new super-sized scheme for paying for injuries.

I am sorry tonight that this debate has been framed as a debate about pro workers or against workers because I believe that everybody here in this Congress wants workers to have the best. They want our American workers to have their good jobs, and they want them to stay in this country, and they want the workers compensation to be affordable.

Let us vote yes on this bill and continue this.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

I rise in opposition to this legislation. I appreciate the speech just given by the gentlewoman, except this is a little different than the problem she outlined. This is about preventing the injuries to those workers. This is about the fact that if we do this right, those workers will not have to go on workers comp, their employers will not have to pay their health costs, they will not have to pay their compensation costs, and people can stay on the job, and they can feed their families and provide the wherewithal for their children. That is what this legislation is about.

To suggest somehow that what we need is one more study, we need good science. The opposition to this legislation is not about good science; it is not about one more study. It is about a flat out opposition to the imposition of these rules and regulations to try to protect workers from musculoskeletal syndrome, and the purpose of that is this, that we can keep people on the job where they can remain productive.

Now to listen to the Republican argument here simply we must suspend reality, we must suspend the reality of what every Member of Congress experiences when they fly back to their districts, and that is the number of flight attendants and others who are working on the airplane, delivering meals, taking care of us while we are there, who are wearing wrist braces, elbow braces, tendon braces, all the rest of it because of repetitive motion. The redesign of the carts on the airplanes because of repetitive motion, the baggage handlers and others because of repetitive motion who are wearing belts and back supports and all those kinds of activities because of repetitive motion because they understand that if they do not do that, they are going to end up disabled, they are going to end up with health care costs, and they are going to end up out of work, and their employer understands that.

Suspend reality when going into the Home Depot, suspend reality when going into the Price Club or into Costco where we see people engaged in repetitive motion, who are wearing the kinds of preventive apparatus on their backs, on their arms and the rest of it so that they will not lose the working hours; they will not lose that kind of income. Again, their employers understand that, their insurers understand that, and they require that to be part of the workplace.

Mr. Chairman, that is what this legislation is really about. It is about the recognition of the reality of the workplace and what we can now do, what we have the ability to do, and what we know from a medical/scientific standpoint will help prevent these kinds of injuries, injuries that plague hundreds of thousands of workers a year who are disabled and lose income, employers who lose the productivity of those workers, who have to train and retrain new people, who have to go out and find replacements for those individuals. That is what this legislation is about. It is not about one more study. We have peer reviewed the evidence here until we are blue in the face. We have provided the studies, and it has been going on and on and on.

As somebody mentioned earlier, it was originally Elizabeth Dole who said the time has come now to deal with this problem because of the injuries that were occurring in the workplace. We see this being responded to where we redesign keyboards or structuring for the keyboard that will not induce the kind of pain for people who have to work at it all the time at the checkout counters in the supermarket. We are redesigning the checkout counter so that people, the clerks there, will not suffer these kinds of injuries to their arms and to their elbows as they do their job.

So that is the kind of recognition that we are looking for; that is the kind of remedial activities that can be dealt with that can reduce the cost to the employer, can reduce the cost in the workplace and reduce health care costs.

That is why it is so urgent that we not pass this legislation which is an attempt to obstruct the imposition of this rule, because this is a rule that workers deserve. This is a rule that workers need, that their families need if they are going to be able to continue to be gainfully employed.

The evidence is clear, the science is clear, the health is clear on this measure, and the time has come, the time has come to implement this rule.

We have had statements before from the Committee on Appropriations, as I was saying, that the effort was not to delay this. We now see that this is an effort to delay this because the Republicans believe somehow that if they win the election, they can cut a better deal 18 months from now. Well, the better deal is not for the American workers. It may be for the Republican Party, but it is not for the workers.

This rule ought to be implemented, it ought to go into force and effect, and we ought to start protecting. We ought to start protecting working men and women in this country who exhibit to us every day in the crafts and the trades and in the occupations in which they are employed at, the need for this rule because of the damage that is done to them. This damage is evident on its face, and that is why we ought to deal with this rule.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill. I think OSHA should not be trying to tie down American businesses and the American worker with regulations based on potentially unsound science.

□ 2015

The gentleman from California said we should be doing what is right. Well, Mr. Chairman, how does he know what is right, because what we are wanting is a study, a pure scientific study, not some conjecture, not something that has been cooked up by some politico sitting over in OSHA or the Department of Labor, real science.

The gentleman listed all kinds of wonderful things that are happening for the workers out there. Most of what is happening, in order to work with repetitive action, is happening within the marketplace without regulations.

I am not saying we should not regulate, but we should know what we are doing and have a study and rely on these studies in order to know what we are doing, because if we do not, we end up costing these same workers their jobs.

Last fall, President Clinton agreed with this Congress to authorize a study by the National Academy of Sciences to determine whether there is a need for some ergonomic regulation. I guess to the President and his OSHA, that agreement with this Congress is no

good anymore, that his word is no good anymore.

This study will be done in a year or so. Despite this sincere effort to guarantee that regulations are at least based on sound science, OSHA has decided that it does not want to wait for the scientific findings. Why, do you ask, do they not want to wait? It is amazing to me that the workers or the unions would be against this bill because it is to the benefit of the workers to do what is right and what science dictates.

No, this is a political move by Washington union bosses in order to control the marketplace. That is all this is about. It has nothing to do with protecting the workers, because if they truly wanted to protect the workers, they would want to do it based on sound science.

OSHA wants to regulate as much as it can as soon as possible, and they are planning to do so, in direct contradiction to the will of this body.

Mr. Chairman, burdensome regulations already hinder American businesses and American workers. Too many of these regulations are outdated, they have been unnecessarily oppressive or they are just simply based on trendy but unproven scientific theories of the moment.

It is amazing, when the bureaucrats have taken this approach, and many times are proven to be embarrassed by the approach that they take because in actual practice, the regulations are undermined and proven to be onerous and unproductive.

Irresponsible regulation of this kind hurts American companies and the workers that they employ. Despite the excessive regulatory zeal of OSHA, it should be the policy of the United States to research before we regulate, and this is all that this legislation does, it mandates that OSHA must wait until the ergonomic research is completed by NAS before it starts sticking its fingers deeper into American business.

It is age-old advice, Mr. Chairman, to look before you leap. Likewise, government must research before it regulates.

So, Mr. Chairman, there is simply no consensus in the scientific community regarding the need to implement widespread, oppressive ergonomic policies. No new OSHA regulation should be enforced until conclusive research shows actions should be taken. But that time has not yet come, and I urge my colleagues to vote for this legislation.

Ms. WOOLSEY. Mr. Chairman, I move to strike the last word.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Mrs. FOWLER. Mr. Chairman, ergonomic standards have been delayed enough. I have been here long enough myself to be able to get the pattern and the rhythm of what goes on on the other side of the aisle when they do not agree with scientific studies. When we get scientific answers to studies and that science does not say what they wanted to hear, then they demand more studies, and that is exactly what is happening right now. We know it, they know it, and it is not going to work. We can only delay this so long.

Mr. Chairman, before I came to Congress I was a human resources professional in the electronics manufacturing industry. That was back in the seventies when I first went into that business. And at that time, we understood the problems that were caused by related stress injuries. In fact, it was trendy to take care of our employees and find solutions when we had carpal tunnel syndrome on our assembly floor.

In fact, the company I worked for began to see a large number of repeated stress injuries. And when we figured out that the problems were occurring with one group of workers, we realized that our printed circuit board assemblers were using the same motions repeatedly in order to do their job as efficiently as possible but in inserting electronic components into printed circuit boards, they were causing themselves carpal tunnel syndrome. The company was causing it without knowing it.

In fact, what happened was in hand-inserting components into printed circuit boards, one of the components was just not going in smoothly, and it was the same component over and over, and workers had to use their thumb to push that component into the board.

Well, little by little, you can imagine what started happening to their arm. Now, today, to prevent such injury to employees, most electronic companies have automatic insertion machines. Employees do not even use those same processes, but back then the repeated push with the thumb did result in carpal tunnel syndrome over time.

Well, what I did as the human resources manager for this company was something that I am sure everybody over there would think is pretty darn odd. I called CAL–OSHA and brought them into the company, and they came. They observed the workers carrying out their task. We worked with them as partners and came up with the appropriate solution for our workers, and their symptoms disappeared.

You see, it was important for us, because we were a company that was growing rapidly. And we knew that our workers' injuries would certainly inhibit our growth and we probably would not become what had been our goal, to become a Fortune 300 company, which we did, but it would not have happened without a healthy work force.

The point is that business knew about repetitive stress injuries years and years and years ago. Many employers have stepped up to the challenge to prevent repetitive stress injuries. They worked with OSHA, they worked with their workers comp carriers, because they know that their workers comp costs go up when they have injured workers. So we do not need further studies. Employers and employees will not benefit from further studies, but they will benefit from ergonomic standards.

We already have sound science regarding the problems caused by repetitive motion. The problem, I said it before and I will say it again, the problem appears to be when the Republican majority disagrees with science, they insist on more studies. The problem really should be to put together ergonomic standards to prevent injury in the workplace, to make the workplace safe for our employees, and this bill, H.R. 987, is an inexcusable delay tactic.

This delay tactic benefits no one. It does not benefit business, and it certainly does not benefit workers. I would urge my colleagues to oppose H.R. 987, because a vote against H.R. 987 is a vote for workers.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this legislation. First, I want to commend the gentleman from Missouri (Mr. BLUNT) and the Committee on Education and Workforce, the proper committee of jurisdiction on this issue, for advancing through the normal process this legislation to address ergonomics.

This is an issue that we have examined in Appropriations Committee hearings in recent years, and it is an issue of major concern to both employers and employees. Indeed, through fiscal year 1998, we carried a provision in appropriations law to bar any ergonomics regulation before agreeing in that year that such a bar was better left to consideration by the authorizers.

Mr. Chairman, there are situations where poor workplace ergonomics cause serious injuries that can and should be avoided. Clearly, in modern times, insurers demand risk management of employers, and employers are concerned not only with the health and safety of their workers, but also with the minimizing of the cost burden of injuries and illnesses of their employees on the bottom line. As Director Jeffries of OSHA has testified before our subcommittee on other occasions, such cases are already actionable in many circumstances under the general duty clause.

The issue today is whether the present state of science justifies imposing a prophylactic regulation of broad scope. I think that it does not. And make no mistake about it, the draft proposed regulation is a very broad one. It would apply to any general industry whose employees engage in manufacture or manual handling, and such workplaces would be required to implement a full ergonomics program upon the reporting of a work-related musculoskeletal disorder, notwithstanding the difficulties in determining whether such disorders are in fact work-related.

My own exploration of this issue has left me convinced that such a broad

regulatory approach cannot be justified at this time in light of the state of science, and should not be advanced without further study.

In 1996, after OSHA had already moved forward with stakeholder discussions on a draft ergonomic standard, I asked Dr. Katz, the director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases at the National Institutes of Health if we knew enough scientifically for the Federal Government to be promulgating ergonomic standards.

His response was not yet. He went on to explain that despite extensive study, we are a long way from knowing the best medical management of repetitive motion disorders.

I do not believe the science has moved enough in the intervening years, that is, 2 years, to justify OSHA's draft proposed regulation. I note that the Academy of Orthopedic Surgeons supports this conclusion as well.

At a minimum, the burden of proof should be upon the proponents of broad ergonomics regulation to show that there has been such a dramatic change in the state of science in the past 2 years that a sweeping regulation can be justified. It seems to me that the NAS study provides such a needed check.

Mr. Chairman, this is a major regulatory change and one that should not be undertaken lightly. I think the gentleman from Missouri's legislation adopts a wise approach to the issue, and I urge all Members to support passage of this bill.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

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

Mrs. MALONEY of New York. Mr. Chairman, I am rising really in opposition strongly to H.R. 987. This is a needless delay to give American workers the protection that they need and deserve. Since 1995, this is the fourth delay in 5 years. And each year the standard is delayed, another 650,000 workers will suffer disabling injuries.

In the interest of time, because many of my colleagues want to speak on this subject, I would like to put in the record case studies of constituents who have suffered from this disease and really the success stories of several businesses that have implemented their own ergonomic programs and greatly reduced the repetitive motion injury claims in their companies.

We need to go forward with these OSHA rules. It truly helps businesses too, because these disorders cost employers between $15 billion and $20 billion each year in workers compensation costs.

□ 2030

I would also like to point out that it is very much of a woman's issue. Sixty percent of the claims are women that are in these repetitive typing jobs.

Mr. Chairman, I include for the RECORD information on ergonomics from articles and studies.

The material referred to is as follows:

SUCCESS WITH ERGONOMICS

State: New York, 14th.

Company: The New York Times, New York, NY.

Industry: Newspaper.

Employees: 5,000.

Success Brief: Reduced the number of workers' compensation cases by 84%, cut lost-time cases by 75% and reduced the total days lost by 91%.

THE PROBLEM

In 1991, The New York Times began addressing work-related musculoskeletal disorders (MSDs) informally. By 1992 the company realized it needed to take a more structured approach to reduce the increasing number of MSDs. Many of the newspaper's hardest working and most creative employees were getting hurt.

THE SOLUTION

The newspaper implemented an ergonomics program that included worksite and work-process evaluations, workplace redesign and renovation, training, on-site medical management, ergonomic equipment, a computerized tracking system and an in-house hot line telephone number to address ergonomic concerns and requests. Workstations were redesigned to fit the variety of jobs (graphic designers, reporters, editors) at the newspaper. Management support and employee involvement were key factors to the success of the newspaper's program.

THE IMPACT

Over the four-year period (1992–1996), the company's efforts resulted in an 84% drop in the number of MSD workers' compensation cases, a 75% drop in lost-time case and a 91% decrease in total days lost.

Source: CTD News, January 1998.

ANGELA DIAZ (ILGWU)—NEW YORK, NY, LADIES' GARMENT WORKERS

Angela Diaz has been a seamstress for 25 years.

Now 48, Diaz has suffered with a severe case of carpal tunnel syndrome for seven years.

With help from the ILGWU, she finally has gotten some relief through treatment at the union's Occupational Health Clinic and surgery. The ILGWU also guided Diaz through the maze of applying for workers' compensation; a two-year wait is normal for victims of carpal tunnel syndrome. During that period, most workers lose their health benefits and some must apply for welfare benefits to support their families.

Diaz says her life has been turned upside down. She cannot physically do the work necessary to maintain her home and family, much less the activities she once enjoyed.

SUCCESS WITH ERGONOMICS

State: New York, 8th.

Company: Banker's Trust Co., New York, N.Y.

Industry: Banking and Finance.

Employees: Not available.

Success Brief: Claims tied to ergonomic issues dropped by almost 50% in one year.

THE PROBLEM

With one employee facing her second surgery for carpal tunnel syndrome, Banker's Trust recognized a potential problem early on and decided to implement an ergonomics program. In 1995, the company received more than 100 workers' compensation claims tied to ergonomic issues.

THE SOLUTION

Banker's Trust initiated an ergonomics program in 1993. The company's program focuses on two main issues: acquiring the right equipment and making sure it is used properly. An ergonomics committee, comprised of representatives from all departments, was formed to design new work stations, and a video was created to train staff on proper postures and the correct way to set up one's workstation. Banker's Trust also distributes a workstation safety handout to employees.

THE IMPACT

In one year, Banker's Trust significantly reduced repetitive motion injury claims. In 1995, the bank faced more than 100 claims tied to ergonomic issues, while in 1996 there were only 60 claims. Employee morale has increased, and the company has seen an improvement in its lost workday injury rate.

Source: ''Ergonomics project exemplifies Opferkuch's ambition,'' Business Insurance, April 1997.

ERGONOMICS IS A WOMAN'S ISSUE

Women are Affected Disproportionately. In 1997 women made up 46% of the American workforce and accounted for 33% of all workplace injuries. Yet, in certain jobs such as typing or key entry, they suffered 91% of all repetitive motion injuries. Overall, women experienced 70% of all lost-time cases caused by carpal tunnel syndrome and close to two-thirds of all lost work-time cases caused by tendinitis. A study from Washington State reported that while women submit less than ⅓ of all workers compensation claims in the state, 61% of all claims for Carpal Tunnel Syndrome are submitted by women.

Many Occupations with a Majority of Women Employees are Disproportionately Impacted by Musculoskeletal Disorders (MSDs). For example, women in the health care profession are hard hit by musculoskeletal disorders. Just one profession—Registered nurses, Licensed Practical Nurses, Nurses Aides, and Healthcare Aides—accounted for 12% of all MSDS reported in 1997 according to BLS. A significant number of textile sewing machine operators, data key operators, and secretaries suffer numerous cases of MSDs.

Carpal Tunnel Syndrome is More Prevalent in Female—Dominated Industries. Ninety-one percent of cashiers who suffer from carpal tunnel syndrome are women. Women make up 85% of packagers who experience carpal tunnel syndrome. Female assemblers experience 70% of all cases. Virtually all cases of carpal tunnel syndrome among data-entry keyers, textile sewing machine operators, general office clerks, telephone operators, bank tellers, and typists are experienced by women.

Top Jobs in which women are at risk for MSDs. (1) Nursing Aids and Orderlies; (2) Registered nurses; (3) Assemblers; (4) Cashiers; (5) Miscellaneous Machine Operators; (6) Maid.

Top Jobs in which women are at risk for Carpal Tunnel Syndrome. (1) Assemblers; (2) Secretaries; (3) Miscellaneous machine operators; (4) Data-Entry Keyers; (5) Textile Sewing Machines; (6) Cashier.

Ergonomic-Related Injuries are crippling. According to BLS, workers with Carpal Tunnel Syndrome average more days away from work than workers who suffer amputations, falls, and fractures. Carpal Tunnel Syndrome cases average 25 days away from work; amputations average 18 days. Workers who suffer MSDs may never return to the job or may never be able to handle simple, everyday task such as combing their hair or picking up a baby.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentlewoman from New York for yielding to me.

Mr. Chairman, what we are talking about here is whether or not OSHA should be allowed to go forward with the rules they have established. Proponents of this bill say no, kill it, delay it, do whatever you can, but do not implement it. They use the same excuse or tactic that they have used before, simply to propose yet another study.

The irony here is that the delay would be for 24 months, 2 years. The irony in particular is that the proposed study would merely review existing literature. Even more ironic is the study that they seek to be done, they seek it by the National Academy of Sciences, a group whose studies they rejected when it came time for the Census, because this particular group said the Census should be done with statistical sampling.

Our friends on the other side did not like it then, but now, because they want a delay, they do not want to see the standards go into effect, they cannot wait to put this off and have the National Academy of Sciences do yet another study.

The harm is not just to working men and women, although that harm is severe. The harm is also to businesses. We do not hear that from the other side, but $15 billion to $20 billion a year is going to be spent on workers compensation costs because of workers' injuries.

My small businesses want to know that they can rely on reasonable regulations to help them stop that kind of expenditures. Up to $60 billion is spent every year on these kinds of injuries. The harm to workers, Mr. Chairman, each year more than 600,000 American workers suffer work-related musculoskeletal disorders.

No one champions excessive regulation, but no one can seriously argue that there should be a total absence of oversight, or that that is appropriate. If it is the government's appropriate function to strike a balance for business, for workers, and for consumers, it is especially so, Mr. Chairman, in this particular instance, when good regulation can save business money, can enhance efficiency, as well as save individuals from painful and debilitating injuries.

Mr. Chairman, the standards in this particular instance are limited in scope. They are based on science. There have been, in fact, some 2,000 studies done, and they have been reviewed and reviewed again by peer groups and scientists from all walks. These proposals provide flexibility for each employer to tailor the program to their particular workplace. It covers manufacturing and manual handling operations, which account for about 60 percent of these types of injuries.

Mr. Chairman, the science shows that this is warranted. There is no need to delay it again for yet another study when that in fact has been done. Workers say they need it, and businesses clearly say they see the merits and need these standards.

Mr. Chairman, we have to just listen to what some of these businesses say. 3M said they estimate that because of these efforts since 1993, over 1,000 employees did not develop work-related musculoskeletal disorders, and it resulted in approximately 16,000 fewer lost work days. 3M's experience is that implementing an ergonomics program is effective for reducing the number of work-related musculoskeletal disorders, and additionally, is good business, Mr. Chairman.

Peter Meyer, the human resources director for Sequins International Quality in New York, Mr. Chairman, agrees, as does the General Accounting Office, this is good for business, as well as good for workers.

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on the bill and amendments thereto be limited to 20 minutes, divided equally between myself and the gentleman from Missouri (Mr. CLAY).

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

Mr. CLAY. Reserving the right to object, Mr. Chairman, the gentleman said 20 minutes, 10 on each side?

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

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

Mr. GOODLING. Yes, Mr. Chairman.

Mr. CLAY. I have no objection, Mr. Chairman, and I withdraw my reservation of objection.

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

There was no objection.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. EHLERS).

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

Mr. Chairman, as I mentioned earlier, I am somewhat sympathetic to this because of my experience with a serious back problem, a lumbar laminectomy and carpal tunnel surgery.

At the same time, when I asked where these came from, did they come from the workplace, I am not engaged in heavy lifting, unless I am dealing with heavy issues on the floor; or did it come from my history of driving a 30-foot semi trailer truck when I was younger? Again, the answers are not clear.

My carpal tunnel injury, did it come from repetitive motion? No. I rarely engage in repetitive motion with my hands.

My point simply is that these are very, very complex issues. That is why Congress asked for and provided funding for the National Academy of Sciences study, because of the continuing controversy of the medical and scientific questions relating to ergonomics.

There are other issues here, other than separating out what happens at home, such as what are the effective treatments? For example, I wore wrist splints for my carpal tunnel surgery. Did it help? It turned out to be more important to wear them at night than during the day when I was at work.

I think one of the key factors that we need is education on this issue. As my wife commented to me after I had back surgery, and I studied the problems involved with backs, if we had known all this beforehand, we could have prevented it, and that is exactly true. Preventative medicine is the answer, in many cases. That involves education, it involves accommodation to the problems that individuals have.

Something else I have heard commonly during this debate is the need for sound science. As a scientist, I find this amusing. Sometimes people saying that really means they want science that supports their opinion, rather than really what people mean by sound science.

Nevertheless, we do need that in this case, but also we need a good dose of plain, ordinary common sense in designing regulations and meeting the needs of the workplace, and particularly ensuring that our workers do not suffer. I support the bill, but I also want to make clear, I support efforts to provide proper ergonomic controls in the workplace.

Mr. CLAY. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I rise in strong opposition to this irresponsible legislation, which threatens the health and safety of our Nation's work force.

Each year, Mr. Chairman, more than 650,000 American workers suffer from work-related musculoskeletal disorders, 650,000. That is not just a number. That is working people, our constituents throughout our districts. It is nurses injured while they try to transfer patients from a bed to a wheelchair. It is machinists injured on the job. It is workers throughout our districts.

I can tell my colleagues that these are hardly minor aches and pains, these are serious disabling conditions that have extensive impacts on workers' lives, and are estimated to cost the American public something in the realm of $20 billion a year.

Mr. Chairman, those costs are not just economic. When a mother has carpal tunnel syndrome and cannot lift her child as a result, when a father injures his back on the workplace and cannot play ball with his daughter or son, those are also real impacts. We need to stop those impacts. This legislation would limit our ability to stop those impacts.

People do not just lose time with their families, they lose their jobs. They sometimes become permanently unemployed or are forced to take severe pay cuts. I want to emphasize that as a scientist myself, as a teacher of

the scientific method and as a practicing clinician, I am dogged in demanding a strong peer reviewed science in making important public health decisions.

But my colleagues should know by now that the American Public Health Association, the National Academy of Sciences, the National Institute for Occupational Safety and Health, and the American College of Occupational and Environmental Medicine, have all indicated the strong need for a standard. We have that draft standard. We need to implement it.

This bill is not really about requiring science, because if it were, the people who have introduced it would have supported funding for scientific studies in the past, but in fact they have opposed it.

It is not about science, because common sense tells us if we do the same repetitive motion for 8 hours a day, we are going to injure ourselves. We do not need more science, we need to implement the regulations we have put forward.

There was a time, Mr. Chairman, when in our country workers were considered expendable. If they injured themselves on the job, tough luck, they were dismissed with no compensation, their family lost a breadwinner, they lost mobility, and they simply replaced them with whoever else was willing to work for the cheapest wage in the most dangerous conditions imaginable.

That time was past, but this legislation would like to see us move back. This legislation is wrong.

A very interesting thing just happened on the floor of this House. We saw a negotiation between the two parties, which was good. We said, folks, we are all tired. It has been a long day. It is going to be a long week. We have worked hard. Let us cut this debate a little short so we can go home to our families. I favor that negotiation. I am glad we supported it.

But here is the problem. Working people, men and women in this country who work in unsafe conditions, or where they risk ergonomic injuries, do not always have that opportunity. They cannot go to their boss or their supervisor and say, I am getting injured on this job.

We need to change the conditions. They do not have that right to negotiate, the very negotiation we just conducted here. They are forced to work in situations that injure them. We have an obligation to create standards that protect them from those injuries, to protect the mothers, fathers, and the working people throughout this country.

I urge my colleagues to vote no on this anti-worker, anti-safety, anti-family legislation.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BALLENGER).

Mr. BALLENGER. Mr. Chairman, my subcommittee had several hearings with specialists in these fields. This is what the experts said.

For example, Dr. Morton Kasden, a clinical professor of surgery at the University of Louisville, testified that ''There is a lack of scientific evidence that using our hands repetitively causes so-called cumulative trauma.''

A quote on the chart from Dr. Stanley Bigos, professor of orthopedics at the University of Washington:

> We cannot provide a universal mandate without knowing specific dimensions that might work. How high should the bench be? How tall is too tall and too short? What about differences in age?

Who will all of a sudden determine, without data, what is right or wrong, legal or illegal, borderline or punishable? From whose pockets will the costs come? As usual, they will probably come from the employees take-home pay. Do not be confused by those who want to oversimplify the model of the human body. Usually the human body does not mean you wear it out. Discomfort from spring gardening and spring training is not caused by damage but deconditioning of the winter rest.

Dr. Howard Sandler, a former medical officer with NIOSH and a consultant to OSHA, said

> Considerable interest and concern has been focused on the relationship between work and musculoskeletal disorders. At the present time, the risk factors, their interactions and their thresholds for causing effects have not been sufficiently identified. Once this information is established, risk can be effectively predicted and appropriate preventive actions can be instituted across a wide range of business and industry. Research presently underway should help to establish the scientific data which is currently lacking.

Finally, on the chart, Dr. Morton Hadler, who is from the University of North Carolina:

> Any attempt to construct an ergonomic standard as a remedy for regional musculoskeletal injuries in the workplace is not just premature, it is likely to be counterproductive in its application and enforcement.

Finally, Dr. Michael Vender, who is with the American Society of Surgery of the Hand: ''With our present level of understanding, we cannot distinguish between on-the-job or off-the-job activities because the quantitative relationships'' are bad. This proves that we need a complete study.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Chairman, the following informational items can contribute greatly to the lifting of the veil of confusion being promulgated by the Republican majority.

I am also submitting examples of victims of ergonomic disorders and examples of business owners in establishing their own ergonomic standards.

Truth is on the side of the American working families.

The material referred to is as follows:

MISLEADING MYTHS ON ERGONOMICS

Myth: There is no sound science tying musculoskeletal disorders to work.

Fact: There is a tremendous wealth of solid, scientific evidence linking musculoskeletal disorders and work. NIOSH evaluated 600 of 2,000 studies available in 1997 and the National Academy of Sciences surveyed the literature in 1998. The academy concluded there is compelling evidence that reducing physical stress on the job reduces the risk of injuries.

Myth: There is no need to act until we know exactly how many repetitions produce injuries.

Fact: We don't know how many cigarettes someone must smoke before developing cancer—individuals vary—but we do know smoking significantly increases cancer risk. The same is true with awkward postures, repetitive motion, heavy lifting and forceful exertions. Reducing these risk can prevent work-related musculoskeletal disorders.

Myth: Medical professionals disagree about the need for ergonomics regulations.

Fact: Most of the medical community has strongly encouraged OSHA to act without further delay in promulgating a proposed ergonomics program rule. This includes the American College of Occupational and Environmental Medicine, the American Academy of Orthopaedic Surgeons, the American Association of Occupational Health Nurses, the American Nurses Association and the American Public Health Association.

Myth: A new NAS study will produce definitive conclusions supporting/dismissing the need for an OSHA ergonomics standard.

Fact: Another review of the literature will not produce any new information and is most likely to replicate the findings and conclusions of the earlier NIOSH and NAS evaluations, which critics refused to accept as definitive. And those who are adamantly opposed to an OSHA ergonomics standard have declined to commit themselves to support the findings of the second NAS review, whatever they may be.

Myth: Work-related musculoskeletal disorders are decreasing; therefore, there is no need for an OSHA ergonomics standard.

Fact: All workplace injuries and illnesses are declining—that's great news. Repetitive motion injuries, as they are reported on the OSHA 200 Log, constitute a small portion of these injuries—just 4 percent. However, when these injuries are combined with back injuries that are due to repetitive motions or overexertion, they account for over one-third of lost workday injuries and illnesses. An OSHA standard would help protect the more than 600,000 workers who suffer serious and potentially disabling work-related musculoskeletal disorders each year.

Myth: There is no proof that ergonomics programs reduce injuries.

Fact: There are many examples of companies that have established ergonomic programs, reduced injuries, cut costs and increased productivity and employee morale. Hundreds of stakeholders have shared their successes with OSHA in stakeholder meetings and best practices ergonomics conferences.

Myth: An OSHA ergonomics standard will be extremely costly for businesses.

Fact: Today, U.S. businesses are spending $15 to $20 billion each year in workers' compensation costs alone for work-related musculoskeletal disorders. As employers fix ergonomic problems in line with their ergonomic programs, injuries—and costs—will decline. Ergonomics programs ultimately save money—for everyone. Good ergonomics is good economics.

SUCCESS WITH ERGONOMICS

State: New York, 8th; Company: King Kullen Grocery, New York; Industry: Retail

grocery; Employees: 4,500; Success Brief: Over four years, reduced workers' compensation claims from 21 to 5.

THE PROBLEM

In 1992, King Kullen faced a rising rate of carpal tunnel syndrome (CTS) among its cashiers. The company attributed the increase in CTS cases to the checkout scanners introduced in their stores in the late 1980s.

THE SOLUTION

The company implemented a comprehensive ergonomics program. King Kullen modified its checkout stations and scanners to reduce lifting and twisting motions. The company's medical management program ensured immediate care and treatment to employees who were experiencing problems on the job. Employees also received training on the causes and symptoms of work-related musculoskeletal disorders (MSDs) and on good work practices.

THE IMPACT

Over a four-year period, workers' compensation claims for MSDs dropped from 21 to 5. Source: ''Keeping Grocery Checkout Lines Moving,'' Risk Management, January 1998.

Angela Diaz (ILGWU), New York, NY; Ladies Garment Workers.

Angela Diaz has been a seamstress for 25 years.

Now 48, Diaz has suffered with a severe case of carpal tunnel syndrome for seven years.

With help from the ILGWU, she finally has gotten some relief through treatment at the union's Occupational Health Clinic and surgery. The ILGWU also guided Diaz through the maze of applying for workers' compensation; a two-year wait is normal for victims of carpal tunnel syndrome. During that period, most workers lost their health benefits and some must apply for welfare benefits to support their families.

Diaz says here life has been turned upside down. She cannot physically do the work necessary to maintain her home and family, much less the activities she once enjoyed.

Nadine Brown (USWA Local 1753), Buffalo, NY; FEDCO Automotive.

Nadine works for FEDCO Automotive Components Company, Inc. of Buffalo, a manufacturer of heat exchangers for the automotive industry. She has worked at FEDCO for ten years. For the past five years, Nadine has worked lifting heater cores that weigh at least 2–4 pounds onto an assembly line. Each day, Nadine lifts between 4,000 and 6,000 heater cores. She gets 2 fifteen minute breaks a day, plus a half hour for lunch. Last August Nadine underwent surgery to relieve the pain in her hand caused by carpal tunnel syndrome.

The pain in her hand started several years ago. It made it difficult to grip things, to drive and to fix her children's hair. She went to the company doctor, who referred her to a specialist. He told her she needed surgery. Nadine spent about four months recovering from the surgery and returned back to work in the same job. No adjustments have been made, so she is doing the exact same work now that caused her injury. Several other people in the company have had surgery for similar injuries.

Lorraine Baker (USWA), Solvay, NY; Landis Plastics.

Lorraine was injured on the job and was diagnosed with bilateral carpal tunnel in 1996.

Lorraine found out that she had been fired when she tried to use her insurance for her daughter and was told that it had been canceled even though she continued to make her weekly co-payments to her employer.

She was forced to file a lawsuit in Federal Court before her employer would reinstate her and her insurance. In 1997 the company's doctors agreed that she did in fact have bilateral carpal tunnel but they said that it didn't happen at work. Her compensation was reduce by 50 percent and would not approve the surgery that two orthopedic surgeons recommended. Her attorney was seeking an expedited hearing with the Workers' Compensation Board.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, let me first of all commend the chairman of the Committee on Education and the Workforce for bringing this commonsense legislation to the floor today. This really is common sense.

One thing we can all agree on in this Chamber, all 435 of us, is we do not want to have workplace injuries. We want to eliminate them. We want to minimize them. We all agree on that. The debate is where we want power and the influence to control that.

My friends on the other side believe Washington knows the answer. The more power we can bring to Washington, the better it is for the Washington bureaucracy, and also for the benefit of organized labor. Those of us on this side of the aisle believe it belongs to business and State and local regulations. It does not belong in Washington. Washington does not know all the answers.

I am a former small business man. Before I entered Congress, I served for 19 years in family businesses back in Florida. We were highly motivated in our business to keep workplace injuries to a minimum. First of all, it is the right thing to do. You do not want to see your friends and employees hurt. But workmens compensation insurance was so expensive you were highly motivated to keep injuries at a minimum, because it made economic sense, because it affected your bottom line by not having people injured. So you were motivated to have people trained to avoid injuries, lifting injuries or hand injuries and such.

The other reason you are motivated is that you do not want to have your employees lose work. You have a trained employee and that is a valuable asset. The last thing you want to do is have that person hurt and miss work. So employers are motivated to minimize those injuries, just like the government thinks they can decide it up here in Washington. This regulation is common sense. This says, let science address the issue.

The other question that is unanswered, besides science, is cost. I know OSHA says, Oh, it is only $3.5 billion a year on business. That is costing jobs, $3.5 billion, and that is a ball park estimate. Other estimates are in the tens of billions of dollars a year. That is like a tax on small business.

This makes common sense. Let us wait for science to give us some answers.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Chairman, I have been an elected official for 17 years, and never in those 17 years have I voted against the working people of the country. I rise today in opposition to this bill. This is another attempt by the Republicans to trample upon the rights of the American workers.

Working men and women are the backbone of this country. As usual, this Republican bill ignores the problems of worker safety.

□ 2045

It is the working men and women who have built up this country, and the Republicans would rather conduct a study than take real action to protect these men and women. Work-related injuries are a critical problem that affect more than 600,000 workers each year.

OSHA is finally moving forward to develop a standard to prevent unnecessary injuries, and this bill would only cause those workers more pain.

I urge my colleagues to stand up for the working men and women and vote ''no'' on this bill.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. FLETCHER), a member of the committee.

Mr. FLETCHER. Mr. Chairman, I rise to speak in support of the bill, and I certainly thank the gentleman from Missouri (Mr. BLUNT) and the gentleman from Pennsylvania (Mr. GOODLING), the committee chairman, for their work to ensure that we make sure that we evaluate fully what we are doing before we begin to promulgate regulations that can have extensive effects upon the workers, the workplace, and job availability.

I think we all agree on both sides of the aisle that paramount in our concern is worker safety, making sure that we have the kind of jobs that are needed, that are safe jobs, that folks do have the kind of protections that they need so that they do not have injury, permanent injury and problems that will affect their livelihood and their families.

But when we look at past history of OSHA, sometimes they promulgated regulations that really do not make a whole lot of sense. Let me give my colleagues just one simple illustration of what they do in a physician's office.

I generally keep a cup of coffee sitting right on the counter, so that when I come out from seeing a patient, I just grab it and get a sip of coffee. But OSHA passed a regulation that, because I have got a microscope right there on the counter, and I do some urinalysis on it, that somehow this is a major safety hazard, and this is against the law for me to have that cup of coffee setting there because it may be a detriment to my health.

I think it is clearly that, many times, regulations are promulgated

that are not fully thought out, that have not been investigated thoroughly.

We have certainly petitioned, the Congress has, a study by the National Academy of Sciences to study this. We have allocated almost $1 million of taxpayers' money so that they can do this study so that we can hopefully resolve the conflict.

We find physicians in medical organizations on both sides of this issue. Clearly it is not resolved. Musculoskeletal disorders are very complicated disorders. There are folks that have opinions on both sides.

I think it is paramount and very necessary that we make sure that we have definitive studies, a review of studies by an organization of the National Academy of Sciences. Then we can promulgate the regulations that are necessary to ensure the safety, ensure that we do things properly, right, and do not do some ridiculous things that OSHA has a history of doing in the past.

I encourage my colleagues to vote for this bill.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

Mr. Chairman, I rise to raise an enormous and strong opposition to H.R. 987. Mr. Chairman, just a few weeks ago, I visited a factory in my district that was about to close. As I was walking through, I inquired of those who were there, the working people of America, ''How long have you been at this plant, using your hands, and putting things together?'' Forty years, 25 years, 18 years. The working people of America are committed to their work.

This is a horrific bill that takes away the respect and the humanity and the dignity of working men and women. It says to them we do not care about their injuries. We do not care about the fact that they need to work to provide for their family. If they get hurt, there will be no regulations. We will just throw them out the door.

OSHA has worked yesterday, it works today, and it will work tomorrow. Any time we start hearing people talking about putting in a study on working people's rights, we know what they are trying to do. Cast them aside.

H.R. 987 does not address the question of the commitment of working men and women to their positions. It is a bad bill. It should be defeated.

Mr. CLAY. Mr. Chairman, I yield 4½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I am observing this debate in somewhat disbelief. About 25, 30 years ago, when I was a young lawyer just starting to practice law in North Carolina, I tried the first carpal tunnel syndrome case under the North Carolina workers compensation law. Ever since that time, in North Carolina, carpal tunnel has been recognized as a compensable workers compensation injury in North Carolina.

It comes as a substantial surprise to me that my colleagues who say that they are using the States as laboratories on many issues are now back here 25 or 30 years later questioning whether carpal tunnel and other ergonomic injuries are even workplace injuries.

It strikes me that, if a number of people were getting sick in a plant, and we did not know exactly the best way to solve the problem of keeping them from getting sick, maybe we should write some regulations and not pass any kind of safety rules to address the situation in the interim. That is what my Republican colleagues seem to be suggesting here.

I am not opposed to the study that is being done. But what I do wonder is, what happens between now and the time the study is completed. Why should the American workers not be protected when we know that they are walking into these workplace situations, engaging in repetitive motion activities, developing carpal tunnel syndrome and other kinds of ergonomic injuries; and we should just turn around and walk away and pretend that this is not happening.

This is an unbelievable, unreal debate that we are having here on this bill. It is like we want the perfect to be the enemy of the good. Because the department had not written the perfect set of regulations to deal with this issue, we want to delay any kind of regulations when we know full well that these injuries are caused by repetitive motion and workplace conditions.

This is an unreal debate that can only be engaged in in a Congress that has no acknowledgment of the rights of working people. Over 650,000 workers were injured last year by repetitive motion and ergonomic-related injuries. The bulk of those were women who sit at a desk or do some repetitive motion kind of activity, and they do it over and over and over again. We are going to penalize those people trying to say that we ought to hold off on writing any kind of regulations until we can get a perfect set of regulations.

We can revise a regulation at any point in the process. It is not a big deal. We revise regulations all the time in the Federal Government. So what is the problem with putting some regulations in place, operating under those, allowing the study to be completed, and then, if necessary, in response to that study, revising the regulations to make them better?

We cannot afford in this situation to let the perfect be the enemy of the good. I urge my colleagues not to engage in this unbelievable kind of activity and slam against the working people of this country to vote against this bill and let us get on with some real business of the country.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. TALENT), a valued member of our committee and the chairman of the Committee on Small Business.

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

Mr. Chairman, we have had discussion on the floor of the House tonight about this regulation having taken 8 years, 9 years, 12 years. We do not know how long OSHA has been working on this. Does that not tell us something about the process?

It has taken a long time. Because OSHA sits like this great brooding planning agency, planning for everybody in America, trying to shove down the throats of small business people a regulation that will hurt them, that will hurt their employees, and will accomplish nothing. The small business community is not going to take that anymore.

It is exactly to prevent this kind of thing that the Congress passed SBREFA 3 years ago, the Small Business Regulatory Enforcement Fairness Act. What we said to the agencies of the Federal Government is, Look, we do not want you to hurt small business people while accomplishing nothing. So listen to them. Tell them what you are going to do and listen. Do not discount what they are telling you. Make adjustments in the regulation. Work in partnership with them because they want worker safety. They are not out to hurt their people.

OSHA has over and over and over again with this regulation and so many others systematically and deliberately overestimated the benefits of it, underestimated the costs, and tried to pass vague regulations that nobody understands and push it down the throats of America's small businesses; and they are not taking it, and that is why this is taking so long.

In March, the Small Business Advocacy Review Panel met and said that OSHA has underestimated the costs of this regulation by a factor of 4 to 10 times on America's small business people. A dentist, a lady came and said, Look, it is going to cost me $5,000 just to determine the extent to which I am covered by this regulation.

OSHA says, Well, we do not take into account costs like that because they are indirect. We do not figure out the costs that people are going to have to incur to determine whether or not they are covered. We are not going to change the regulation to accommodate people like you.

That is why we are here year after year after year. That is what this bill is trying to address.

Mr. Chairman, look, it is time to stop treating America's small business people like they were the enemies of their workers, like they were the enemies of the public interest. They want worker safety. Let us work in partnership with them. Develop a regulation based on good science; that is what this bill is about.

The CHAIRMAN. All time for debate has expired. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MILLER of Florida) having assumed the Chair, Mr. SHIMKUS, 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. 987) to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard or guideline on ergonomics, pursuant to House Resolution 271, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

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.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. CLAY. 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 217, nays 209, not voting 8, as follows:

[Roll No. 366]

YEAS—217

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Biggert
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fletcher
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
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
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—209

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

NOT VOTING—8

Bilbray
Jefferson
Lantos
McDermott
Metcalf
Mollohan
Peterson (PA)
Thompson (MS)

☐ 2121

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. 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. 987, the Workplace Preservation Act.

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

There was no objection.

REPORT ON H.R. 2684, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2000

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 106–286) on the bill (H.R. 2684) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. MILLER of Florida). All points of order are reserved on the bill.

MAKING IN ORDER ON AUGUST 4, 1999, OR ANY DAY THEREAFTER, MOTION TO CONCUR IN SENATE AMENDMENTS TO H.R. 1664, KOSOVO AND SOUTHWEST ASIA EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time on August 4, 1999, or any day thereafter, to take from the Speaker's table H.R. 1664, with Senate amendments thereto, and to consider in the House, any rule of the House to the contrary notwithstanding, a single motion offered by the chairman of the Committee on Appropriations or his designee that the House concur in the Senate amendments; that the Senate amendments and the motion to be considered as read; that the motion be debatable for 1 hour equally divided and controlled among the gentleman from Ohio (Mr. REGULA), the gentleman from West Virginia (Mr. MOLLOHAN), and the chairman and ranking minority member of the Committee on Banking and

Financial Services, or their designees; and that the previous question be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Such rollcall votes, if postponed, will be taken tomorrow.

AUTHORIZING ARCHITECT OF THE CAPITOL TO PERMIT TEMPORARY CONSTRUCTION AND OTHER WORK ON CAPITOL GROUNDS

Mr. FRANKS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 167) authorizing the Architect of the Capitol to permit temporary construction and other work on the Capitol Grounds that may be necessary for construction of a building on Constitution Avenue Northwest, between 2nd Street Northwest and Louisiana Avenue Northwest.

The Clerk read as follows:

H. CON. RES. 167

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS.

The Architect of the Capitol may permit temporary construction and other work on the Capitol Grounds that may be necessary for construction of a building on Constitution Avenue Northwest, between 2nd Street Northwest and Louisiana Avenue Northwest. Such work may include activities resulting in temporary obstruction of a curbside parking lane on Louisiana Avenue Northwest and on Constitution Avenue Northwest, between 2nd Street Northwest and Louisiana Avenue Northwest.

SEC. 2. PERIOD OF USE.

Work on the Capitol Grounds under section 1 is authorized during the period beginning August 6, 1999, and ending October 31, 2001, or such longer period as the Architect of the Capitol determines necessary.

SEC. 3. TERMS AND CONDITIONS.

(a) IN GENERAL.—Work on the Capitol Grounds under section 1 may not begin until the Architect of the Capitol receives such assurances as the Architect may require to ensure that—

(1) all areas of the Capitol Grounds that are disturbed by reason of such work will be restored to their original condition without expense to the United States; and

(2) such work will be carried out so as not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol.

(b) EXPENSES AND LIABILITIES.—The United States shall not incur any expense or liability incident to any activity associated with work on the Capitol Grounds under section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. FRANKS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 167 will authorize the Architect of the Capitol to enter into an agreement with the United Brotherhood of Carpenters and Joiners for a construction project that is scheduled to begin August 15, 1999.

The Carpenters and Joiners Union headquarters is located on Constitution Avenue between 2nd Street and Louisiana Avenue, Northwest. This property is adjacent to the Capitol Grounds.

The Union plans to demolish its existing headquarters and construct a new larger facility. In order to do this, a small section of parking spots and a sidewalk on Louisiana Avenue will be closed for about 2 years.

Let me be clear about the affected area along Constitution Avenue and Louisiana Avenue. It is the curbside lane between 1st and 2nd Street, Northwest only. This authority in no way extends beyond those two streets insofar as the Capitol Grounds are concerned.

This activity will not interfere with the needs of Congress and will not cost the government. The building owners will restore all affected areas of the Capitol Grounds to its original condition once construction is completed.

I support this resolution wholeheartedly and urge my colleagues to join in support.

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

□ 2130

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

First, Mr. Speaker, may I thank the gentleman from Pennsylvania (Mr. SHUSTER) for the way in which he has shepherded this matter through committee and to the floor. I am very grateful for the attention he has given it. May I also thank the distinguished ranking member the gentleman from Minnesota (Mr. OBERSTAR) for his invaluable assistance in getting this matter to the floor this evening. I very much appreciate the work of my own chairman the gentleman from New Jersey (Mr. FRANKS) who in committee today saw to it that this matter came and was expeditiously handled in the subcommittee itself. This straightforward resolution will allow the Architect of the Capitol to permit temporary construction and necessary other work on the Capitol grounds. The site is along Constitution Avenue in my district between Second Street and Louisiana Avenue Northwest and along Louisiana to First Street Northwest. The construction project will create a high end building with class A office space right here at the foot of Capitol Hill. The new building will be 10 stories high and will contain 500,000 square feet. The Architect has requested a resolution to permit the temporary closing of the curb lane along Louisiana Avenue and Constitution Avenue.

Again I want to thank the gentleman from New Jersey for the very expeditious way in which he has handled this matter and for his continued support for activities that positively affect the economic health of the Nation's capital, the District of Columbia.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman for yielding me this time. I rise to support the resolution and to express my great appreciation to the gentleman from Pennsylvania (Mr. SHUSTER) for moving so expeditiously on this matter which is very timely for the carpenters union for the replacement and construction of this facility so near to the Capitol. I appreciate the support of the chairman of the subcommittee also for acting so quickly. I want to compliment the gentlewoman from the District of Columbia on her steadfast persistence and leadership on this matter. She is a true advocate and champion for the District and a great voice.

This facility has one of the prime locations in all of Washington. It shall be very interesting to see the facility removed and reconstructed. I understand that there is a splendid plan to replace that facility. It is very important to all who are concerned, not only those building the structure but those who are going to rent, the various associations that would be a part of this.

I just wanted to rise and express my great appreciation to the majority for moving so quickly on a matter of such timely importance to those involved and again to compliment the gentlewoman for her leadership and express my great appreciation to the gentleman from Pennsylvania (Mr. SHUSTER) for his cooperation.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume. I very much appreciate the remarks of the ranking member the gentleman from Minnesota (Mr. OBERSTAR). I do want to say that I know that the carpenters union is as grateful for the way in which this has been handled this evening as I am. I want to assure the House that the matter under construction has received already the approval of the appropriate Federal and local authorities and will continue to go through those approvals. We needed only now the approval of the House to make sure the construction could indeed proceed.

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

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

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from New Jersey (Mr. FRANKS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 167.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 167, the measure just considered by the House.

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

There was no objection.

AMERICAN INVENTORS PROTECTION ACT OF 1999

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1907) to amend title 35, United States Code, to provide enhanced protection for inventors and innovators, protect patent terms, reduce patent litigation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1907

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 ''American Inventors Protection Act of 1999''.

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—INVENTORS' RIGHTS

Sec. 101. Short title.
Sec. 102. Invention promotion services.
Sec. 103. Effective date.

TITLE II—FIRST INVENTOR DEFENSE

Sec. 201. Short title.
Sec. 202. Defense to patent infringement based on earlier inventor.
Sec. 203. Effective date and applicability.

TITLE III—PATENT TERM GUARANTEE

Sec. 301. Short title.
Sec. 302. Patent term guarantee authority.
Sec. 303. Continued examination of patent applications.
Sec. 304. Technical clarification.
Sec. 305. Effective date.

TITLE IV—UNITED STATES PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD

Sec. 401. Short title.
Sec. 402. Publication.
Sec. 403. Time for claiming benefit of earlier filing date.
Sec. 404. Provisional rights.
Sec. 405. Prior art effect of published applications.
Sec. 406. Cost recovery for publication.
Sec. 407. Conforming amendments.
Sec. 408. Effective date.

TITLE V—OPTIONAL INTER PARTES REEXAMINATION PROCEDURE

Sec. 501. Short title.
Sec. 502. Ex parte reexamination of patents.
Sec. 503. Definitions.
Sec. 504. Optional inter partes reexamination procedures.
Sec. 505. Conforming amendments.
Sec. 506. Report to Congress.
Sec. 507. Estoppel effect of reexamination.
Sec. 508. Effective date.

TITLE VI—PATENT AND TRADEMARK OFFICE

Sec. 601. Short title.

Subtitle A—United States Patent and Trademark Office

Sec. 611. Establishment of Patent and Trademark Office.
Sec. 612. Powers and duties.
Sec. 613. Organization and management.
Sec. 614. Public Advisory Committees.
Sec. 615. Patent and Trademark Office funding.
Sec. 616. Conforming amendments.
Sec. 617. Trademark Trial and Appeal Board.
Sec. 618. Board of Patent Appeals and Interferences.
Sec. 619. Annual report of Director.
Sec. 620. Suspension or exclusion from practice.
Sec. 621. Pay of Director and Deputy Director.
Sec. 622. Study on Alternative Fee Structures.

Subtitle B—Effective Date; Technical Amendments

Sec. 631. Effective date.
Sec. 632. Technical and conforming amendments.

Subtitle C—Miscellaneous Provisions

Sec. 641. References.
Sec. 642. Exercise of authorities.
Sec. 643. Savings provisions.
Sec. 644. Transfer of assets.
Sec. 645. Delegation and assignment.
Sec. 646. Authority of Director of the Office of Management and Budget with respect to functions transferred.
Sec. 647. Certain vesting of functions considered transfers.
Sec. 648. Availability of existing funds.
Sec. 649. Definitions.

TITLE VII—MISCELLANEOUS PATENT PROVISIONS

Sec. 701. Provisional applications.
Sec. 702. International applications.
Sec. 703. Certain limitations on damages for patent infringement not applicable.
Sec. 704. Electronic filing and publications.
Sec. 705. Study and report on biological deposits in support of biotechnology patents.
Sec. 706. Prior invention.
Sec. 707. Prior art exclusion for certain commonly assigned patents.

TITLE I—INVENTORS' RIGHTS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Inventors' Rights Act''.

SEC. 102. INVENTION PROMOTION SERVICES.

Part I of title 35, United States Code, is amended by adding after chapter 4 the following chapter:

''CHAPTER 5—INVENTION PROMOTION SERVICES

''Sec.
''51. Definitions.
''52. Contracting requirements.
''53. Standard provisions for cover notice.
''54. Reports to customer required.
''55. Mandatory contract terms.
''56. Remedies.
''57. Records of complaints.
''58. Fraudulent representation by an invention promoter.
''59. Rule of construction.

''§ 51. Definitions

''For purposes of this chapter—

''(1) the term 'contract for invention promotion services' means a contract by which an invention promoter undertakes invention promotion services for a customer;

''(2) the term 'customer' means any person, firm, partnership, corporation, or other entity who enters into a financial relationship or a contract with an invention promoter for invention promotion services;

''(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

''(A) any department or agency of the Federal Government or of a State or local government;

''(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986;

''(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office, except when that person performs any act described in subparagraph (B) or (C) of paragraph (4); or

''(D) any person or entity involved in the evaluation to determine commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application; and

''(4) the term 'invention promotion services' means, with respect to an invention by a customer, any act involved in—

''(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

''(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

''(C) marketing, brokering, offering to license or sell, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention promotion services.

''§ 52. Contracting requirements

''(a) IN GENERAL.—(1) Every contract for invention promotion services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

''(2) If a contract is entered into for the benefit of a third party, the identity and address of such party shall be disclosed by such party's agent and such party shall be considered a customer for purposes of this chapter.

''(b) REQUIREMENTS OF INVENTION PROMOTER.—The invention promoter shall—

''(1) state in a written document, at the time a customer enters into a contract for invention promotion services, whether the usual business practice of the invention promoter is to—

''(A) seek more than 1 contract in connection with an invention; or

''(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

''(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention promoter, including—

''(A) the usual business terms of contracts; and

''(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the invention promoter.

''(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention promotion services by sending a written letter to the invention promoter stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention promoter executes the contract, whichever is later.

''(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention promoter or to a third party for the benefit of the invention promoter, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention promoter on the date received for purposes of this section.

''§ 53. Standard provisions for cover notice

''(a) CONTENTS.—Every contract for invention promotion services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

'YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT.

'THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION PROMOTER FOR COMMERCIAL POTENTIAL IN THE PAST FIVE (5) YEARS IS XXXXX. OF THAT NUMBER, XXXXX RECEIVED POSITIVE EVALUATIONS AND XXXXX RECEIVED NEGATIVE EVALUATIONS.

'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION PROMOTER, THE INVENTION PROMOTER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION PROMOTER IN THE PAST FIVE (5) YEARS IS XXXXX. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION PROMOTER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION PROMOTER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION PROMOTER IS XXXXXXX. AS A RESULT OF THE EFFORTS OF THIS INVENTION PROMOTER, XXXXX NUMBER OF CUSTOMERS HAVE RECEIVED LICENSE AGREEMENTS FOR THEIR INVENTIONS.

'THE OFFICERS OF THIS INVENTION PROMOTER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION PROMOTION COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION PROMOTION COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES WHICH RESULTED IN REGULATORY SANCTIONS OR OTHER CORRECTIVE ACTIONS.

'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

''(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention promoter, and may contain no other matter.

''(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the 'TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION PROMOTER IN THE PAST FIVE (5) YEARS' need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention promoter, nor with respect to customers who have defaulted in their payment to the invention promoter.

''§ 54. Reports to customer required

''With respect to every contract for invention promotion services, the invention promoter shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

''(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

''(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

''§ 55. Mandatory contract terms

''(a) MANDATORY TERMS.—Each contract for invention promotion services shall include in boldface type of not less than 12-point size—

''(1) the terms and conditions of payment and contract termination rights required under section 52;

''(2) a statement that the customer may avoid entering into the contract by not making the initial payment to the invention promoter;

''(3) a full, clear, and concise description of the specific acts or services that the invention promoter undertakes to perform for the customer;

''(4) a statement as to whether the invention promoter undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

''(5) the full name and principal place of business of the invention promoter and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention promoter undertakes to perform for the customer;

''(6) if any oral or written representation of estimated or projected customer earnings is given by the invention promoter (or any agent, employee, officer, director, partner, or independent contractor of such invention promoter), a statement of that estimation or projection and a description of the data upon which such representation is based;

''(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention promotion services, and a statement that the invention promoter is required to maintain all records and correspondence relating to performance of the invention promotion services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

''(8) a statement setting forth a time schedule for performance of the invention promotion services, including an estimated date in which such performance is expected to be completed.

''(b) INVENTION PROMOTER AS FIDUCIARY.—To the extent that the description of the specific acts or services affords discretion to the invention promoter with respect to what specific acts or services shall be performed, the invention promoter shall be deemed a fiduciary.

''(c) AVAILABILITY OF INFORMATION.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention promoter's premises during normal business hours.

''§ 56. Remedies

''(a) IN GENERAL.—(1) Any contract for invention promotion services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

''(2) Any contract for invention promotion services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention promoter (or any agent, employee, officer, director, partner, or independent contractor of such invention promoter) shall be voidable at the option of the customer.

''(3) Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

''(4) Any contract for invention promotion services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention promoter offers to perform or performs such act through aperson duly registered to practice before, and in good standing with, the Patent and Trademark Office.

''(b) CIVIL ACTION.—(1) Any customer who is injured by a violation of this chapter by an invention promoter or by any material false or fraudulent statement or representation, or any omission of material fact, by an

invention promoter (or any agent, employee, director, officer, partner, or independent contractor of such invention promoter) or by failure of an invention promoter to make all the disclosures required under this chapter, may recover in a civil action against the invention promoter (or the officers, directors, or partners of such invention promoter) in addition to reasonable costs and attorneys' fees, the greater of—

''(A) $5,000; or

''(B) the amount of actual damages sustained by the customer.

''(2) Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded, taking into account past complaints made against the invention promoter that resulted in regulatory sanctions or other corrective actions based on those record compiled by the Director under section 57.

''(c) REBUTTABLE PRESUMPTION OF INJURY.—For purposes of this section, substantial violation of any provision of this chapter by an invention promoter or execution by the customer of a contract for invention promotion services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

''§ 57. Records of complaints

''(a) RELEASE OF COMPLAINTS.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention promoters publicly available, together with any response of the invention promoters.

''(b) REQUEST FOR COMPLAINTS.—The Director may request complaints relating to invention promotion services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention promoters.

''§ 58. Fraudulent representation by an invention promoter

''Whoever, in providing invention promotion services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

''§ 59. Rule of construction

''Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.''.

SEC. 103. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 60 days after the date of the enactment of this Act.

TITLE II—FIRST INVENTOR DEFENSE

SEC. 201. SHORT TITLE.

This title may be cited as the ''First Inventor Defense Act''.

SEC. 202. DEFENSE TO PATENT INFRINGEMENT BASED ON EARLIER INVENTOR.

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 273. Defense to infringement based on earlier inventor

''(a) DEFINITIONS.—For purposes of this section—

''(1) the terms 'commercially used' and 'commercial use' mean use of a method in the United States or the use of a method in the United States, so long as such use is in connection with an internal commercial use or an actual arm's-length sale or other arm's-length commercial transfer of a useful end result, whether or not the subject matter at issue is accessible to or otherwise known to the public, except that the subject matter for which commercial marketing or use is subject to a premarketing regulatory review period during which the safety or efficacy of the subject matter is established, including any period specified in section 156(g), shall be deemed 'commercially used' and in 'commercial use' during such regulatory review period;

''(2) in the case of activities performed by a nonprofit research laboratory, or nonprofit entity such as a university, research center, or hospital, a use for which the public is the intended beneficiary shall be considered to be a use described in paragraph (1), except that the use—

''(A) may be asserted as a defense under this section only for continued use by and in the laboratory or nonprofit entity; and

''(B) may not be asserted as a defense with respect to any subsequent commercialization or use outside such laboratory or nonprofit entity;

''(3) the term 'method' means a method of doing or conducting business ; and

''(4) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

''(b) DEFENSE TO INFRINGEMENT.—.

''(1) IN GENERAL.—It shall be a defense to an action for infringement under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims asserting a method in the patent being asserted against a person, if such person had, acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of such patent, and commercially used the subject matter before the effective filing date of such patent.

''(2) EXHAUSTION OF RIGHT.—The sale or other disposition, of a useful end result produced by a patented method, by a person entitled to assert a defense under this section with respect to that useful end result shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

''(3) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

''(A) PATENT.—A person may not assert the defense under this section unless the invention for which the defense is asserted is for a method.

''(B) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

''(C) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the specific subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

''(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense by clear and convincing evidence.

''(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under this section with respect to actions taken after the date of such abandonment.

''(6) PERSONAL DEFENSE.—The defense under this section may be asserted only by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

''(7) LIMITATION ON SITES.—A defense under this section, when acquired as part of a good faith assignment or transfer of an entire enterprise or line of business to which the defense relates, may only be asserted for uses at sites where the subject matter that would otherwise infringe one or more of the claims is in use before the later of the effective filing date of the patent or the date of the assignment or transfer of such enterprise or line of business.

''(8) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

''(9) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is raised or established under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

''273. Defense to infringement based on earlier inventor.''.

SEC. 203. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

TITLE III—PATENT TERM GUARANTEE

SEC. 301. SHORT TITLE.

This title may be cited as the ''Patent Term Guarantee Act''.

SEC. 302. PATENT TERM GUARANTEE AUTHORITY.

(a) ADJUSTMENT OF PATENT TERM.—Section 154(b) of title 35, United States Code, is amended to read as follows:

''(b) ADJUSTMENT OF PATENT TERM.—

''(1) PATENT TERM GUARANTEES.—

''(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

''(i) make a notification of the rejection of any claim for a patent or any objection or argument under section 132, or give or mail a written notice of allowance under section 151, within 14 months after the date on which the application was filed;

''(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

''(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

''(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied;

the term of the patent shall be extended one day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

''(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including—

''(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

''(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order pursuant to section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

''(iii) any delay in the processing of the application by the Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C),

the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

''(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

''(i) a proceeding under section 135(a);

''(ii) the imposition of an order pursuant to section 181; or

''(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability,

the term of the patent shall be extended one day for each day of the pendency of the proceeding, order, or review, as the case may be.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

''(B) DISCLAIMED TERM.—No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

''(C) REDUCTION OF PERIOD OF ADJUSTMENT.—

''(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

''(ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

''(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

''(3) PROCEDURES FOR PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) The Director shall prescribe regulations establishing procedures for the application for and determination of patent term adjustments under this subsection.

''(B) Under the procedures established under subparagraph (A), the Director shall—

''(i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and

''(ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

''(C) The Director shall reinstate all or part of the cumulative period of time of an adjustment under paragraph (2)(C) if the applicant, prior to the issuance of the patent, makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period, but in no case shall more than 3 additional months for each such response beyond the original 3-month period be reinstated.

''(D) The Director shall proceed to grant the patent after completion of the Director's determination of a patent term adjustment under the procedures established under this subsection, notwithstanding any appeal taken by the applicant of such determination.

''(4) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

''(B) The determination of a patent term adjustment under this subsection shall not be subject to appeal or challenge by a third party prior to the grant of the patent.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 282 of title 35, United States Code, is amended in the fourth paragraph by striking ''156 of this title'' and inserting ''154(b) or 156 of this title''.

(2) Section 1295(a)(4)(C) of title 28, United States Code, is amended by striking ''145 or 146'' and inserting ''145, 146, or 154(b)''.

SEC. 303. CONTINUED EXAMINATION OF PATENT APPLICATIONS.

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking ''Whenever'' and inserting ''(a) Whenever''; and

(2) by adding at the end the following:

''(b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Commissioner may establish appropriate fees for such continued examination and shall provide a 50 percent reduction on such fees for small entities that qualify for reduced fees under section 41(h)(1) of this title.''.

SEC. 304. TECHNICAL CLARIFICATION.

Section 156(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting '', which shall include any patent term adjustment granted under section 154(b),'' after ''the original expiration date of the patent''.

SEC. 305. EFFECTIVE DATE.

(a) SECTIONS 302 AND 304.—The amendments made by sections 302 and 304 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after the date of the enactment of this Act.

(b) SECTION 303.—The amendments made by section 303 shall take effect 6 months after the date of the enactment of this Act.

TITLE IV—UNITED STATES PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD

SEC. 401. SHORT TITLE.

This title may be referred to as the ''Publication of Foreign Filed Applications Act''.

SEC. 402. PUBLICATION.

(a) PUBLICATION.—Section 122 of title 35, United States Code, is amended to read as follows:

''§ 122. Confidential status of applications; publication of patent applications

''(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning any such application shall be given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

''(b) UNITED STATES PUBLICATION OF APPLICATIONS PUBLISHED ABROAD.—

''(1) IN GENERAL.—(A) Subject to paragraph (2), each application for patent, except applications for design patents filed under chapter 16 and provisional applications filed under section 111(b), shall be published, in accordance with procedures determined by the Director, promptly upon the expiration of a period of 18 months after the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

''(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

''(C) Pursuant to this title and notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

''(2) EXCEPTIONS.—(A) An application that is no longer pending shall not be published.

''(B) An application that is subject to a secrecy order under section 181 shall not be published.

''(C)(i) If an applicant, upon filing, makes a request that an application not be published pursuant to paragraph (1), and states in such request that the invention disclosed in the application has not been the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

''(ii) An applicant may rescind a request made under clause (i) at any time.

''(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it

is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

''(iv) If a notice is made pursuant to clause (iii), or the applicant rescinds a request pursuant to clause (ii), the Director shall publish the application on or as soon as is practical after the date that is specified in clause (i).

''(v) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

''(c) PROTEST AND PRE-ISSUANCE OPPOSITION.—The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.''.

(b) STUDY BY GAO.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of applicants for patents who file only in the United States during the 3-year period beginning on the effective date of this title.

(2) CONTENTS.—The study conducted under paragraph (1) shall—

(A) consider the number of such applicants for patent in relation to the number of applicants who file in the United States and outside the United States;

(B) examine how many domestic-only filers request at the time of filing not to be published;

(C) examine how many such filers rescind that request or later choose to file abroad; and

(D) examine the manner of entity seeking an application and any correlation that may exist between such manner and publication of patent applications.

(3) REPORT TO JUDICIARY COMMITTEES.—The Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate the results of the study conducted under this subsection.

SEC. 403. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

''(b)(1) No application for patent shall be entitled to this right of priority unless a claim, identifying the foreign application by specifying its application number, country, and the day, month, and year of its filing, is filed in the Patent and Trademark Office at such time during the pendency of the application as required by the Director.

''(2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.

''(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.''.

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end the following: ''The Director may determine the time period during the pendency of the application within which an amendment containing the specific reference to the earlier filed application is submitted. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept unintentionally late submissions of amendments under this section.''.

SEC. 404. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting ''**; provisional rights**'' after ''**patent**''; and

(2) by adding at the end the following new subsection:

''(d) PROVISIONAL RIGHTS.—-

''(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to section 122(b), or in the case of an international application filed under the treaty defined in section 351(a) designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

''(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

''(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

''(B) had actual notice of the published patent application, and in a case in which the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

''(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

''(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

''(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

''(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of an international application designating the United States shall commence on the date on which the Patent and Trademark Office receives a copy of the publication under the treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, on the date on which the Patent and Trademark Office receives a translation of the international application in the English language.

''(B) COPIES.—The Director may require the applicant to provide a copy of the international application and a translation thereof.''.

SEC. 405. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

''(e) the invention was described in—

''(1)(A) an application for patent, published pursuant to section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language, or

''(B) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a), or''.

SEC. 406. COST RECOVERY FOR PUBLICATION.

The Director of the United States Patent and Trademark Office shall recover the cost of early publication required by the amendment made by section 402 by charging a separate publication fee after notice of allowance is given pursuant to section 151 of title 35, United States Code.

SEC. 407. CONFORMING AMENDMENTS.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting ''and published applications for patents'' after ''Patents''.

(2) Section 12 is amended—

(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and

(B) by inserting ''and published applications for patents'' after ''patents''.

(3) Section 13 is amended—

(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and

(B) by inserting ''and published applications for patents'' after ''patents''.

(4) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting ''; publication of patent applications'' after ''applications''.

(5) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting ''; provisional rights'' after ''patent''.

(6) Section 181 is amended—

(A) in the first undesignated paragraph—

(i) by inserting ''by the publication of an application or'' after ''disclosure''; and

(ii) by inserting ''the publication of the application or'' after ''withhold'';

(B) in the second undesignated paragraph by inserting ''by the publication of an application or'' after ''disclosure of an invention'';

(C) in the third undesignated paragraph—

(i) by inserting ''by the publication of the application or'' after ''disclosure of the invention''; and

(ii) by inserting ''the publication of the application or'' after ''withhold''; and

(D) in the fourth undesignated paragraph by inserting ''the publication of an application or'' after ''and'' in the first sentence.

(7) Section 252 is amended in the first undesignated paragraph by inserting ''substantially'' before ''identical'' each place it appears.

(8) Section 284 is amended by adding at the end of the second undesignated paragraph the following: ''Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.''.

(9) Section 374 is amended to read as follows:

''§ 374. Publication of international application: effect

''The publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d).''.

SEC. 408. EFFECTIVE DATE.

This title and the amendments made by this title, shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after that date. The amendments made by sections 404 and 405 shall apply to any such application voluntarily published by the applicant under procedures established under this title that is pending on the date that is 1 year after the date of enactment of this Act. The amendment made by section 404 shall also apply to international applications designating the United States that are filed on or after the date that is 1 year after the date of the enactment of this Act.

TITLE V—OPTIONAL INTER PARTES REEXAMINATION PROCEDURE

SEC. 501. SHORT TITLE.

This title may be cited as the ''Optional Inter Partes Reexamination Procedure Act''.

SEC. 502. EX PARTE REEXAMINATION OF PATENTS.

Chapter 30 of title 35, United States Code, is amended in the title by inserting ''**EX PARTE**'' before ''**REEXAMINATION OF PATENTS**''.

SEC. 503. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

''(e) The term 'third-party requester' means a person requesting ex parte reexamination under section 302 or inter partes reexaminaiton under section 311 who is not the patent owner.''.

SEC. 504. OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.

(a) IN GENERAL.—Part 3 of title 35, United Stats Code, is amended by adding after chapter 30 the following new chapter:

''CHAPTER 31—OPTIONAL INTER PARTES REEXAMINATION PROCEDURES

''Sec.
''311. Request for inter partes reexamination.
''312. Determination of issue by Director.
''313. Inter partes reexamination order by Director.
''314. Conduct of inter partes reexamination proceedings.
''315. Appeal.
''316. Certificate of patentability, unpatentability, and claim cancellation.
''317. Inter partes reexamination prohibited.
''318. Stay of litigation.

''§ 311. Request for inter partes reexamination

''(a) IN GENERAL.—Any person at any time may file a request for inter partes reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301.

''(b) REQUIREMENTS.—The request shall—

''(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of an inter partes reexamination fee established by the Director under section 41; and

''(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested.

''(c) COPY.—Unless the requesting person is the owner of the patent, the Director promptly shall send a copy of the request to the owner of record of the patent.

''§ 312. Determination of issue by Director

''(a) REEXAMINATION.—Not later than 3 months after the filing of a request for inter partes reexamination under section 311, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director's initiative, and any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications.

''(b) RECORD.—A record of the Director's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

''(c) FINAL DECISION.—A determination by the Director pursuant to subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Director may refund a portion of the inter partes reexamination fee required under section 311.

''§ 313. Inter partes reexamination order by Director

''If, in a determination made under section 312(a), the Director finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for inter partes reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent and Trademark Office on the merits of the inter partes reexamination conducted in accordance with section 314.

''§ 314. Conduct of inter partes reexamination proceedings

''(a) IN GENERAL.—Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133, except as provided for under this section. In any inter partes reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

''(b) RESPONSE.—(1) This subsection shall apply to any inter partes reexamination proceeding in which the order for inter partes reexamination is based upon a request by a third-party requester.

''(2) With the exception of the inter partes reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party. In addition, the third-party requester shall receive a copy of any communication sent by the Office to the patent owner concerning the patent subject to the inter partes reexamination proceeding.

''(3) Each time that the patent owner files a response to an action on the merits from the Patent and Trademark Office, the third-party requester shall have one opportunity to file written comments addressing issues raised by the action of the Office or the patent owner's response thereto, if those written comments are received by the Office within 30 days after the date of service of the patent owner's response.

''(c) SPECIAL DISPATCH.—Unless otherwise provided by the Director for good cause, all inter partes reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.

''§ 315. Appeal

''(a) PATENT OWNER.—The patent owner involved in an inter partes reexamination proceeding under this chapter—

''(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; and

''(2) may be a party to any appeal taken by a third-party requester under subsection (b).

''(b) THIRD-PARTY REQUESTER.—A third-party requester may—

''(1) appeal under the provisions of section 134 with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

''(2) be a party to any appeal taken by the patent owner under the provisions of section 134, subject to subsection (c).

''(c) CIVIL ACTION.—A third-party requester whose request for an inter partes reexamination results in an order under section 313 is estopped from asserting at a later time, in any civil action arising in whole or in part under section 1338 of title 28, the invalidity of any claim finally determined to be valid and patentable on any ground which the third-party requester raised or could have raised during the inter partes reexamination proceedings. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

''§ 316. Certificate of patentability, unpatentability, and claim cancellation

''(a) IN GENERAL.—In an inter partes reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable.

''(b) AMENDED OR NEW CLAIM.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following an inter partes reexamination proceeding shall have the same effect as that specified in section 252 of this title for reissued patents on the right of any person who made, purchased, or used within the

United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation for the same, prior to issuance of a certificate under the provisions of subsection (a) of this section.

"§ 317. Inter partes reexamination prohibited

''(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for inter partes reexamination of a patent has been issued under section 313, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for inter partes reexamination of the patent until an inter partes reexamination certificate is issued and published under section 316, unless authorized by the Director.

''(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit or if a final decision in an inter partes reexamination proceeding instituted by a third-party requester is favorable to the patentability of any original or proposed amended or new claim of the patent then neither that party nor its privies may thereafter request inter partes reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or inter partes reexamination proceeding, and an inter partes reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

"§ 318. Stay of litigation

''Once an order for inter partes reexamination of a patent has been issued under section 313, the patent owner may obtain a stay of any pending litigation which involves an issue of patentability of any claims of the patent which are the subject of the inter partes reexamination order, unless the court before which such litigation is pending determines that a stay would not serve the interests of justice.''.

(b) CONFORMING AMENDMENTS.—The table of chapters for part III of title 35, United States Code, is amended by striking the item relating to chapter 30 and inserting the following:

''**30. Prior Art Citations to Office and Ex Parte Reexamination of Patents** 301
''**31. Optional Inter Partes Reexamination of Patents** ..... 311''.

SEC. 505. CONFORMING AMENDMENTS.

(a) PATENT FEES; PATENT SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

''(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in a reexamination proceeding, $1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.''.

(b) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

''(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

''(b) PATENT OWNER.—A patent owner in any inter partes reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

''(c) THIRD-PARTY.—A third-party requester in an inter partes proceeding may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal. The third-party requester may not appeal the decision of the Board of Patent Appeals and Interferences.''.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding the following after the second sentence: ''A patent owner in any reexamination proceeding dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 may appeal the decision only to the United States Court of Appeals for the Federal Circuit.''.

(d) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In ex parte and reexamination cases, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.''.

(e) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting ''(a)'' after ''section 134''.

SEC. 506. REPORT TO CONGRESS.

Not later than 5 years after the effective date of this title, the Director of the United States Patent and Trademark Office shall submit to the Congress a report evaluating whether the inter partes reexamination proceedings established under the amendments made by this title are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for changes to the amendments made by this title to remove such inequity.

SEC. 507. ESTOPPEL EFFECT OF REEXAMINATION.

Any party who requests an inter partes reexamination under section 311 of title 35, United States Code, is estopped from challenging at a later time, in any civil action, any fact determined during the process of such reexamination, except with respect to a fact determination later proved to be erroneous based on information unavailable at the time of the inter partes reexamination decision. If this section is held to be unenforceable, the enforceability of the rest of this title or of this Act shall not be denied as a result.

SEC. 508. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply to inter partes reexamination requests filed on or after such date.

TITLE VI—PATENT AND TRADEMARK OFFICE

SEC. 601. SHORT TITLE.

This title may be cited as the ''Patent and Trademark Office Efficiency Act''.

Subtitle A—United States Patent and Trademark Office

SEC. 611. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE.

Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

''(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce. In carrying out its functions, the United States Patent and Trademark Office shall be subject to the policy direction of the Secretary of Commerce, but otherwise shall retain responsibility for decisions regarding the management and administration of its operations and shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions in accordance with this title and applicable provisions of law. Those operations designed to grant and issue patents and those operations which are designed to facilitate the registration of trademarks shall be treated as separate operating units within the Office.

''(b) OFFICES.—The United States Patent and Trademark Office shall maintain its principal office in the metropolitan Washington, DC, area, for the service of process and papers and for the purpose of carrying out its functions. The United States Patent and Trademark Office shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located, except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Office may establish satellite offices in such other places in the United States as it considers necessary and appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the United States Patent and Trademark Office shall also be referred to as the 'Office' and the 'Patent and Trademark Office'.''.

SEC. 612. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

''(a) IN GENERAL.—The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce—

''(1) shall be responsible for the granting and issuing of patents and the registration of trademarks; and

''(2) shall be responsible for disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall adopt and use a seal of the Office, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(2) may establish regulations, not inconsistent with law, which—

''(A) shall govern the conduct of proceedings in the Office;

''(B) shall be made in accordance with section 553 of title 5;

''(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

''(D) may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office;

''(E) shall recognize the public interest in continuing to safeguard broad access to the

United States patent system through the reduced fee structure for small entities under section 41(h)(1) of this title; and

''(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

''(3) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(4)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following), the Public Buildings Act (40 U.S.C. 601 and following), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.11301 and following); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(5) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(6) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, instrumentality, patent and trademark office, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign patent and trademark office or international organization to perform functions on its behalf;

''(7) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office;

''(8) shall advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

''(9) shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries;

''(10) shall provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

''(11) may conduct programs, studies, or exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically and throughout the world;

''(12)(A) shall advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) may conduct programs and studies described in subparagraph (A); and

''(13)(A) in coordination with the Department of State, may conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters.

''(c) CLARIFICATION OF SPECIFIC POWERS.—(1) The special payments under subsection (b)(13)(B) shall be in addition to any other payments or contributions to international organizations described in subsection (b)(13)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

''(2) Nothing in subsection (b) shall derogate from the duties of the Secretary of State or from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

''(3) Nothing in subsection (b) shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

''(4) In exercising the Director's powers under paragraphs (3) and (4)(A) of subsection (b), the Director shall consult with the Administrator of General Services.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Office.''.

SEC. 613. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) UNDER SECRETARY AND DIRECTOR.—

''(1) IN GENERAL.—The powers and duties of the United States Patent and Trademark Office shall be vested in an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this title referred to as the 'Director'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who has a professional background and experience in patent or trademark law.

''(2) DUTIES.—

''(A) IN GENERAL.—The Director shall be responsible for providing policy direction and management supervision for the Office and for the issuance of patents and the registration of trademarks. The Director shall perform these duties in a fair, impartial, and equitable manner.

''(B) CONSULTING WITH THE PUBLIC ADVISORY COMMITTEES.—The Director shall consult with the Patent Public Advisory Committee established in section 5 on a regular basis on matters relating to the patent operations of the Office, shall consult with the Trademark Public Advisory Committee established in section 5 on a regular basis on matters relating to the trademark operations of the Office, and shall consult with the respective Public Advisory Committee before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations which are subject to the requirement to provide notice and opportunity for public comment pursuant to section 553 of title 5, as the case may be.

''(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(4) REMOVAL.—The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY UNDER SECRETARY AND DEPUTY DIRECTOR.—The Secretary of Commerce, upon nomination by the Director, shall appoint a Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director. The Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law.

''(2) COMMISSIONERS.—

''(A) APPOINTMENT AND DUTIES.—The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5. The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law and serve for a term of 5 years. The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law and serve for a term of 5 years. The Commissioner for Patents and the Commissioner for Trademarks shall serve as the chief operating officers for the operations of the Office relating to patents and trademarks, respectively, and shall be responsible for the management and direction of all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively. The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner as set forth in the performance agreement in subparagraph (B) is satisfactory.

''(B) SALARY AND PERFORMANCE AGREEMENT.—The Commissioners shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. The compensation of the Commissioners shall be considered, for purposes of section 207(c)(2)(A) of title 18, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of title 18. In addition, the Commissioners may receive a bonus in an amount of up to, but not in excess of, 50 percent of the Commissioner's annual rate of basic pay, based upon an evaluation by the Secretary of Commerce, acting through the Director, of the Commissioners' performance as defined in an annual performance agreement between the Commissioners and the Secretary. The annual performance agreements shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Commissioners and the Secretary. Payment of a bonus under this subparagraph may be made to the Commissioners only to the extent that such payment does not cause the Commissioners' total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the Vice President under section 104 of title 3.

''(C) REMOVAL.—The Commissioners may be removed from office by the Secretary for misconduct or nonsatisfactory performance

under the performance agreement described in subparagraph (B), without regard to the provisions of title 5. The Secretary shall provide notification of any such removal to both Houses of Congress.

''(3) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

''(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

''(B) define the title, authority, and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.

''(4) TRAINING OF EXAMINERS.—The Office shall submit to the Congress a proposal to provide an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.

''(c) CONTINUED APPLICABILITY OF TITLE 5.—Officers and employees of the Office shall be subject to the provisions of title 5 relating to Federal employees.

''(d) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Efficiency Act, with respect to such Office (as then in effect).

''(e) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Efficiency Act, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Efficiency Act, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office, as necessary to carry out the purposes of this Act, if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Director.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(f) TRANSITION PROVISIONS.—

''(1) INTERIM APPOINTMENT OF DIRECTOR.—On or after the effective date of the Patent and Trademark Office Efficiency Act, the President shall appoint an individual to serve as the Director until the date on which a Director qualifies under subsection (a). The President shall not make more than one such appointment under this subsection.

''(2) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Patents until the date on which a Commissioner for Patents is appointed under subsection (b).

''(B) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Trademarks until the date on which a Commissioner for Trademarks is appointed under subsection (b).''.

SEC. 614. PUBLIC ADVISORY COMMITTEES.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§ 5. Patent and Trademark Office Public Advisory Committees

''(a) ESTABLISHMENT OF PUBLIC ADVISORY COMMITTEES.—

''(1) APPOINTMENT.—The United States Patent and Trademark Office shall have a Patent Public Advisory Committee and a Trademark Public Advisory Committee, each of which shall have 9 voting members who shall be appointed by the Secretary of Commerce and serve at the pleasure of the Secretary of Commerce. Members of each Public Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed, 3 shall be appointed for a term of 1 year, and 3 shall be appointed for a term of 2 years. In making appointments to each Committee, the Secretary of Commerce shall consider the risk of loss of competitive advantage in international commerce or other harm to United States companies as a result of such appointments.

''(2) CHAIR.—The Secretary shall designate a chair of each Advisory Committee, whose term as chair shall be for 3 years.

''(3) TIMING OF APPOINTMENTS.—Initial appointments to each Advisory Committee shall be made within 3 months after the effective date of the Patent and Trademark Office Efficiency Act. Vacancies shall be filled within 3 months after they occur.

''(b) BASIS FOR APPOINTMENTS.—Members of each Advisory Committee—

''(1) shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee;

''(2) shall include members who represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants, but in no case shall members who represent small entity patent applicants, including small business concerns, independent inventors, and nonprofit organizations, constitute less than 25 percent of the members of the Patent Public Advisory Committee, and such members shall include at least 1 independent inventor; and

''(3) shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.

In addition to the voting members, each Advisory Committee shall include a representative of each labor organization recognized by the United States Patent and Trademark Office. Such representatives shall be nonvoting members of the Advisory Committee to which they are appointed.

''(c) MEETINGS.—Each Advisory Committee shall meet at the call of the chair to consider an agenda set by the chair.

''(d) DUTIES.—Each Advisory Committee shall—

''(1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to Trademarks, in the case of the Trademark Public Advisory Committee, and advise the Director on these matters;

''(2) within 60 days after the end of each fiscal year—

''(A) prepare an annual report on the matters referred to in paragraph (1);

''(B) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

''(C) publish the report in the Official Gazette of the United States Patent and Trademark Office.

''(e) COMPENSATION.—Each member of each Advisory Committee shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of that Advisory Committee or otherwise engaged in the business of that Advisory Committee, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5. While away from such member's home or regular place of business such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(f) ACCESS TO INFORMATION.—Members of each Advisory Committee shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.

''(g) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of each Advisory Committee shall be special Government employees within the meaning of section 202 of title 18.

''(h) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to each Advisory Committee.

''(i) OPEN MEETINGS.—The meetings of each Advisory Committee shall be open to the public, except that each Advisory Committee may by majority vote meet in executive session when considering personnel or other confidential information.''.

SEC. 615. PATENT AND TRADEMARK OFFICE FUNDING.

Section 42(c) of title 35, United States Code, is amended in the second sentence—

(1) by striking ''Fees available'' and inserting ''All fees available''; and

(2) by striking ''may'' and inserting ''shall''.

SEC. 616. CONFORMING AMENDMENTS.

(a) DUTIES.—Chapter 1 of title 35, United States Code, is amended by striking section 6.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, and the item relating to such section in the table of sections for chapter 3 of title 35, United States Code, are repealed.

(c) SUSPENSION OR EXCLUSION FROM PRACTICE.—Section 32 of title 35, United States Code, is amended by striking ''31'' and inserting ''2(b)(2)(D)''.

SEC. 617. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Director, the Commissioner for Patents, the Commissioner for Trademarks, and administrative trademark judges who are appointed by the Director.''.

SEC. 618. BOARD OF PATENT APPEALS AND INTERFERENCES.

Chapter 1 of title 35, United States Code, is amended—

(1) by striking section 7 and redesignating sections 8 through 14 as sections 7 through 13, respectively; and

(2) by inserting after section 5 the following:

''§ 6. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 619. ANNUAL REPORT OF DIRECTOR.

Section 13 of title 35, United States Code, as redesignated by section 618 of this Act, is amended to read as follows:

''§ 13. Annual report to Congress

''The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, the nature of training provided to examiners, the evaluation of the Commissioner of Patents and the Commissioner of Trademarks by the Secretary of Commerce, the compensation of the Commissioners, and other information relating to the Office.''.

SEC. 620. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 621. PAY OF DIRECTOR AND DEPUTY DIRECTOR.

(a) PAY OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by striking 22 ''Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.''

and inserting

''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''.

(b) PAY OF DEPUTY DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.''.

SEC. 622. STUDY ON ALTERNATIVE FEE STRUCTURES.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall conduct a study of alternative fee structures that could be adopted by the United States Patent and Trademark Office to encourage maximum participation by the inventor community in the United States. The Director shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the study not later than 1 year after the date of the enactment of this Act.

Subtitle B—Effective Date; Technical Amendments

SEC. 631. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

SEC. 632. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The item relating to part I in the table of parts for chapter 35, United States Code, is amended to read as follows:

''I. United States Patent and Trademark Office ..... 1''.

(2) The heading for part I of title 35, United States Code, is amended to read as follows:

''PART I—UNITED STATES PATENT AND TRADEMARK OFFICE''.

(3) The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1''.

(4) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
''1. Establishment.
''2. Powers and duties.
''3. Officers and employees.
''4. Restrictions on officers and employees as to interest in patents.
''5. Patent and Trademark Office Public Advisory Committees.
''6. Board of Patent Appeals and Interferences.
''7. Library.
''8. Classification of patents.
''9. Certified copies of records.
''10. Publications.
''11. Exchange of copies of patents and applications with foreign countries.
''12. Copies of patents and applications for public libraries.
''13. Annual report to Congress.''.

(5) Section 41(h) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(6) Section 155 of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(7) Section 155A(c) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(8) Section 302 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' and inserting ''Director''.

(9) Section 303(b) of title 35, United States Code, is amended by striking ''Commissioner's'' and inserting ''Director's''.

(10)(A) Except as provided in subparagraph (B), title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(B) Chapter 17 of title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Commissioner of Patents''.

(11) Section 157(d) of title 35, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Director''.

(12) Section 202(a) of title 35, United States Code, is amended—

(A) by striking ''iv)'' and inserting ''(iv)''; and

(B) by striking the second period after ''Department of Energy'' at the end of the first sentence.

(b) OTHER PROVISIONS OF LAW.—

(1)(A) Section 45 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1127), is amended by striking ''The term 'Commissioner'' means the Commissioner of Patents and Trademarks.' and inserting ''The term 'Director' means the Director of the United States Patent and Trademark Office.''.

(B) The Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1051 and following), except for section 17, as amended by section 617 of this Act, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended to read as follows:

''(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;''.

(4) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)) is amended to read as follows:

''(B) the Director of the United States Patent and Trademark Office; and''.

(6) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended—

(A) by striking ''(d) Patent and Trademark Office;'' and inserting

''(4) United States Patent and Trademark Office; and

(B) by redesignating subsections (a), (b), (c), (e), (f), and (g) as paragraphs (1), (2), (3), (5), (6), and (7), respectively and indenting the paragraphs as so redesignated 2 ems to the right.

(7) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended—

(A) by striking ''Patent Office of the United States'' and inserting ''United States Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office''.

(8) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director of the United States Patent and Trademark Office''.

(9) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director of the United States Patent and Trademark Office''.

(10) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(11) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''Patent and Trademark Office of the Department of Commerce'' and inserting

''United States Patent and Trademark Office''.

(12) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office'' and by striking ''Commissioner'' and inserting ''Director''.

(13) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(14) Section 1295(a)(4) of title 28, United States Code, is amended—

(A) in subparagraph (A) by inserting ''United States'' before ''Patent and Trademark''; and

(B) in subparagraph (B) by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director of the United States Patent and Trademark Office''.

(15) Chapter 115 of title 28, United States Code, is amended—

(A) in the item relating to section 1744 in the table of sections by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office'';

(B) in section 1744—

(i) by striking ''Patent Office'' each place it appears in the text and section heading and inserting ''United States Patent and Trademark Office'';

(ii) by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office''; and

(C) by striking ''Commissioner'' and inserting ''Director''.

(16) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(17) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(18) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181) is amended in subsections c. and d. by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office''.

(19) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Director of the United States Patent and Trademark Office''.

(20) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended—

(A) in subsection (c) by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')''; and

(B) by striking ''Commissioner'' each subsequent place it appears and inserting ''Director''.

(21) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Director of the United States Patent and Trademark Office''.

(22) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(23) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(24) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office,''.

(25) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(26) Section 10(i) of the Trading with the enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Director of the United States Patent and Trademark Office''.

Subtitle C—Miscellaneous Provisions

SEC. 641. REFERENCES.

(a) IN GENERAL.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

(b) SPECIFIC REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office;

(2) to the Assistant Commissioner for Patents is deemed to refer to the Commissioner for Patents; or

(3) to the Assistant Commissioner for Trademarks is deemed to refer to the Commissioner for Trademarks.

SEC. 642. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 643. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 644. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 645. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 646. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising

from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 647. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 648. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in Public Law 105–277.

SEC. 649. DEFINITIONS.

For purposes of this title—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE VII—MISCELLANEOUS PATENT PROVISIONS

SEC. 701. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

''(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Commissioner, a provisional application may be treated as an application filed under subsection (a). Subject to section 119(e)(3) of this title, if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.''.

(b) TECHNICAL AMENDMENT RELATING TO WEEKENDS AND HOLIDAYS.—Section 119(e) of title 35, United States code, is amended by adding at the end the following:

''(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.''.

(c) ELIMINATION OF COPENDENCY REQUIREMENT.—Section 119(e)(2) of title 35, United States Code, is amended by striking ''and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any provisional application filed on or after June 8, 1995, except that the amendments made by subsections (b) and (c) shall have no effect with respect to any patent which is the subject of litigation in an action commenced before such date of enactment.

SEC. 702. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''in a WTO member country or'' after ''patent for the same invention''; and

(B) by inserting ''such WTO member country or'' after ''first filed in'';

(2) in subsection (c), by inserting ''WTO member country or'' after ''application in the same''; and

(3) by adding at the end the following:

''(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patent, subject to the same conditions and requirements of this section as apply to applications for patents.

''(g) As used in this section—

''(1) the term 'WTO member country' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act; and

''(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.''.

SEC. 703. CERTAIN LIMITATIONS ON DAMAGES FOR PATENT INFRINGEMENT NOT APPLICABLE.

Section 287(c)(4) of title 35, United States Code, is amended by striking ''before the date of enactment of this subsection'' and inserting ''based on an application the earliest effective filing date of which is prior to September 30, 1996''.

SEC. 704. ELECTRONIC FILING AND PUBLICATIONS.

(a) PRINTING OF PAPERS FILED.—Section 22 of title 35, United States Code, is amended by striking ''printed or typewritten'' and inserting ''printed, typewritten, or on an electronic medium''.

(b) PUBLICATIONS.—Section 11(a) of title 35, United States Code, is amended by amending the matter preceding paragraph 1 to read as follows:

''(a) The Director may publish in printed, typewritten, or electronic form, the following:''.

(c) COPIES OF PATENTS FOR PUBLIC LIBRARIES.—Section 13 of title 35, United States Code, is amended by striking ''The Commissioner may supply printed copies of specifications and drawings of patents'' and inserting ''The Director may supply copies of specifications and drawings of patents in printed or electronic form''.

(d) MAINTENANCE OF COLLECTIONS.—Section 41(i)(1) of title 35, United States Code, is amended by striking ''The Commissioner shall maintain, for use by the public, paper or microform'' and inserting ''The Director shall maintain, for use by the public, paper, microform, or electronic''.

SEC. 705. STUDY AND REPORT ON BIOLOGICAL DEPOSITS IN SUPPORT OF BIOTECHNOLOGY PATENTS.

(a) IN GENERAL.—No later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States, in consultation with the Director of the United States Patent and Trademark Office, shall conduct a study and submit a report to the Congress on the potential risks to the United States biotechnology industry relating to biological deposits in support of biotechnology patents.

(b) CONTENTS.—The study conducted under this section shall include—

(1) an examination of the risk of export and the risk of transfers to third parties of biological deposits, and the risks posed by the change to 18-month publication requirements made by this Act;

(2) an analysis of comparative legal and regulatory regimes; and

(3) any related recommendations.

(c) CONSIDERATION OF REPORT.—In drafting regulations affecting biological deposits (including any modification of title 37, Code of Federal Regulations, section 1.801 et seq.), the Patent and Trademark Office shall consider the recommendations of the study conducted under this section.

SEC. 706. PRIOR INVENTION.

Section 102(g) of title 35, United States Code, is amended to read as follows:

''(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.''.

SEC. 707. PRIOR ART EXCLUSION FOR CERTAIN COMMONLY ASSIGNED PATENTS.

(a) PRIOR ART EXCLUSION.—Section 103(c) of title 35, United States Code, is amended by striking ''subsection (f) or (g)'' and inserting ''one or more of subsections (e), (f), and (g)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any application for patent filed on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentlewoman from California (Ms. LOFGREN) each will control 20 minutes.

Ms. KAPTUR. Mr. Speaker, I would like to ask if the gentlewoman from California is opposed to the resolution that will be under consideration.

The SPEAKER pro tempore. Is the gentlewoman from California opposed to the bill?

Ms. LOFGREN. Mr. Speaker, if necessary to claim the time representing the Democratic part of the aisle, but I think, pursuant to the rule, I have been designated as the member of the minority on the committee to represent our side. But I will certainly yield time to the gentlewoman from Ohio to express her opinion.

The SPEAKER pro tempore. Is the gentlewoman from Ohio challenging the gentlewoman from California for the right to control the time?

Ms. KAPTUR. I would like to claim time in opposition, and I would like to know if the gentlewoman is opposed to the measure before us.

The SPEAKER pro tempore. Is the gentlewoman from Ohio opposed to the bill?

Ms. KAPTUR. The gentlewoman from Ohio is opposed.

The SPEAKER pro tempore. Is the gentlewoman from California opposed to the bill?

Ms. LOFGREN. Mr. Speaker, the gentlewoman from Ohio is not a member of the committee of jurisdiction and is not, therefore, eligible to manage our time. I would ask for a ruling.

The SPEAKER pro tempore. The gentlewoman from Ohio is eligible if the gentlewoman from California is not opposed.

Ms. LOFGREN. Then I will claim opposition.

The SPEAKER pro tempore. The gentlewoman from California is opposed?

Ms. LOFGREN. I will claim opposition and the time.

The SPEAKER pro tempore. Then the gentlewoman from California qualifies since the gentlewoman is opposed to the bill.

The gentlewoman from California will then be recognized for 20 minutes.

POINT OF ORDER

Mr. ROHRABACHER. Point of order, Mr. Speaker. With all fairness here, claiming opposition is not what the question is. If the gentlewoman from Ohio is indeed opposed to the bill, she deserves to have this time as compared to someone who is unwilling to say that they are opposed to the bill.

Ms. LOFGREN. Mr. Speaker, if I may, I have reservations about the changes made today. I hope that I can be convinced that they are adequately made by the time the debate is over.

The SPEAKER pro tempore. At this point, the Chair does not question the motives of the Member. The Member has stated she is in opposition to the bill.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

Mr. ROHRABACHER. Continuing my point of order, Mr. Speaker, does the Member not just claiming opposition, does she oppose the bill?

Ms. LOFGREN. I believe the Chair has ruled.

Mr. ROHRABACHER. If not, if she cannot state this, I would state as a point of order, the gentlewoman from Ohio (Ms. KAPTUR), who does say she is opposed to the bill, this is not in my interest to do this, this is in the interest of fairness, we should make sure the time is allotted to someone who opposes the bill.

The SPEAKER pro tempore. The gentlewoman from California has stated that she is in opposition to the bill; is that correct?

Is the gentlewoman from California in opposition to the bill?

Ms. LOFGREN. Until convinced about the changes made, yes.

The SPEAKER pro tempore. At this point the gentlewoman from California is in opposition to the bill. The gentlewoman qualifies.

POINT OF ORDER

Ms. KAPTUR. Point of order, Mr. Speaker.

Mr. Speaker, do I take it, then, that under your ruling, I, as someone who is opposed to this measure, will not be allowed my own time during debate this evening?

The SPEAKER pro tempore. Under a motion to suspend the rules, only two Members may control the time. The gentlewoman from California has qualified to claim the time in opposition. She will, of course, be able to yield time if she is so inclined.

Ms. LOFGREN. Mr. Chairman, if I may, I plan to expansively yield time to the gentlewoman from Ohio.

Ms. KAPTUR. I wanted to ask, Mr. Speaker, how much time would that be of the total time allotted, then?

The SPEAKER pro tempore. Each side has 20 minutes. The gentlewoman from California will control 20 minutes.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOYER. Am I correct that under the rules as they now exist, that if in fact the gentlewoman from Ohio (Ms. KAPTUR) were recognized in opposition, she would receive half of the time allotted to the minority side of 20 minutes? Is that correct?

The SPEAKER pro tempore. Only one Member may control time in opposition. The gentlewoman from California, a member of the committee, controls the time because she is opposed.

Mr. HOYER. So if she were in opposition, she would receive the entire 20 minutes?

The SPEAKER pro tempore. If the gentlewoman from California were not in opposition, someone else could seek that time.

Mr. HOYER. Further parliamentary inquiry. If that in fact occurred, could the gentlewoman from Ohio (Ms. KAPTUR) yield to the gentlewoman from California (Ms. LOFGREN) 10 minutes?

The SPEAKER pro tempore. Any Member in control of time can yield time to anyone else.

Mr. HOYER. In other words, there would be nothing to preclude her from doing so?

The SPEAKER pro tempore. Repeat your question, please.

Mr. HOYER. The Speaker's response was, as I take it, if the gentlewoman from Ohio (Ms. KAPTUR) were recognized as an opponent to the legislation, she could yield such time as she desired to the gentlewoman from California (Ms. LOFGREN) who obviously has been asked by the committee to represent the minority side of the committee in this action.

The SPEAKER pro tempore. That would be possible. But the gentlewoman from California, a member of the committee, has claimed the time because in opposition and will have the 20 minutes and will be able to yield that time as she so desires.

Mr. HOYER. I understand.

Ms. KAPTUR. Mr. Speaker, could I ask unanimous consent to control my own 10 minutes?

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Ms. LOFGREN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The gentlewoman from California (Ms. LOFGREN) controls the time.

POINT OF ORDER

Mr. ROHRABACHER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ROHRABACHER. Mr. Speaker, the point of order is such that it seems to me that by being a little heavy-handed here, we are undermining this process.

Ms. LOFGREN. Will the gentleman yield?

The CHAIRMAN. The gentleman will state his point of order first.

Mr. ROHRABACHER. I withdraw my point of order.

Ms. LOFGREN. Mr. Speaker, I ask unanimous consent to make a 10-second statement that will save us all a lot of time.

After I make my opening statement, it is my intention to yield 10 minutes to the gentlewoman from Ohio.

The SPEAKER pro tempore. The gentlewoman may take 10 seconds of her time and solve the problem.

Ms. LOFGREN. I think we just solved it, Mr. Speaker.

The SPEAKER pro tempore. Very well.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I want to say to my friend from California and to my friend from Ohio, the gentlewoman from California's comments, I think, make it clear that no one is trying to roll anyone. I think that has been made clear by the gentlewoman from California's comment subsequent to the beginning of the debate.

I rise tonight, Mr. Speaker, in support of H.R. 1907, the American Inventors Protection Act, and urge the House to adopt the measure.

Mr. Speaker, a coalition of Members, staff, administration officials and other contributors have negotiated in good faith into the early evening to clarify what few outstanding issues remain in this 100-plus-page bill. I now anticipate overwhelming support for this complex, important and often misunderstood measure which will bring our patent and trademark system into the 21st century to the benefit of American inventors and American consumers.

Mr. Speaker, H.R. 1907 is a product of compromise and negotiation. It is comprised of several provisions that have been suggested by the gentleman from California (Mr. ROHRABACHER), the gentleman from California (Mr. CAMPBELL), each of whom opposed this the last session, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Indiana (Mr. BURTON), in addition to other administration and industry officials.

The gentlewoman from California (Ms. LOFGREN), the gentleman from California (Mr. BERMAN), the ranking member of the subcommittee, among others, have been very helpful in this process. I want to thank all the participants and others too numerous to name for their patience and insight as we have labored to bring this bill finally to the floor.

Mr. Speaker, with a bill this complex and lengthy, no one who participates in its construction can get everything he or she wants. I think we have all done a good job, however, of addressing those legitimate concerns registered by independent inventors while retaining the core protections of the legislation. There is no doubt in my mind that H.R. 1907 will make our patent and trademark system, already the world's best, even better in the new millennium.

Mr. Speaker, I place an exchange of letters in the RECORD concerning committee jurisdiction on the bill H.R. 1907 between Chairman BURTON and Chairman HYDE.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, August 3, 1999.

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

DEAR MR. CHAIRMAN: I am writing with regard to H.R. 1907, the American Inventors Protection Act of 1999.

As you know, under House Rule X of the Committee on Government Reform and Oversight has jurisdiction over the federal civil service and the overall economy, efficiency, and management of government operations and activities. Sections 612, 613, 614, and 621 of the amended bill address matters that are within the jurisdiction of this Committee.

In the interest of expediting floor consideration for this measure, the Committee on Government Reform will agree not to exercise its jurisdiction over those sections on the understanding that you have agreed to amend the bill as follows:

1. Section 613 will be revised to provide that the total compensation of the Commissioner for Patents and the Commissioner for Trademarks may not exceed the salary of the Vice President. (It is our understanding that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office and the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office will not be eligible for bonuses under a revised version of the bill that your committee has already agreed to.)

2. Section 614 will be further revised to require the Patent and Trademark Office to submit to Congress a legislative proposal to retain patent and trademark examiners for the purpose of training other patent and trademark examiners rather than allow the Office to develop and implement such program without congressional intervention.

Our decision not to exercise our jurisdiction over this measure is not intended or designed to waive or limit our jurisdiction over any future consideration of related matters.

Sincerely,

DAN BURTON,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 3, 1999.

Hon. DAN BURTON,
Chairman, Committee on Government Reform, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 1907, the ''American Inventors Protection Act.'' This letter will serve to acknowledge your jurisdiction over sections 612, 613, 614, and 621 of the amended bill, and to confirm our understanding that we have agreed to amend the bill as follows:

1. Section 613 will be revised to provide that the total compensation of the Commissioner for Patents and the Commissioner for Trademarks may not exceed the salary of the Vice President. (You are correct in your understanding that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office will not be eligible for bonuses under the amendment.)

2. Section 614 will be further revised to require the Patent and Trademark Office to submit to Congress a legislative proposal to retain certain patent and trademark examiners for the purpose of training other patent and trademark examiners rather than allow the Office to develop and implement such a program without congressional intervention.

I understand that your decision not to conduct a markup over the provisions over which you have jurisdiction does not serve to waive your jurisdiction over these provisions or over any future consideration of related matters.

Sincerely,

HENRY HYDE,
Chairman.

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

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

I would like to inquire of the chairman of the committee, rising in opposition to the bill, I need to explore the changes that have been made to this bill to understand why it is worthy of my support.

□ 2145

In title II there is a first inventor defense that is limited to methods of doing or conducting business, and I need to understand why, what the impact of that would be and why it merits our support.

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

Ms. LOFGREN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Speaker, it is limited, I say to the gentlewoman from California, to the State Street Bank case. There was some discussion early on that. Perhaps the first inventive defense should apply to processes as well as methods. But we finally concluded that we would restrict it to methods only, and that, by having done that, we were able to satisfy some folks who were opposed to the bill otherwise.

Ms. LOFGREN. All right. So that is an accommodation that we have done, given that legislation is sausage making, to move this whole process forward.

On title IV there is a provision permitting applicants to request the issuance of a patent as soon as one claim was allowed with the remaining claims to be added later, and that was deleted. I am concerned that this would change the bill as passed by the Committee on the Judiciary, but there may be some good reason that I am not aware of for the change that is proposed.

Can the gentleman convince me as to why this should be supported?

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

Ms. LOFGREN. I yield to the gentleman from North Carolina.

Mr. COBLE. This deletion was done at the request of the Patent and Trademark Office, and the reason given by PTO was that it considered it a constitution of an additional administrative burden, and for that reason that change was made.

Ms. LOFGREN. On title V, and this is something of actual considerable concern to me, the bill was amended to retain existing law for ex parte reexaminations. For inter parte's reexamination the basic framework in the bill was retained under title V but with the limitation that a third party requestor cannot appeal an adverse decision to the court of appeals for the Federal circuit court.

I am wondering if the gentleman can convince us why this change made after the bill was reported from the committee was necessary and why it should compel our support.

Mr. COBLE. If the gentlewoman from California would continue to yield?

Ms. LOFGREN. I yield to the gentleman from North Carolina.

Mr. COBLE. Primarily this was done for the benefit of the independent inventors to balance the interest of a third party with those of a patent need, patentee, by allowing a third party to pursue reexamination under the existing system or opting for a strictly limited ex parte reexamination while assuring that a patentee would not be subject to harassment in such proceedings.

Ms. LOFGREN. Mr. Speaker, under title VI the Public Advisory Committee for Patents has been altered to provide a quarter of the representation to independents, so-called independent inventors. There is concern that institutional inventors, including universities, might be disadvantaged by this change. Can the gentleman advise us as to the wisdom of this proposal?

Mr. COBLE. If the gentlewoman would yield?

Ms. LOFGREN. I yield to the gentleman from North Carolina.

Mr. COBLE. This title VI, as the gentlewoman knows, came in for much discussion. It was part of the cause for the delay. The distinguished gentleman from Indiana (Mr. BURTON) chairs a committee that has jurisdiction over this title. He asserted that jurisdiction, and we were in exchange with him since May, to be specific, for the desired language that he preferred; and we finally were able to get that language handed to us late today, and the

purpose for his insisting upon that, and probably a good idea, was to ensure that independent inventors are not without a voice in the oversight of the operation of the PTO as far as sitting on one of the boards is concerned.

Ms. LOFGREN. Finally at this point, Mr. Speaker, I note that one change that I think I support but I have some concerns about is that the Patent and Trademark Office would be authorized to publish documents electronically. That makes sense, but because of the lack of vigorous encryption involved in the world and in government offices, I do have concerns as to the security of such publication. I do not know whether that can be addressed in the bill, but I do want to raise the issue, and my 5 minutes is expired. I want to reserve the time for the gentlewoman from Ohio (Ms. KAPTUR), so I will leave that out for a later answer.

Mr. COBLE. We will get to that substantively.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of H.R. 1907, as amended. This bill is the culmination of a long process of negotiations that followed floor battles in the last Congress between the leadership of the Committee on the Judiciary and a group of Members led by myself. It was far more than sausage making because we have people with honest beliefs on both sides, and I certainly can see where people can have honest differences on something as complicated as patent law.

I began this fight in 1994 when I fought against provisions that were inserted into the GATT trade agreement implementation bill to eliminate our Nation's traditional guarantee of a 17-year patent term in an attempt to harmonize our patent law with those of other nations with a 20-year-from-filing limit that was imposed through that legislation, thus taking away a guaranteed patent term that had been the right of every American inventor. This change, by the way, would have resulted in decreasing the patent term of every application held in the Patent Office for more than 3 years, which is a common occurrence with breakthrough technologies.

I was further energized in this fight when additional changes in our patent system were proposed, including the publishing of all patent applications 18 months after filing, even when no patent had been issued, and establishing prior user rights for all inventions, opening up new opportunities to challenge already-granted patents through reexamination and the turning of the Patent Office into a government corporation. These things caused me great pain and concern.

The battles we had ultimately resulted in a standoff in the Senate in which no patent legislation was adopted, and I am pleased to note that the negotiations I referred to earlier have resulted in a bill that is very much different than the patent bills that went through the Committee on the Judiciary last year and the fights we have had in the last 4 years.

Instead of making minor, tenuous extensions in the patent term, H.R. 1907 goes most of the way in reversing the 1994 patent term reduction by extending patent term completely to compensate for delays in the processing of the Patent and Trademark Office or any other delay resulting from actions taken by anyone else other than the patent applicant. Instead of publishing all patent applications after 18 months, 1907 publishes only, only the pending applications that have been published abroad, and thus they are already published and already known to the people and only to the extent that they are published abroad.

Instead of a prior user defense that applies to all inventions which we just heard a question about a moment ago, H.R. 1907 contains a very limited prior user defense that applies only to those business methods which have only been considered patentable in the last few years, and this, of course, flows from an adverse case before the court that changed patent law.

We want to have our say in what is going on here, and we are correcting it in this legislation; and instead of corporatizing the Patent Office and removing civil service protection from patent examiners, H.R. 1907 leaves the PTO as an agency within the Department of Commerce while including valuable provisions keeping patent revenue within the Patent Office and providing for enhanced training and professional development for patent examiners and retaining their civil service status.

Mr. Speaker, although as in all compromises both sides have to give up something, maybe a little, I would say that my Committee on the Judiciary colleagues will not mind that I am stating for the RECORD that I believe that H.R. 1907 represents a major victory for the independent inventor whose interests I have vigorously defended these past 5 years.

I ask my colleagues to give H.R. 1907 their overwhelming support and to join me in urging the other body to take up this compromise as is and send it to the President for his signature without change.

Mr. Speaker, I have some more detailed comments, and I will be inserting them at this point in the RECORD, but I would not want to let this moment go by without thanking the gentleman from North Carolina (Mr. COBLE) who has, as my colleagues know, stepped forward in a spirit of compromise, and we have worked really hard on this; the gentleman from Illinois (Mr. HYDE) who also played an important role in this. Their spirit of goodwill and the negotiations we have had have resulted in a superior bill that is going to do great things for America and to keep us technologically ahead.

I also thank the gentleman from Illinois (Mr. MANZULLO). In his late-breaking contributions to this fight he has greatly improved this legislation, and he can be justly proud he has done a good job for America in doing so. Finally, I would like to thank the gentleman from California (Mr. CAMPBELL) and the gentlewoman from Ohio (Ms. KAPTUR), and Ms. KAPTUR has been deeply involved in these negotiations from the beginning.

Ms. KAPTUR has been very deeply involved in this whole fight from the very beginning, and over the last 4 years she stood firm with us, and in fact in the last month we have had meetings in her office trying to negotiate these details out. We have been working with her staff, and I do not know, it sounds like we have not satisfied all of her concerns, but she has certainly played an important role in this process, and the gentleman from Ohio (Mr. KUCINICH) and the gentleman from California (Mr. HUNTER).

All of these people played such a significant role along with, of course, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Illinois (Mr. HYDE) in giving us this incredible piece of legislation that I believe is going to do great things for America. Also, my staff members Rick Dykema and Wayne Paugh and other science fellows who worked with me, Paul Crilly, John Morgan, Biff Kramer, Dick Backe and Richard Cowan, for all the hard work they have put in on this piece of legislation.

I urge my colleagues to support it.

Mr. Speaker, for the last several years, this is a day I had hoped would come. I have fought long and hard to protect the products of our nation's independent inventors. I have fought diligently to strengthen our patent system and to prevent changes in the name of harmonization. Now, after the continued competition and polarization of the past, this was finally a time for cooperation. Chairman COBLE and I have both spent many hours of individual effort pursuing our respective goals for patent reform the past several years, and indeed the time was ripe to work together toward a unified effort. It was time to have an open-ended process in which everyone had an opportunity to come to the table.

With that, I am proud to say that after a long and successful negotiation period with my friend from North Carolina, Chairman COBLE, and with the invaluable help of my fellow colleague from California, Mr. CAMPBELL and with late-breaking help from my friend from Illinois, Mr. MANZULLO, we were finally able to reach agreement on the issues. As was always the case, the devil has been in the details. Therefore, this has been a carefully crafted effort, but has resulted in a resounding victory for the United States patent system and the American inventor.

TITLE II—FIRST TO INVENT DEFENSE ACT

With regard to Title II, the First Inventor Defense, I have always held that we simply cannot champion trade secret protection over patent protection for clearly patentable subject matter. We cannot betray our Founding Fathers by abandoning the foundation upon which our patent system is based. We cannot

openly advocate secrecy when our patent system calls for us to vigorously promote the progress of science through the sharing of critical technology.

In the patent bill that passed the House last year, all patents were subjected to prior user rights. This Congress, we were initially able to limit this title to processes and methods only. More recently, however, we were able to even further limit this section to business methods only. This is an important limitation in scope to take note of because now Title II will not affect the vast majority of independent inventors and small businesses.

A first inventor defense that is strictly limited to business methods will severely reduce its applicability. Furthermore, the defense applies only to business methods that have been reduced to practice at least one year prior to the effective filing date of the patent in question. Even further, to successfully use this defense a litigant must satisfy a clear and convincing evidentiary standard and risk being subjected to paying reasonable attorney fees to the prevailing party. Bottom line, the best defense to a charge of patent infringement will remain the successful assertion of invalidity, and not a first inventor defense.

TITLE III—PATENT TERM GUARANTEE ACT

My goal all along has been to assure a minimum patent term of 17 years from the date a patent is granted. Failing that, I have insisted on a guarantee that the PTO will extend the patent term as necessary to assure a term of 17 years from filing for non-dilatory applicants. The language of this bill clearly codifies this approach.

As everyone is aware, the current law governing patent term is 20 years from the date of file. Since June 8, 1995, when the 17-years-from-grant was changed, patents have been losing precious time under the current law. Inventors can no longer rely on a guaranteed term of protection. In some cases, several years of effective post-grant protection is lost due to Patent and Trademark Office (PTO) administrative delay. This title represents an opportunity to recapture some of the reliance of pre-GATT standards.

By codifying what constitutes PTO delay, this title can compensate the patent applicant for lost time on a day-for-day basis without time limitation. Furthermore, if the PTO does not issue a patent within 3 years from the date of original file, the patent term will be compensated day-for-day until the patent issues, minus any time the applicant has delayed prosecution by engaging in dilatory behavior.

This approach effectively eliminates the claimed submarine patent dilemma while providing a specific framework from which the Patent and Trademark Office must monitor and compensate the loss of any patent term due to delay for which the applicant has no responsibility.

This approach essentially gives back to the non-dilatory patent holder what I have fought so hard for—a guaranteed 17 year patent term. The patentee once again will have the right to exclude the public from using his invention for a limited time—a time that is guaranteed and clearly defined. This Title essentially regains what GATT gave away. It has been my core initiative and now I am proud to say that it is my most significant success in this bill.

TITLE IV—PUBLICATION OF FOREIGN APPLICATIONS ACT

As I supported last year, this bill includes a provision similar in spirit to the amendment successfully offered last year to H.R. 400 by my friend from Ohio, MARCY KAPTUR. Essentially, this year's effort only permits early publication of U.S. patent applications that are filed abroad in a country that also publishes early. Additionally, the U.S. application will not be published before the foreign application, and in no greater content.

Curiously, this title has generated an abundance of controversy, although its provisions are of a positive nature. There are over 170 patent systems that currently exist globally. Our nation cannot control foreign policies on early publication. A majority of foreign nations choose to publish patent applications prior to granting a patent. The published patent application is also normally printed in the home language of each respective foreign patent system.

Generally, this title will affect large corporations, because they are more likely to file abroad than the independent inventor community. Since American patent applications filed abroad are indeed published early and are in a foreign language, foreign nations have a chance to view them at their leisure. This is the reality and the argument from the other side in the last Congress that was the hardest to counter.

Thus we have agreed to permit the PTO to publish after 18 months only those applications that are filed internationally. If an applicant files an application only domestically, he will have the unqualified right to maintain confidentiality of his patent application. If an applicant files abroad and domestically, he will have the right to limit the content of early domestic publication to that content which the foreign entity has published. In no event will America publish prior to the actual publication date in a foreign patent system. It's that simple.

Also included, for those applications published early, is a provisional right which allows the patent holder to recover royalties for infringement activity during the pre-issuance period. There will also be no pre-issuance 3rd party opposition to the patent application permitted. Finally, the costs derived from early publication will be applied only to those applicants who are actually subjected to publication.

Essentially, this title is reactive to circumstances beyond our control already present in many foreign patent systems, while going to lengths to protect the American inventor community.

TITLE V—PATENT LITIGATION REDUCTION ACT

Considering both the patent holder and third party, reexamination is a seldom used process in proportion to the number of patent applications filed each year. Yet, when Congress originally enacted the reexamination statute it had an important public purpose in mind: to restore confidence in the validity of patents issued by the PTO.

Specifically, three principal benefits were noted: 1. Resolve patent validity disputes more quickly and less expensively than litigation; 2. Permit courts to defer issues of patent validity to the expertise of the PTO; and 3. Reinforce investor confidence in the certainty of patents.

Reexamination was enacted as an important step to permitting the PTO to better serve the public interest. As the Supreme Court stated in Graham v. Deere, ''it must be remembered that the primary responsibility for sifting out unpatentable material lies in the Patent Office. To await litigation is—for all practical purposes—to debilitate the patent system.''

The current statute permits any patent holder or third party to submit prior art in the form of prior patents and printed publications throughout the term of the patent for the PTO to determine whether a substantial new question of patentability exists. Reexam procedures currently limit a third party's participation to arguing why there is a substantial new question of patentability.

This title was an attempt to provide an alternative to existing law and to further encourage potential litigants to use the PTO as a avenue to resolve patentability issues without expanding the process into one resembling courtroom proceedings. Fundamentally, in addition to the reexam process in law today, this title creates an additional reexam option that permits a 3rd party requestor to file additional written briefs. The price paid by those who would challenge a patent, however, is that the 3rd party requestor is barred from any appeals outside of the PTO and from subsequently litigating the same issues in a district court or making a second reexam request. This estoppel is the insulation that effectively protects patent holders.

Ultimately, the expanded reexam option does not subject the patent to any greater challenge in scope than currently exists today. It merely allows a reexam requestor the option to further explain why a particular patent should not have been granted.

Mr. Speaker, this bill does not create new opportunities to pursue litigation and does not create additional ways to invalidate patents. In fact, the bill seeks to provide even further ways to reduce the incentive for litigation in the courts and to protect against the needless wasting of dollars independent inventors don't have.

CONCLUSION

Certainly, last year's bill was an exercise in harmonization brought about by the interests of large corporations. In contrast, this year's bill, H.R. 1907, is designed to protect the products of our nation's inventors and to help sustain our unprecedented technological leadership. I saw to that through many intense negotiations with my colleagues. Unfortunately, there are still those who cannot recognize victory even when it stares them in the face.

I assure you, Mr. Speaker, that if H.R. 1907 was similar to either H.R. 400 or S. 507 last Congress, my views would not have changed this Congress. But that is not the case. H.R. 1907 is a brand new effort reached through an open-ended and fair debate, and it is a bill I am unequivocally supporting today. It is also a bill that I will stand firmly behind as it moves through the Senate.

I know it is up to Congress to carry on the tradition of Thomas Jefferson, Benjamin Franklin, and the will of our Founding Fathers. It was they who provided our newly formed nation with a foundation for freedom and the power to protect the achievements of our inventors.

I have been intimately involved in these issues because I want to ensure that our patent system continues to respect the fundamentals of our Founding Fathers while at the same time enhancing its operability in modern society. We have a chance this Congress to enhance a system that better provides a stronger protection for our nation's inventors.

Our patent system always has—and always will—stimulate the creation of jobs, advance our technological leadership, and help sustain our standard of living. It has helped to fortify our economic success, strengthen our national defense, and reinforce our global leadership.

I look forward to passing this bill with the resounding support of my colleagues on the House side and I look forward to the unshakeable support for its text when it is reported in the Senate.

I want to make sure that we will firmly stand behind the text of this bill in the event of contrary action by the Senate. But I am confident that the other noble body of this Congress will accept the House's efforts in patent reform and will move our version of the bill forward without delay.

Mr. Speaker, I applaud my colleagues who have endured a labor-intensive process to reach the final accord we have today. I know it was not an easy thing to do and that it was a long time coming, but it is the American people who will ultimately benefit.

This body can rest assured knowing we faithfully served American technology. Mr. Speaker, although I know there is much work left to do by way of vigilance and continued involvement, I am pleased looking back and realizing all the good work that has been accomplished so far.

Ms. LOFGREN. Mr. Speaker, I yield 10 minutes to the gentlewoman from Ohio (Ms. KAPTUR), and I ask unanimous consent that she be permitted to further yield time.

The SPEAKER pro tempore (Mr. MILLER of Florida). Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. KAPTUR) will now control 10 minutes of time.

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

Mr. Speaker, I must say I find it very interesting here close to 10 p.m. Washington time that we have had walked to the floor less than a half an hour ago the bill that we are going to be asked to vote on tomorrow. This is likely to be the last item of business tonight. This bill is 105 pages long, and I must say I am extremely disappointed that I could not even get 20 minutes to talk about a measure that has been worked on in this Congress for several years, and now under the unusual, unusual procedure of bringing up a major bill like this with constitutional implications it is brought up under suspension, and I, as the only person in opposition here with perhaps the exception of one other are allowed 10 minutes. Mr. Speaker, I will not yield time at this point, having so few minutes myself.

Mr. Speaker, any reasonable person would ask why the silence. Why are we being silenced and not allowed to explore some of the questions that have troubled us over several years?

I listened very carefully to those that have been involved in these negotiations: the gentleman from Indiana (Mr. BURTON), the gentleman from Illinois (Mr. MANZULLO), the gentleman from California (Mr. ROHRABACHER), the gentleman from California (Mr. CAMPBELL).

Frankly I was not involved in the negotiations that have been occurring here over the last several weeks. There were two meetings I think in my office where we tried to gain clarification of language that never came back, and I would like to ask the chairman of the full committee, if I might, my good friend, the gentleman from North Carolina (Mr. COBLE), if this bill before us, H.R. 1907, is the same bill that was voted out of the Committee on the Judiciary on May 24 of this year, 1999.

Is this the same bill?

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

Ms. KAPTUR. I yield to the gentleman from North Carolina.

Mr. COBLE. It has been amended many times for the benefit of independent inventors, many of the people the gentlewoman from Ohio (Ms. KAPTUR) represents, and that is one of the reasons why it has taken awhile for it to get here, because there have been countless hours that have been put into this.

Ms. KAPTUR. Excuse me, on that point where the gentleman says it has been amended, in what formal process on the record has it been amended?

Mr. COBLE. There is a manager's amendment now.

Ms. KAPTUR. There is a manager's amendment now which was walked to the floor at 9:17 p.m., which I could only get up to Page 54 reading very quickly here this evening. There are 105 pages in the bill.

So the manager's amendment is the bill that was walked to the floor tonight, so it has not come through any subcommittee; it has not come through any full committee. It is going to be offered here and then voted on tomorrow; is that correct?

Mr. COBLE. That is correct, and if the gentlewoman would yield, for the people, for the very people she represents, we have done this for them.

Ms. KAPTUR. I would say to the gentleman I have many fewer minutes than he does here this evening, and I hate to reclaim my time, but I am going to do that and say to the gentleman that for me, and again I have not had to study this bill every single word as the gentleman has over the last several weeks, but the reason for my objection is this:

□ 2200

The Constitution of the United States sets up a very precious right of property. I am going to read it. It is only 32 words. It says in article I, section 8, ''The Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right''—exclusive right—''to their respective writings and discoveries.''

Now, this is not some little amendment that is part of a manager's effort. This is the Constitution of the United States. Therefore, when a 105-page bill comes before us on suspension, those of us who value this document and devote much of our lives to preserving it under the oath that we take are very suspicious of any bill of such consequence that comes before us on suspension when we are allowed only 10 minutes to debate.

I also would say that with all due respect to the excellent minds that were involved in crafting this manager's amendment, it is only a handful of Members of this institution. This bill is not up on the web. I cannot ask the inventors I represent back home to go to any site to look at it so I can be advised on how to vote tomorrow morning.

I know a fast ball when I see one. I have been here long enough to know that. I am offended by this, simply because I think the constitutional issues are so very important. I am not afraid of sunshine on this issue or any other issue, and I would say to my good friends from California, some of whom are on the floor tonight, I understand a little bit about industry differences, and I know that there are some industries that will benefit more than others from the publication in foreign locales of some of these patents.

I would say, and I have only marked one paragraph that I will read here, because the public will know nothing of this bill before it is voted on tomorrow, but on page 33 there is this section that is called ''United States publications of applications published abroad.'' It says, ''Subject to paragraph (2), each application for patent except applications for design patents filed under chapter 16 and provisional applications filed under section 111(b) shall be filed in accordance with procedures determined by the Director, promptly upon the expiration of a period of 18 months after the earliest filing date for which a benefit is sought under this title.''

Now, that is an interesting set of words there, but I guess I would want to take sections like that and let the sun shine in, let those back home whose livelihoods and futures, and, frankly, the future of this country depend on, have an opportunity to think and comment before this particular vote.

I agree with the chairman; this is complex, it is very important, and it is often misunderstood. I would have to say as a Member, I take some offense that some professor from MIT, and I attended MIT, had more influence with the committee and more ability to review these sections than Members like myself. You must understand this frustration.

So I do really feel that we are being closed out. That means that some interests are being looped in, and it means that we are not to be given the chance to review this extremely important measure with constitutional consequences before we are asked to vote on it tomorrow.

Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Maryland (Mr. HOYER), who has fought so hard trying to get reform that is fair to all concerned.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding, and I want to join her in her expressions of concern about the process.

The gentleman from California, myself, and others as well as the gentlewoman from Ohio (Ms. KAPTUR) throughout the process of consideration of legislation, the history of which Mr. ROHRABACHER gave a little earlier, have raised very significant concerns. Those concerns were raised not for those who can lobby this House very effectively, but for those small inventors whose lifeblood relies on the integrity of their patent application.

Because of that concern we have raised repeatedly the reservations, I do not even want to say opposition, but reservations to this bill that were expressed to us by hundreds of small inventors, perhaps thousands of small inventors, represented by them around this country.

My concern tonight is that the gentleman from California (Mr. ROHRABACHER), for whom I have a great deal of respect, the gentleman from Illinois (Mr. MANZULLO), for whom I have a great deal of respect, who signed a letter with me, with the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from California (Mr. HUNTER) with reference to the bill in its previous form, we did not want it to move quickly.

We have now had changes in the bill which the gentlewoman from Ohio (Ms. KAPTUR) has referred to which, frankly, I have not had the opportunity to review fully, and I have a sense that maybe I am with the 430 people in this House. There perhaps have been four or five who have reviewed this legislation. But I am very concerned that we are moving this tonight on suspension. We are not going to vote until tomorrow, I understand that, without having the opportunity to fully review, debate, the provisions of this bill.

The gentleman from California made a very good statement, I thought, going through various provisions in the bill about which we had concerns. I regret I do not have more time to speak.

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

Mr. Speaker, I regret the gentleman does not have more time as well. I wish to say to the gentleman, thank you very much for being here this evening, and to say thanks to our colleagues who have also labored on this bill.

There is regular order here. We should have regular order, especially on a bill of constitutional magnitude. We all recognize it is.

Let me say for those of us who may question why do we need to change anything about this patent system which protects the seed corn of our country, the lifeblood of our ideas, what is so bad about the current system we have today, when we are the leading industrial-military-arts-power in the world? Everyone else wants to file their patents here because of the very successful system that we have. If we do it wrong, we jeopardize our own leadership.

So why are we so afraid to take the time to let Members read these provisions? If the bill is so good, then it will go through on its own merits, but not through clamping down on regular order in the debate that should precede on a measure with constitutional consequences.

Frankly, if it is a bad bill, it is going to end up in the courts and it is not going to go anywhere. So we owe it to the American people to do it right the first time.

Mr. Speaker, I thank the gentlewoman for yielding me the 10 minutes, but I truly wish at a minimum 20 minutes for a constitutional question, is that really asking too much?

Ms. LOFGREN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I thank my colleague from California for generously yielding me time tonight on this subject.

Mr. Speaker, I rise today in support of H.R. 2654, the American Inventors Protection Act. The bill improves current patent law and it is in our national interests. The United States is currently the only industrial nation without a first invention defense, and this bill will close that gap.

The first invention defense allows a company who is using a manufacturing process, if someone patents that process after the company has been using it, to continue to use it. This is in the best interests of competitive growth and our industrial technology. The bill also makes the Patent and Trademark Office better equipped to deal with the flood of patent applications that come in every day.

Clearly this is a bill that is good for American business, and it therefore will also be good for the American consumer. I urge my colleagues to vote for H.R. 2654.

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

Mr. Speaker, the gentlewoman from Ohio said she was offended. Well, I am becoming offended too, when I think of all the time that we have put in listening to every person who wanted to be heard. The gentlewoman from Ohio (Ms. KAPTUR) submitted a PTO fees for study for small businesses. It is in the bill. Her own study is in the bill, section 622.

The Alliance for American Innovation, a group known to the gentlewoman from Ohio (Ms. KAPTUR) and adamantly opposed to our bill, I invited them not once, but twice to send a witness to a public hearing. On each occasion, Mr. Speaker, my invitation was declined. So, yes, I am becoming a little bit impatient as well, because I think we have indeed turned the other cheek, and I am proud of it.

My friend the gentlewoman from Ohio (Ms. KAPTUR), when she was reading earlier the provision that she read, of course, it is subject to paragraph 2, exceptions for independent inventors who file only in the United States. That is covered.

I apologize, Mr. Speaker, if I am becoming a little wrought, but I am a little wrought, and I am normally an easy dog with which to hunt. But when I think about all we have done, and then I see the gentleman from California.

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

Mr. COBLE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, let me just note that the section of the bill that the gentlewoman from Ohio (Ms. KAPTUR) read and said, my gosh, we need to look at this more, and why just foist it on us, the gentlewoman from Ohio (Ms. KAPTUR), that portion of the bill has not been changed and has been available for 3 or 4 months now.

This is not something that somebody is moving through, trying to slide through the system. The gentlewoman is complaining about the section of the bill dealing with the 18-month publication. That has not changed. The gentlewoman has had that in her possession ever since it went through committee a couple months ago.

Let me make one or two more points. We have in the last few days, most of what has been talked about, the gentlewoman did not get this 100-something page bill and never had a chance to read it. Most of that bill is exactly the same, and the changes that have taken place are small changes that were done in order, as the gentleman from North Carolina (Chairman COBLE) said, to accommodate the very people that we have been trying to protect. Those changes are not so dramatic that it takes very long to digest them. It is not a 118 page bill that is shoved in your lap that is totally new. Almost all of that has been in your possession all of this time.

Mr. COBLE. Mr. Speaker, reclaiming my time, I want to address a question that the gentlewoman from California (Ms. LOFGREN) asked earlier, and I want to do it before I forget it. When the gentlewoman talked about the PTO authorizing the publishing of documents electronically, it was done to ensure that the users of the Patent and Trademark Office may have a more expeditious and thorough access to patent-related information. I think I know from where the gentlewoman from California (Ms. LOFGREN) is coming from, and I will be happy to discuss the security aspect with her at a subsequent time.

Ms. LOFGREN. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Speaker, I do not believe we need to specify the security issues in this bill, but I accept the

chairman's commitment to work with me, and I am sure with the gentleman from Virginia (Mr. GOODLATTE), to ensure the encrypted security of these measures.

Mr. COBLE. I thank the gentlewoman.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, these past 2 days have been perhaps the most challenging in my life as a United States Congressman. I, first of all, want to thank the gentleman from North Carolina (Chairman COBLE) for his patience, his understanding, his wisdom, and his knowledge of this subject. I come to this gentleman's defense not only because of the scholarship and the reputation he has for honesty in this country, but also for the fact that many people have attacked the gentleman from North Carolina (Mr. COBLE) personally because of this bill. I believe that if there is any attack, it should be to the legislative language, and not to an individual's integrity.

These have been challenging days. In addition to the gentleman from North Carolina (Mr. COBLE), I want to thank the gentleman from California (Mr. ROHRABACHER), the gentleman from Indiana (Mr. BURTON) and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary.

We have labored endlessly in these past 2 days to come up with a bill that protects the integrity of the patent system of this country, while giving fair and open access to it by large corporations and by individual inventors.

The bill is not a compromise in that parties give up or gain any rights. Rather, it is a coming together of all interests in forging a bill that represents openly and fairly the interests of everybody, especially and including the American people.

I worked in two areas of the bill, first with regard to title II of the first inventor defense. Before the State Street Bank and Trust case as to which in 1998 the U.S. Supreme Court upheld the Court of Appeals for the Federal court, it was universally thought that methods of doing or conducting business were not patentable items.

□ 2215

Before that case, everybody would keep that secret and never tried to patent it. In recognition of this pioneer clarification in the law by that case, we felt that those who kept their business practices secret had an equitable cause not to be stopped by someone who subsequently reinvented the method of doing or conducting the business or obtaining a patent. We, therefore, limited the first inventor defense solely to that class of rights dealing with methods of doing or conducting business.

It is succinctly to be understood that we do not intend to create by legislative fiat the first inventor defense or any prior user rights for any other process, method, or product or other statutorily recognized class of patentable rights.

Second, with regard to title V, Optional Inter Partes Reexamination Procedure, what we did in that was, in addition to keeping the present law of ex parte reexamination procedure, which gave certain rights to the inventor and to the challenger, we came up with an additional section, the inter partes reexamination which, if selected by the third party requester, would entitle that person to participate further by filing written documents within the Patent Office.

In exchange for that, there would be a complete estoppel or prohibition to contest the decision. The purposes of our making those changes was to stop any additional litigation that may come as a result of this law.

This means fairness for everybody. For the inventor who has a request for reexamination filed against him, in the present ex parte reexamination process, he still has the same rights he does under the present law; that is, the third party has to rely on his initial written documents. The third party has no right to appeal in the event that he loses a challenge. If the inventor loses, he still may obtain his right to appeal to the Court of Appeals.

To the third party, he may proceed under the present law or the option to file the inter partes reexamination.

So it is a matter of fairness to everybody in maintaining the integrity of the Patent Office. Sure, we have had a lot of people help us on this in addition to the Members and Bob Rines who founded the Franklin Pierce Law Center at MIT, founder of the Academy of Applied Science, an inductee of the Investors' Hall of Fame, an inductee of the Army Signal Corps Wall of Fame, a Lecturer at the MIT since 1933, a former lecturer of patent law at Harvard, the inventor of the sonogram, a person who has practiced patent law for 55 years and has no interest other than to maintain the rule of law and the integrity of the patent system. He came and helped everybody out.

But, Mr. Speaker, this bill is a good bill because it protects everybody. But most of all, it protects the integrity of the patent system. I would ask that when the Senate takes it up that the bill would be unchanged in its present form.

Mr. Speaker, these past two days have been two of the most challenging I have had as a Member of Congress. I have had the opportunity to work with my good friends and colleagues, Congressmen HENRY HYDE, chairman of the Judiciary Committee, HOWARD COBLE, chairman of the Judiciary Subcommittee on Intellectual Property, and DANA ROHRABACHER. We have labored endlessly these past 2 days to come up with a bill that protects the integrity of the patent system in the country, while giving fair and open access to it by large corporations and individual inventors. The bill is not a compromise in that parties "give up" or "gain" any rights; rather, it is a coming together of all interests in forging a bill that represents openly and fairly the interests of everybody—including and especially the American people.

I have had a hand in working in the following areas of the bills.

First, with regard to title II—First Inventor Defense: Before the State Street Bank and Trust case, as to which in 1998 the U.S. Supreme Court denied certiorari and thereby upheld the Court of Appeals for the Federal Circuit, it was universally thought that methods of doing or conducting business were not among the statutory items that could be patented. Before that case, everybody would keep their methods of doing or conducting business as secret as they could and never tried to patent them. In recognition of this pioneer clarification in the law, we felt that those who kept their business practices secret had an equitable cause not to be stopped by someone who subsequently reinvented the method of doing or conducting business and obtained a patent. We, therefore, limited the first inventor defense solely to that class of rights dealing with "methods of doing or conducting business." It is distinctly to be understood that we do not intend to create first inventor defense or prior user rights for any other process, method, or product, or other statutorily recognized class of patentable rights, which in fact had been included in the original draft of this legislation, but which was stricken upon agreement of all the parties on this legislation.

Second, with regard to title V—Optional Inter Partes Reexamination Procedure: We clearly retain the present existing ex parte reexamination rules without change, Chapter 30 of title 35, United States Code. In addition we added an optional inter partes reexamination procedure, which, if selected by a third party requestor, would entitle that requestor to participate by filing written documents within the Patent Office only, and would bar the requestor from appealing to the Federal Court of Appeals of the Federal Circuit if the Patent Office decided the patent reexamination in favor of the inventor. In selecting this optional inter partes procedure, however, the requestor would be bound by the decision of the Patent Office and estopped (or prohibited) to contest the decision in any other civil action outside the Patent Office.

This means fairness for everybody. For the inventor who has a request for reexamination filed against him in the present ex parte reexamination process, he still has the same rights as he does under the present law: (a) the third party has to rely on his initial written documents and cannot participate in the discussion between the inventor and the patent office; (b) the third party has no right to appeal in the event he loses his challenge; and (c) if the inventor loses, he still maintains his right to appeal to the Court of Appeals.

For the third party, he may either proceed under the present law, as outlined above, or have the option to filed under the inter partes reexamination procedure, and file further documents (as opposed to just the initial document) and thus participate in the proceedings in the patent office, but with no right to a court appeal if the Patent Office decides against him, and with an estoppel (prohibition) against his challenging the Patent Office decision in any forum.

With regard to title VI—Patent and Trademark Office, we are proud to say that the sole

mission of the Patent Office is to protect intellectual property of the inventor and to that end, the title lets the Patent Office retain and use for its purposes all the revenues and receipts. This means the Patent Office will have additional funds to retain professional staff, provide increase training and facilities, and make the patent system as affordable as possible to the inventors.

Ms. LOFGREN. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentlewoman from California (Ms. LOFGREN) has 4 minutes remaining. The gentleman from North Carolina (Mr. COBLE) has 3 minutes remaining.

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

Mr. Speaker, the American Inventors Protection Act of 1999 revamps our patent system so it is ready to meet the challenge of our Nation's high-tech industry and the global economy.

We had a spirited debate in the last Congress on our predecessor bill, H.R. 400. While H.R. 400 did pass the House, it died in the Senate. This year I believe we made the changes that meet the concerns raised during the floor debate in committee.

The bill was first published as a committee print so everyone could make known their objections and so final details could be carefully considered before the bill's formal introduction.

Now that the Subcommittee on Courts and Intellectual Property has favorably reported the result of all that effort, as has the full committee, I encourage support of the bill.

It requires early publication of our foreign competitors' technology, it protects American investors from unscrupulous invention promotors, it protects domestic manufacturers and jobs from late-filed and issuing patents, half of which are foreign owned, it provides an inexpensive and efficient system for challenging improvidently granted patents, and it gives the Patent and Trademark Office operational flexibility that it needs.

Under this bill, no U.S. inventor who seeks patent protection only in the United States will have to publish their patent application, that is, if they wish to maintain their invention's secrecy.

But a U.S. inventor will get to see what foreign competitors are seeking to patent here more than a full year earlier than is the case under current law.

While the administrative procedure for testing patents in the PTO by expert examiners will be made fairer, thus enhancing its utility, a number of safeguards have been added to ensure that patentees, especially those of limited financial means, will not be harassed or otherwise subject to predatory tactics.

In addition to the PTO's being reorganized into a performance-based organization, the creation of the statutory advisory committee will be of value both to the Congress, the President, and the public.

This Act will strengthen our Nation's technological leadership, protect American workers, and reduce the cost of obtaining and enforcing patents in the United States.

When I stood earlier this evening, I expressed reservations about the changes that were made in the bill between reporting, I would say unanimously by the full committee, and receipt of the bill today.

As I mentioned, legislating is like making sausage. There are many aspects that are not delightful. But I would note that the changes that have been made as explained by the chairman are really discrete ones.

As the gentleman from California (Mr. ROHRABACHER) pointed out, the bulk of this bill is exactly what was reported by the committee. It has been available to every Member of the public and this House for many months.

The five changes that have been made, although not what I necessarily would have crafted, are those that I can tolerate, that I think American inventors can tolerate. I understand that they are necessary in order to garner the kind of broad consensus that is required in order to move this bill forward.

We know that the intellectual property is the coin of the realm in an information-based economy that ours has become. Without strong protection of intellectual property, including patent law, we put at risk the tremendous prosperity that we have created here in America, our wonderful country.

This bill will go a long ways towards enhancing the protection that we need for our intellectual property. Therefore, I can now, understanding the five discrete changes, support the bill. I urge that my colleagues would support the bill. I hope that the Senate will act swiftly to get this long overdue measure enacted into law.

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

Mr. Speaker, I say to the gentlewoman from Ohio (Ms. KAPTUR) I did not yield to her earlier because I did not have the time; and the gentlewoman from California (Ms. LOFGREN) did yield 10 minutes, so I do not think anybody was cutting anybody off.

Much has been said about coming here tonight. Last night, this bill was on the calendar. But in an effort to make yet more changes for the independent inventors, we are here tonight, almost at the bewitching hour. Fifty-five cosponsors, Mr. Speaker, nine hearings have been conducted, 90 witnesses have been before three sessions of the Congress.

No, this is not a Johnny-come-lately. This is not a guy who came to the party at midnight. We know this visitor. This visitor is well known to all of us.

Let me tell my colleagues, Mr. Speaker, who sponsors it, who supports the bill: Inventors Digest and independent inventor Robert Rines. I mentioned the gentleman from California (Mr. ROHRABACHER), the gentleman from California (Mr. CAMPBELL), the gentleman from Illinois (Mr. MANZULLO), and the gentleman from Indiana (Mr. BURTON) because they opposed this last year.

The gentlewoman from Ohio (Ms. KAPTUR) said, well, there is only four or five. Well, this is representative government. We cannot have 435 out here. This is representative. If we get a sampling of a dozen people, we have gotten a good input.

The gentleman from Missouri (Mr. GEPHARDT), the minority leader. Both parties, Republican and Democrat, have high-tech agendas, and this matter is on both those agendas. Patent Coalition, major associations involved in intellectual property. Bipartisan and unanimous support of members of the Subcommittee on Courts and Intellectual Property and the Committee on the Judiciary.

I think the significant feature here, Mr. Speaker, is that intellectual property is so obviously important to the well-being of our economy, and it should not be casually dismissed.

I want to thank the gentlewoman from California (Ms. LOFGREN) for her effort tonight. I want to thank the gentleman from Illinois (Chairman HYDE), the gentleman from Michigan (Mr. CONYERS), the ranking member, the Democrats and Republicans alike who sat on our subcommittee.

I am proud of what we have done. I am happy to have our converts over from last year who opposed us. We embrace one another now. I think we are on our way. Even the Whip appears to be smiling as if he is in our corner.

I want to echo what the gentlewoman from California (Ms. LOFGREN) said. Let us send this to the Senate. Let the Senate, the other body, act with dispatch, and let us get this into law for the benefit of America generally and the inventing community specifically.

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

Mr. COBLE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I think we should pay tribute also to the gentlewoman from Ohio (Ms. KAPTUR) who has put a lot work in on this. When she reads all of this, she is going to be so happy with this bill.

The gentleman from North Carolina (Chairman COBLE) has done a great job, and the gentlewoman from Ohio (Ms. KAPTUR) is going to be happy with it.

Mr. COBLE. Mr. Speaker, I say to the gentleman, I hope she will be happy because her study report is in the bill. Most of what the gentlewoman wanted is in here, so I would be amazed if she was not happy.

Mrs. KELLY. Mr. Speaker, I rise in strong support of H.R. 1907, the American Inventors Protection Act, legislation which might be more aptly titled the "Keep America Competitive Act."

H.R. 1907 comes before us as a consensus bill. In the last Congress we had a battle on the floor when we debated this issue. Now we

have a bill before us that, while, as we have heard, there is very limited opposition, I believe almost all of us can support. A manager's amendment contains the core provisions of H.R. 1907 which enjoys 56 cosponsors nearly equally represented by both sides of the aisle.

H.R. 1907 makes a number of commonsense improvements to our patent system. It is the culmination of over 4 years of extensive hearings and debate among Members of differing views on patent reform who have had many opportunities to refine the legislation to what we will be voting upon today.

Members have agreed upon these provisions because they recognize that we in Congress cannot continue to postpone action on this critical topic of how our patent system works. Those of you who are businessmen and women know that to be successful, you must constantly refine how your organizations operate in order to remain competitive in the face of a changing environment. The same is true to our patent system.

We are facing an economic environment that is changing more rapidly than ever, and we must give our inventors, entrepreneurs, and patent system the tools they need to address these changes.

H.R. 1907 provides significant benefits and additional protection for all those with the inventive and entrepreneurial spirit, while addressing some of the abuses in the patent system, that we have witnessed in the past. Among the attractions of H.R. 1907 are:

The opportunity for inventors to collect royalties from the time a patent application is published;

Assurance that diligent inventors will get a minimum patent term of 17 years;

Protection for small businesses who are first to invent and use processes, so that they do not have to pay others who later usurp their technology and patent it;

Publication of U.S. patent applications which are also filed abroad, thus eliminating an advantage our patent system gives to foreign companies;

Reducing costly patent litigation by improving the Patent Trademark Office reexamination process for patents which may have been issued inappropriately.

We are all working hard to make sure that U.S. inventors and entrepreneurs are positioned to take advantage of the significant transformations underway in our economy, transformations that are unsurpassed in increasing new jobs. These transformations, many of which can rightly be labeled electronic commerce, are generating significant innovations. However, not all innovations are patented. We must make sure that true innovators have the incentives and protection they need to continue the process of invention, whether or not they elect to patent their inventions. However, nothing in H.R. 1907 eliminates a patentee's exclusive right to collect royalties on his or her invention. At the same time, we must continue to provide new incentives for our patentees, and to make sure that a U.S. letter patent remains a thing of quality and value.

H.R. 1907 does all these things, and I urge its passage by this Body and its enactment at the earliest opportunity. In short, I hope my colleagues will join me in supporting this important legislation to keep America competitive in the 21st century. I thank you, Mr. COBLE, Chairman HYDE and all others in making this bill a reality.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of this important legislation, and I want to congratulate those who worked so hard to reach this agreement. This is a very good bill and a very, very important bill to protect the competitiveness of American business and American inventors, large and small.

I commend the gentleman from North Carolina, my good conservative friend, and the gentleman from California, Mr. ROHRABACHER, for pushing this legislation forward. Both gentlemen know how important this legislation is for the American people.

Mr. Speaker, we are currently dealing with a situation where we have got to act and act now to protect American inventors from a situation where that technology is being stolen under current law.

Under current law, every single patent that is filed in the other major industrial countries around the world is published after 18-months, in Japanese, in German, in French, for those inventors and those countries to see. Forty-five percent of all the patents filed with the U.S. Patent Office are filed by foreign inventors, and U.S. inventors do not get to see that technology filed here in the United States.

This bill provides greater protection for the small inventor by improving the patent pending provisions of the law. This bill protects the small inventor in this country by giving them the opportunity to get capital behind those inventions much sooner than they get under current law.

Mr. Speaker, this is a good bill. It is a good bill for the little guy, and we should vote for the bill and get this major improvement to competitiveness in the United States against our foreign competition done.

Mr. BERMAN. Mr. Speaker, I rise in strong support of H.R. 1907. As ranking member of the Subcommittee on Courts and Intellectual Property, I can attest to the longstanding efforts of my colleagues and predecessors on the Subcommittee, Carlos Moorehead, Pat Schroeder, and BARNEY FRANK, on behalf of this legislation. Now thanks to the very hard work of the gentleman from North Carolina and his staff, with the assistance of the gentlelady from California, we now move one step closer to enactment of reforms that will more effectively protect the creativity and investments of American inventors, entrepreneurs, and businesses.

A voluminous record has been complied by our subcommittee in support of this legislation, comprising many days of hearings over several Congresses. As a result of that record, I am convinced that this bill is unquestionably in the national interest. I embrace the conclusions of the 21st Century Patent Coalition that the bill will improve the quality of patents, reduce the costs of resolving patent disputes, put an end to rules favoring foreign applicants over American companies, protect American businesses and jobs, and not least of all, strengthen the rights of inventors who now suffer from delays at PTO that are not their fault.

In view of the strong support of a wide range of associations and interests, including a very large number of Fortune 500 companies, the Biotechnology Industry Association, the Computer and Communications Industry Association, the Pharmaceutical Research and Manufacturers Association, the Business Software Alliance, the National Association of Manufacturers—why even the Indiana Manufacturers Association—the obstacles that have been thrown up to our efforts to get this bill scheduled for consideration are very hard to understand.

While I supported earlier versions of this legislation, including H.R. 400 as approved by our Committee last year, I am always loathe to make the best enemy of the good. Today's legislation has won broader support than previous versions of this legislation, and I salute my colleague from North Carolina and his staff for their patience and persistence in bringing us a giant step closer today to our mutual goal of patent reform.

I strongly support this bill, and urge my colleagues to do so as well.

Mr. DOOLEY of California. Mr. Speaker, I rise today in support of H.R. 1907, the American Inventors Protection Act. The bill, introduced by Representatives COBLE and BERMAN, and now cosponsored by a bipartisan coalition, will provide much needed patent protection to American inventors. This bill also makes the Patent and Trademark Office (PTO) more accountable to its customers, and allows customers to recoup patent term lost during the patent process at the PTO. Without a doubt, H.R. 1907 is a pro-growth bill that would foster technological advancements without leaving the small businessperson behind.

The United States is by far the world's largest producer of intellectual property. Many other nations have learned from our success, and have enacted laws targeted to protecting intellectual property developed by small businesses, inventors and industries. Major changes are needed in U.S. patent law to ensure that American inventors and businesses that are largely dependent on the development of intellectual property have the opportunity to compete and win in the global marketplace.

Enactment of this legislation is crucial to promoting growth in the New Economy and to ensuring that the competitiveness of the U.S. high-tech sector, including biotechnology will be enhanced by this bill.

The bill would require the publication of patent applications at eighteen months—a requirement that would make U.S. patent law consistent with the laws of our leading foreign competitors. Under the current two-tiered system almost 80 percent of all patent applications pending in the United States are also filed and published in other countries and printed in the language of the host country. This publication requirement means that foreign competitors may review the U.S. patent application. But because the U.S. system does not require patent publication prior to issuance, foreign competitors are not required to reveal the subject of their applications until after a U.S. patent is issued.

Patent reform legislation also targets a practice known as ''submarine patenting,'' in which a patent applicant deliberately files a very broad application and then delays the issuance of a patent for several years until someone else, who is unaware of the hidden patent application, invests in research and technology to develop a new consumer product. When the product is developed, the holder of the ''submarine patent'' rises above the surface to sue those who have developed the technology.

Submarine patent filings have risen sharply since the early 1980's. One of these submarine patents cost one company more than

$500 million, not including court costs, taking R&D dollars out of the system. Reform is needed to prevent individuals from manipulating the system at great costs to others who are investing in research and innovation.

The U.S. should promote industries and sectors of our economy that provide the U.S. with the greatest relative competitive advantage in the global marketplace. The U.S. is a leader in research, innovation, and the development of intellectual property, but this advantage could be jeopardized if U.S. patent law is not reformed to create a level playing field with our competitors. U.S. patent law should be reformed to ensure that our businesses and researchers are well positioned to compete in the global economy today and into the future.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 1907, as amended.

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

Mr. COBLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceeding on this motion will be postponed.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 1905, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2000

Mr. TOOMEY. Mr. Speaker, pursuant to section 7(c) of House rule XX, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 1905, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2000, and for other purposes.

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

The Clerk read as follows:

Mr. TOOMEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1905 be instructed to insist upon—

(1) the House provisions for the funding of the House of Representatives under title I of the bill;

(2) the Senate amendment for the funding of the Senate under title I of the bill, including funding provided under the heading ''JOINT ITEMS—ARCHITECT OF THE CAPITOL—Capitol Buildings and Grounds—senate office buildings'';

(3) the House provisions for the funding of Joint Items under title I of the bill, other than the funding provided under the heading ''JOINT ITEMS—ARCHITECT OF THE CAPITOL—Capitol Buildings and Grounds—senate office buildings''; and

(4) the House version of title II of the bill.

SPECIAL ORDERS

The SPEAKER pro tempore (Ms. NORTHUP). 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 gentlewoman from New York (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from 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.)

VACATION OF SPECIAL ORDER AND GRANTING OF SPECIAL ORDER

Mr. DELAY. Madam Speaker, I ask unanimous consent to vacate the time allotted to the gentleman from Indiana (Mr. BURTON) and take it myself.

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

There was no objection.

PRESIDENT IS REWRITING HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DELay) is recognized for 5 minutes.

Mr. DELAY. Madam Speaker, I rise today to set the record straight. The President of the United States was in Chicago today taking all kinds of credit for the successes of the Welfare Reform Act that was passed by this Congress and signed by the President.

This President has taken a lot of credit for a lot of things over the last few years, particularly over the years that the Republicans had maintained a majority of this Congress. Frankly, Madam Speaker, I have had just enough.

This President, Madam Speaker, has not initiated one thing, one piece of legislation that he takes credit for.

□ 2230

I will grant him that he finally signed many of the pieces of the legislation, but he has not lifted one finger to pass any of this legislation that he takes credit for through this Congress.

There should be no mistake about it, the well-documented success of welfare reform is the work of the Republican majority in this Congress. Back in 1994, Republicans campaigned on a plan that included comprehensive welfare reform. The Contract With America put Republicans in control of Congress, and we delivered on our agenda.

History should not be rewritten. The President and the Democrats in Congress fought Republicans tooth and nail on welfare reform. And, frankly, Madam Speaker, the debate was not very civil. My colleagues on the other side of the aisle charged that Republicans wanted to kick desperate people out on the street to fend for themselves. Our opponents on welfare reform screamed that the Republicans would be responsible for countless starving people in this country. Our opponents maintained that reforming welfare would create an unmitigated social disaster.

Well, it is time to set the record straight. Americans are not starving due to the Republican insistence for welfare reform. Americans are not sleeping on park benches due to Republican insistence on welfare reform. And without question, there have been no social upheavals of any kind as a result of the Republicans' insistence to reform welfare.

In fact, quite the opposite is true. The results of Republican welfare reform have been so incredible that President Clinton has typically been taking credit for the success, despite the fact that he vetoed welfare reform twice before reluctantly signing it into law. That is right, President Clinton vetoed welfare reform not once but twice, and now he is trumpeting the success on his own and traveling around the country claiming all this success as being his success, his idea, his initiative.

Well, this tactic is nothing new. We are used to it. We have been used to it for 4½ years now. Republicans are accustomed to working hard to initiate commonsense reforms that the Democrats oppose only to watch Democrats adopt these ideas after they succeed. Democrats even tried to take credit for the budget surplus, even though everyone knows that it was the Republicans in Congress who rammed the balanced budget agreement through 2 years ago.

But the American people know better. The American people understand what separates the Republican philosophy from the Democrat philosophy. The Republican philosophy wants the government to do more with less. The Republican philosophy seeks to empower communities with more local control by freeing them from the restraints of big government spending in Washington. And the Republican philosophy places ultimate trust in the individual, who, in most cases, will succeed if he is cut free from the chain of dependence.

This stands in stark contrast to the big government philosophy of the liberal Democrats. They do not trust the strength and dedication of the average American. The Democrats do not think that individuals can succeed without the government holding their hands all throughout their life.

Well, the record speaks for itself, Madam Speaker. In the 3 years since welfare reform was passed, over 12 million Americans have moved from welfare to work. That is 12 million Americans who have moved from dependency

and despondency to independence and dignity.

By December of last year, welfare rolls had dropped by 45 percent. And that is a national average. Many of the States have much higher success rates. For example, caseloads are down by 81 percent in Idaho and over 70 percent in Wisconsin. And this is very important. Child poverty rates and overall poverty rates have declined every year since welfare was reformed. Beyond any doubt, these facts show that hope for those on welfare is found in more personal responsibility not more government bureaucracy.

So, Madam Speaker, the spirit of the American people is based on the freedom that comes from hard work and combating the odds. From the beginning of this Nation, Americans of all walks of life have fought uphill battles and won. The Republicans in Congress believe in the American spirit, and that is why we fought so hard to reform welfare reform and we should have the credit.

The President has no right to take credit. When the going gets tough, the tough get going, and the Republican Congress is responsible for welfare reform, not the President of the United States.

REVISING HISTORY

The SPEAKER pro tempore (Mrs. NORTHUP). Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Madam Speaker, I was constrained to rise and respond to my friend, the gentleman from Texas (Mr. DELAY). The gentleman revises history. On a normal night, perhaps no one would rise to say that it was revisionist history at best, or at worst, depending upon one's perspective.

In 1992, Bill Clinton ran for President of the United States, and he put forward a document called The New Covenant. Not a contract on America, a new covenant, a new promise, a new commitment, a new cooperation, a new working arrangement with America. And in that new covenant he said that, yes, we expect government to do good things for people.

Government, in my perspective, is our community at large trying to work together trying to make lives better. But in that new covenant, that my Republican friends so quickly forget, I am sure, Bill Clinton said that we need to expect of each American personal responsibility; that they will commit themselves to use their best talents to enhance their own lives because that, in turn, would enhance the lives of our community, if each and every one of us carried our share of the load.

It was the President, in 1992, who said that personal responsibility ought to be a key word for America's revival. America heard that, and America elected him. And in that new covenant as well, when he talked about personal responsibility, he said we need welfare reform. I guess the Republicans forget that.

They chuckle, Madam Speaker, but I will remind my colleagues of some history, for those who were not here, when every Democrat voted for a welfare reform bill sponsored by NATHAN DEAL. Does that name ring a bell? He was a Democrat at that time, but he had a bill that we worked on that demanded personal responsibility; the expectation that if we could, we would be expected to work, because the work ethic is critical to the success of a family, of a community, and of a society. That bill did not become law, but we had other bills.

Now, my colleagues, how many times have we all heard it complained, oh, if the President would only let us do this, we could have done great things? They know that they could not possibly have overridden the veto of the President of the United States. If he had not been committed, and if he had not led the fight for welfare reform, the Republicans could not have done it. And they know that. Period.

My friend, the majority whip, likes to say we did it, we get the credit. Very frankly, everybody in this House deserves the credit, and Americans deserve the credit, and governors deserve the credit, and State legislators deserve the credit. Why? Because we all perceived that there was a system that existed which did not encourage and have the expectation of work. But for the fact that Bill Clinton was president and led that effort, it would not have happened because he could have vetoed it. And all of my colleagues know that his veto would have been sustained because there were more than 146 Democrats in this House and more than 40 Democrats in the United States Senate.

Now, let me go on to balancing the budget. Frankly, my colleagues, what the Republican Party has been responsible for since I have been in Congress, since 1981, is the gargantuan deficits and debt that confronts our country. Period. Why? Because Ronald Reagan and George Bush proposed in their budgets those deficits.

Now, my Republican colleagues may say it is absurd that the gentleman from Maryland (Mr. HOYER) would say that. Well, look at the budgets. Presidents Reagan and Bush asked for more spending in those 12 years than the Congress appropriated. Now, if they did, obviously they planned for those deficits.

Now, were the priorities slightly different? They were. But the fact of the matter is Ronald Reagan never vetoed a bill for spending too much that was not sustained by the Congress. In other words, not a nickel could have been spent in this country that Ronald Reagan did not put his signature on. Not a nickel.

So the budget balancing came at the hands of Bill Clinton, when for 7 years in a row now the budget deficit has decreased, for the first time in this century.

ALL THE ARROWS ARE DOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Madam Speaker, I keep a board in my office that lists the cash prices of the major commodities grown in my home State of Kansas. An arrow next to the price indicates whether the price is up or down, and for too long now, and for more days than not, all the arrows are down.

Prices for all our major commodities grown in the State of Kansas are at historic lows. The wheat crop in Kansas is worth $500 million less this year than last, and prices for corn, soybeans, and milo paint a similar picture for the fall crops. The prices for beef and pork are depressed as well. And behind these numbers are real people. Every day, farmers and ranchers are being forced out of business and off the farm and ranch never to return.

Madam Speaker, I appreciate the statements made on Friday about the crisis in agriculture and the call upon President Clinton to work with Congress to provide relief soon. I could not agree more. We need to do something and we need to do something now.

On July 21, I introduced H.R. 2568, the Market Loss Assistance Act. H.R. 2568 would provide supplemental farm income program payments equal to 75 percent of a producer's 1999 payment under the Agricultural Market Transition Act. This is the same mechanism that Congress used last year to provide emergency relief to farm country. Today, the need is greater and more urgent than it was a year ago.

I hope the House will honor my request to consider H.R. 2568 or other disaster relief before Congress goes home for the August recess. Our farm and ranch constituents are counting on us to do the right thing and to do it sooner rather than later. Farmers need assurance that Congress and this administration will respond to the crisis. Otherwise we will lose another generation of family farmers and rural America will continue its difficult struggle.

Over the long haul there are many things that Congress can and must do to get the price arrows up on the chart and pointed in the right direction. We need to open new markets and expand trade opportunities for U.S. producers. We need a farm policy that preserves flexibility and provides price protection. We need adequate risk management tools and research that enhances our competitiveness. But these are all long-term solutions to a near-term crisis.

H.R. 2568 can get assistance to farm country immediately. I ask my colleagues to join me in supporting this legislation. The time to respond is now, not later.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

(Mr. SPRATT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RESTORING THE HONOR OF JOSEPH JEFFERSON ''SHOELESS JOE'' JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DEMINT) is recognized for 5 minutes.

Mr. DEMINT. Mr. Speaker, this is a true story. In 1908, a textile mill worker from Greenville, South Carolina, who learned to play baseball on mill teams, made his minor league baseball debut for the Greenville Spinners. He could not read or write, but he could sure play the game. His name was Joseph Jefferson Jackson. And in my town and in my State and in baseball circles around the world, he is a legend.

During a game in his first year in the minor leagues, Joseph Jackson's feet began to hurt because of his shoes, so he took them off. He then proceeded to hit a triple, sliding into third. One of the fans in the crowd heckled him, saying he was a shoeless son of a gun. The nickname ''Shoeless'' stuck.

Shoeless Joe Jackson had one of the most mythical careers in baseball history.

□ 2245

He is mentioned among the greats: Babe Ruth, Ted Williams, Hank Aaron, Lou Gehrig. His 356 lifetime batting average achieved over a 13-year career is third only behind Ty Cobb and Rogers Hornsby.

In 1911, in his first major league season with Cleveland, Shoeless Joe batted 408, the highest batting average ever by a rookie. Traded to the Chicago White Sox in 1915, he led the team to victory in the 1917 World Series against the New York Giants.

Yet, while his name is mentioned among the greats, Joe Jackson is not with them in the baseball Hall of Fame. After the infamous 1919 Black Sox scandal, Jackson was suspended for life from the league by the commissioner of baseball.

Madam Speaker, this was a bad call. In 1919, a New York gambler allegedly bribed eight players of the Chicago White Sox, including Shoeless Joe, to throw the first and second game of the 1919 World Series. When the news came out the following year, the case was brought to criminal court.

A number of individuals, including local sportswriters and White Sox owner Charles Comisky, all testified to Jackson's innocence. After the trial he was acquitted. However, the new commissioner of baseball, Judge Kennesaw Landis, decided to ban all the players who were allegedly involved without even conducting an investigation.

If Commissioner Landis had taken some time to review the evidence, I believe he would have found that Shoeless Joe played no part in throwing the Series. It was obvious by the way he played.

In the 1919 World Series, Shoeless Joe Jackson batted 375, the highest of any player on either team. He set a World Series record with 12 hits. His fielding was flawless. He had six of the White Sox's 17 RBIs, and he hit the only homerun of the series.

A number of people from Senator TOM HARKIN of Iowa to the great Ted Williams have called for Commissioner Bud Selig to review the judgment made in haste 80 years ago. I would like to add the names of every Member of this House to that list.

Shoeless Joe was undoubtedly one of the greatest to play America's favorite pastime. He worked his way up through the textile mills of South Carolina and lived the American dream. He loved the game of baseball. The time has come for the commissioner to review the record and give Joe Jackson his rightful place of honor.

When the heros of today, McGuire, Sosa, Ripken, Griffey, and when the heroes of tomorrow who are still dreaming their dreams on little league fields and school playgrounds, when they all come to Cooperstown to be enshrined with the other greats in the baseball Hall of Fame, they deserve to be alongside one of the greatest players who ever played the game.

I think they would all want Shoeless Joe there with them. The people from my district and people from all over the country have been working for years to have Jackson's good name cleared and his honor restored.

I want to do whatever I can to give him the honor that he is due and to honor the people who have been inspired by his memory to rebuild and revitalize his hometown, West Greenville, to honor his name.

On behalf of the people of my district who have worked so hard to uphold the memory and the honor of Shoeless Joe Jackson and along with the entire South Carolina Congressional Delegation, last Friday I introduced a resolution calling for Shoeless Joe to be appropriately honored. I believe this resolution is an opportunity to pay respect to one of the all-time great players of America's great national pastime.

I urge my colleagues to support this resolution to restore the name of Shoeless Joe.

REPUBLICAN TAX BILL IS TRULY TAX FRAUD

The SPEAKER pro tempore (Mrs. NORTHUP). Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Madam Speaker, after 20 years as a CPA, 6 years as a tax judge, I know tax fraud when I see it. The tax bill passed by the Republican majority is truly tax fraud.

It is a giant shift of our national income to the wealthiest one percent, cleverly disguised as a grand expedition to the furthest reaches of fiscal irresponsibility.

Many speakers have come to this floor and explained how this country cannot now afford to lock itself into an $800-billion tax cut exploding in its second 10 years to a $3-trillion cut, that we should not take steps today which Alan Greenspan has cautioned us against, that we should not risk the greatest economic expansion of our lifetimes.

But after all the conversation about this $800-billion to $3-trillion tax cut and what it means in its fiscal effect, there has been precious little discussion about what is actually in the bill.

Well, I will tell my colleagues what is not in it. A repeal of the marriage penalty is not in this bill. They could not find a way to do it, limited as they were to $800 billion. In fact, there is far less marriage penalty relief in this bill than there was in the Democratic alternative that cost only $250 billion.

What also is not in this bill is any real help for school construction. The Democratic alternative said we as a Federal Government would pay the interest on school bonds so that if school districts have more classrooms for smaller class sizes, the Federal Government would help.

All this bill does is relax the arbitrage rules, inviting local school boards to invest their money in debentures and derivatives and other things that caused Orange County to go bankrupt. It does nothing more for schools than give the school boards a free ticket to Las Vegas with the bond money.

So what is in this bill? How have they managed to allocate 45 percent of the benefits to the top one percent in our society?

Well, for example, they have got the interest allocation rules, costing over $43 billion over 10 years that turn to major multinationals and say, if you close down your factories in the United States and invest abroad, we will cut your taxes.

But there is more. There is the modification of treatment of worthless securities, certain financial institutions. There is a whole lot of stuff in here for the oil companies. My favorite and their favorite is the repeal for special foreign tax rules.

This means that if Texaco gives a ton of money to Saudi Arabia or Kuwait in return for the oil that they remove from their desert sands, Uncle Sam reimburses them penny for penny for what they pay for the oil that they then charge you and me for.

But there is more for the oil companies, like allowing a 5-year carry-back of NOL carry-forwards under a special rule; suspending the 65-percent tax limit on the percentage depletion allowance; allowing geological and geophysical costs to be deducted currently; allowing delay rental payments to be deducted currently, while modifying the section 613(d)(4) rules so that integrated oil producers can get the

same benefits as independent wildcatters.

Then there is the stuff for the big chain store, such as the liberalization of the tax treatment of certain construction allowances and contributions received by retail operators.

What does that mean? It means the big chains can get a big payment to put a big store as the anchor tenant in a big mall, and they do not have to pay taxes on that big payment. But of course, people have to pay taxes on salaries and small business has to pay taxes on their profit.

There is the repeal of the 5-year limitations relating to life insurance companies filing consolidated tax returns with the affiliated group including non-life-insurance companies. There is a host of others that I have no time to get into.

But then finally there is the phase-in repeal of the estate gift and generation skipping tax. What does that mean? That means that Bill Gates saves $50 billion. But what is in it for working families? For the 50 million Americans, 8 cents a day.

CHINA TRADE

The SPEAKER pro tempore (Mr. VITTER). Under a previous order of the House, the gentleman from Illinois (Mr. MANZULLO) is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, our relationship with China will always be extremely difficult and complex. We must continue the hard engagement process with China. But we do not need to sacrifice national security for trade. This has been and always will be a false choice.

The Cox report was a good sturdy point for us to more realistically evaluate our relationship with China. We have already begun to implement many of the Cox committee recommendations, such as requiring Defense Department monitors at satellite launch sites. Let us also be vigilant by enforcing existing laws.

If further reforms are needed to enhance national security, then Congress should not shy away from changing the law. But as we go through this process, we must not fool ourselves into thinking that more restrictions on our exports to China will protect us.

When we think about trade sanctions and export controls, we should not go down this road alone. We only put our heads in the sand if we think we can enhance our national security by ignoring our foreign competitors. The world has changed and the U.S. is no longer the only manufacturer of high-technology products.

Congress overreacted 2 years ago in placing unrealistic limits on computer sales abroad. Now China has a home-grown computer industry. Soon one penny and a chip the size of your fingernail will exceed the supercomputer definition. And European machine tool manufacturers have almost totally captured the high-end market in China because of our Government's export control policy. This at the same time domestic consumption of U.S. machine tools has dropped 45 percent.

Europe sells the same machines to China that we could that do the same things, but we are barred by selling them because of our export policy. We only hurt ourselves.

We are now learning the same lesson on commercial satellite exports. Last week, a major satellite manufacturer reported a loss of nearly $100 million because of delays in development and delivery of new satellites. This is an industry that has made a dramatic shift away from relying on Government procurement to commercial sales.

They also compete against German, French, and Japanese satellite manufacturers of similar equipment. These foreign firms would eagerly seize export opportunities from U.S. satellite makers if they are denied permission to launch by our Government. We can protect our national security and our national economic interests while engaging China at the same time. But we should not put up walls that will block our high-technology industry and hurt our overall national interests.

Let us solve the specific problems highlighted in the Cox report but keep our export options open in China.

ILLEGAL NARCOTIC TRAFFICKING IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come to the floor again tonight to talk about the problem of illegal narcotics. Tonight I would like to help set the record straight.

After years and months of nearly deadly silence by the President of the United States on one of the most pressing issues facing our Nation, that is the problem of illegal narcotics use and abuse, the President spoke out yesterday.

I have a transcript of his speech, and I was really stunned to hear his remarks. These are his exact comments.

□ 2300

He said, ''When we were out there running for office in 1992, the Vice President had this hilarious rap about everything that should be up was down and everything that should be down was up, and everything was all mixed up. And it is true.'' And then the President said, and again let me quote him, ''And one of the sad things that was up was drug use.'' Now, this is what the President of the United States said yesterday.

Mr. Speaker, this does not gibe with the facts. In fact, we did a little bit of research and we found, and this chart states quite clearly, that long-term trends in lifetime prevalence of drug use, from 1980 when President Reagan took office, and this is the Reagan administration, through 1988, with President Bush during that period, we found that the trend in prevalence of drug use actually went down. These are the facts.

Now, again the President said, ''And one of the sad things that was up was drug use.'' That is what the President said. These in fact, Mr. Speaker, are the statistics. These are not tainted or misconstrued in any way or partisanly presented. Those are the facts.

Then if we looked at individual narcotics, the trends in cocaine use, the President said, ''And one of the sad things that was up was drug use.''

So we can look at drugs individually. We see that during President Reagan and Bush's era, that the point at which President Clinton took office that there was a downward spiral in cocaine use. In fact, when President Clinton took office, we see the resurgence of that in fact returning and going up. This does not show the dramatic increase in drug use. Because of the Clinton policy, we in fact had a shift of more people going not only to cocaine but also to heroin in unprecedented amounts and also to methamphetamine which did not appear on any of these charts. So what the President said, ''And one of the sad things that was up was drug use'' is not in any way correct or does it relate to facts.

Then if we look at heroin, in the Reagan administration and Bush administration, we see downward trends. He said, ''And one of the sad things was that drug use was up.'' We see in fact during President Clinton's term, it dramatically shot up, and heroin, deadly heroin, in incredible quantities. I do not have a chart on methamphetamine, but meth was not even on this chart and now is staggering up. The only reason we see any change here in a downward spiral in the last several years is because of the Republicans taking over the Congress and restarting the war on drugs.

Finally, the President also said, ''We tried to do more to keep drugs from coming into the United States.'' This is the quote of the President. I do not have all the charts with me, but under complete control by the Democrat-controlled Congress, the White House and the Senate, the administration and this other controlled legislative body, 1992 to 1993 dramatically decreased the source country programs, they cut them by over 50 percent, dramatically cut the military. He said, ''We tried to do more to keep drugs from coming into the United States.'' Dramatically cut the military and interdiction programs. Nearly cut in half the Coast Guard drug programs, stopped antidrug resources from getting to Colombia which is now the major source of heroin and cocaine coming into the United States. And certified Mexico, which is the greatest source of illegal narcotics and now methamphetamines of anywhere coming into the United States. And our President said yesterday, ''We

tried to do more to keep drugs from coming into the United States.''

Mr. Speaker, the President says one thing. The facts prove something totally different. It is sad that after years and years of deadly silence, we finally have the President come out in one of the rare occasions he ever mentions illegal narcotics and says two things that do not gibe in any fashion with the facts as to what actually took place.

It is very sad that I report this to the House, but I think that the facts relating to this important problem that is facing our Nation that has condemned so many families tragically to losing loved ones, 14,000 people died last year alone because of direct results of illegal narcotics. It is very sad, indeed, that the President of the United States paints a picture that does not gibe with the facts.

MANAGED CARE REFORM

The SPEAKER pro tempore (Mr. VITTER). Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 27 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, in just 3 days, this House will adjourn without having brought to the floor the Patients' Bill of Rights, the Democrats' legislation for comprehensive HMO reform.

I bemoan the fact that that is the case. I think that this legislation and the need to address the issue of HMO reform is really the preeminent issue that needs to be addressed in this House, in this Congress, in this session of Congress.

I have to say that the Republican leadership since the beginning of the year has made many promises with regard to the Patients' Bill of Rights and the whole issue of HMO reform. First, the Speaker said that we would follow the normal committee process and an HMO reform bill would have hearings in the relevant committees and have a markup in committee and come to the floor in the normal way, but that has not happened.

Then, as Members know, in the other body basically the Democrats forced the issue, forced the other body to bring up HMO reform. Unfortunately, the bill that was finally passed was not real reform, was ineffective, was a sham, but the impetus, if you will, that at least some sort of HMO reform would be brought up in the Senate caused the Speaker and the Republican leadership just a few weeks ago after the Senate took action and had a hearing and had a markup on the floor, basically forced the Speaker to say that a bill would come to the floor, an HMO reform bill would come to the floor in the House of Representatives sometime before the August recess.

Well, Mr. Speaker, the August recess begins probably this Friday and Democrats have basically been pushing to achieve action here on the floor for the Patients' Bill of Rights, our Democratic HMO reform. We actually had Members come to the floor over here in the well and sign a discharge petition that would force the Republican leadership to bring up our Patients' Bill of Rights. One hundred eighty-three Members signed that discharge petition. But now ultimately to no avail. The Speaker, the Republican Speaker, just announced that no action will be taken on the bill before the August recess.

I ask why? The answer, I think, is very simple. That is, because the Republican leadership here in the House as well as in the Senate is a captive of the insurance industry. The insurance industry does not want a true HMO reform, a true comprehensive bill to come to the floor of the House because, unlike the other body, they realize that if it does, it will pass. Some of my colleagues, a handful of my colleagues on the other side who are health care professionals, doctors, dentists, have made the point that they will vote for a strong HMO reform bill, something akin to the Democrats' Patients' Bill of Rights. When they made that statement and basically indicated to the Republican leadership that they would join with the Democrats in passing a bill, well, all of a sudden this week we find that the Speaker and the Republican leadership say, ''No, no, we're not going to bring a bill to the floor. We can wait until the fall. We'll have further discussions. No action will be taken now.''

I just want to commend the Republicans on the other side of the aisle, those few, all of whom, I think, who have been most outspoken are health care professionals, doctors, because they have stood up and said that we need a strong HMO reform bill and they refuse to say that the action taken by the other body meets that need. In fact, it does not meet that need.

Mr. Speaker, if I could, I hope that during the August break and when we come back in September that we will see a bipartisan coalition of the Democrats, all of whom support the Patients' Bill of Rights, and enough Republicans on the other side that will come together in a bipartisan way to demand action on something like the Patients' Bill of Rights so we can have true comprehensive HMO reform come to the floor when we return in September.

□ 2310

Mr. Speaker, if the House leadership is not willing to bring it up, I think we will simply have to get every Democrat to sign the discharge petition and join with some of the Republicans who are willing to sign it to force the issue to make sure that the Patients' Bill of Rights or some strong comprehensive reform like it comes to the floor.

As my colleagues know, Mr. Speaker, I just wanted to point out that increasingly we are seeing every comprehensive report, every study that is being done around the country about what the American people want, what the health professionals want, what people see basically as common sense reform with regard to HMOs, that we need some kind of action taken.

There were two reports that came out just in the last week that I wanted to mention tonight. One of them was basically a report, if you will, where various doctors and health care professionals were interviewed. It was a survey that found nearly nine in 10 doctors and more than one in four consumers are having trouble receiving the medical care and services they need within the context of HMOs managed care, and as a result between one-third and two-thirds of the doctors said the service denial resulted in adverse health consequences for the patient.

The types of problems that we are seeing that myself and others have documented on the floor about people who have had abusive situations with managed care and with HMOs, this is becoming commonplace, and both consumers, patients as well as doctors, are decrying the situation, and I say to my colleagues and, I guess, to the American people as well, why is it that the Republican leadership will not allow us to take action when the majority of us in a bipartisan way would like to see comprehensive HMO reform? And it always comes back to the same thing, and that is the money spent by the insurance industry against this type of comprehensive HMO reform.

The second survey that came out in the last week or so basically said that last year 1.4 to $2 billion was paid to lobbyists to influence politicians and policy, a 13 percent increase from 1997; and for the second year in a row the insurance industry topped the list in lobbying costs, nearly $203 million last year alone.

The Republicans basically on the leadership or amongst the Republican leadership are bowing to the insurance industry which is spending millions of dollars once again trying to defeat true HMO reform.

Mr. Speaker, I just wanted to, if I could, make reference to a New York Times editorial that was in the New York Times on July 16 of this year, and it just kind of sums up what is happening out there and why we cannot see action on the House floor, and I quote. It says:

''There is no mystery here. Campaign money is dictating medical policy in the Senate. The political system and especially the Republican party is awash in money from the health care industry. As President Clinton said yesterday, and this was back on July 16, GOP senators could not support the Patients' Bill of Rights because the health insurers will not let them do so. That is the bottom line, Mr. Speaker.''

Mr. Speaker, if I could just use a couple minutes of my time to talk about some of the comparisons between the

Patients' Bill of Rights, the bill that the Democrats and some of the Republicans want to bring to the floor, versus the bill that passed the Senate and the one that would have been considered, I believe, on the floor pursuant to the Republican leadership if they thought that they could get the votes to pass it. There is a real contrast, if you will, between that Republican Senate bill and the Democratic Patients' Bill of Rights, and let me just go through a few highlights of it, if I could this evening.

The Republican bill, and I refer to the Senate bill, leaves more than 100 million Americans uncovered because most substantive protections in the bill apply only to individuals enrolled in private, employer-based, self-funded insurance plans, and self-funded coverage is typically offered only by large companies. Only 48 million people are enrolled in such plans, and of those 48 million only a small number, at most 10 percent, are in HMOs.

So the Senate Republican bill really does not help effectively anyone, does not provide patient protections really to almost anyone.

What the Democrats insist on in the Patients' Bill of Rights and the Republicans that support us have said is that all, all 161 million privately insured Americans have to be covered by the bill, by the patient protections.

Let me just give my colleagues some of the other examples that I think are important. In the Democratic bill we have talked about the prudent lay-person standard in the situation where you go to an emergency room. This is so important. So many people come up to me and say, if I have under my HMO, if I want to go to the local emergency room, I cannot. I have to go to one maybe 20 miles away, 30 miles away, 50 miles away, and when a person is in extremis or has a problem and has to go to an emergency room, they do not want to have to travel 20 or 30 miles away when the emergency room for the local hospital is maybe only within a mile distance from where they are.

Well, under the Democratic bill, what we say is that an individual who has symptoms that meet a prudent lay person, what the average person would think is the need to go to the emergency room under given certain circumstances, that that standard should allow them to go to the local emergency room, the closest one, without pre-authorization, and the insurance plan must cover the visit. The plan may not impose additional charges for use of non-network facilities.

It is unclear in the Republican Senate bill whether that kind of standard would apply. There really is not any prudent lay person standard, if you will, in the Republican bill.

Most important in the Democratic bill is that we provide for adequate specialty care. It provides the right in our Patients' Bill of Rights to specialty care if specialty care is medically indicated. It ensures no extra charge for use of non-network specialists if the HMO has no specialist in the network that is appropriate to treat the condition.

I just wanted to mention a couple other things that I think that are really crucial in terms of the differences between the Democratic bill and what the Republicans passed in the Senate, and one of those most important distinctions is on the issue of medical necessity. The issue of medical necessity is basically whether or not a particular type of care, operation, equipment, length of stay in the hospital will be provided in a given circumstance if you get sick, and basically the Republican Senate bill allows HMOs to define what is medically necessary. No matter how narrow or unfair to patients, the HMO's definition is their definition controls in any coverage situation including decisions by an independent third-party reviewer.

The Democratic bill by contrast codifies a traditional definition of medically necessary or appropriate means of service or benefit consistent with generally accepted principles of professional medical practice. In other words, what we are saying in the Patients' Bill of Rights is that the doctor and the patient have to decide based on standards that are used for most physicians in a given circumstance. It is an independent standard, if you will, not defined by the HMO.

Most important also, the distinction on the issue of external appeals. The Republican Senate bill allows the HMO to choose and pay the appeal entity that decides the case. It also allows the HMO or insured to define medical necessity, tying the hands of the independent review entity and forcing them to defer to the HMO's definition. It does not provide, the Republican bill, an appeal when most rights under the bill are denied. For example, when emergency care is denied or access to a specialist is denied, no appeal is allowed.

The Democratic Patients' Bill of Rights by contrast ensures the State or Federal agency controls the process for choosing the independent appeal entity, not the insurer.

□ 2320

It ensures a de novo review, a fresh look at the facts. It ensures the reviewer's decision is based on a statutory definition of medical necessity, not the insurer's plan's definition, and the review of best available medical evidence, and all denials of care are appealable.

Finally, the most important distinction between the Democratic Patients' Bill of Rights and the Republican Senate bill is the ability to hold HMOs accountable. Under the Republican bill, it maintains existing Federal law that basically preempts state remedies, and the only remedy under ERISA, which is the federally covered plans, is recovery of the cost of the denied benefit.

For example, if a patient is denied a mammogram and dies of breast cancer as a result, the only remedy under the Republican bill available to the family is the recovery of the costs of the mammogram, not the damages that result, including the death of the patient.

Under the Democratic bill, by contrast, the ERISA presumption of State remedies, the ability to go to State court, only exists when the actions of an HMO have killed—well, essentially what we are saying is that that ERISA preemption is repealed, and you can go to State court and you can seek damages and you can recover for the damage that the HMO has inflicted, just like you would in any normal tort action.

Mr. Speaker, I think that there are crucial differences here, and I think that ultimately what it comes down to is money. It is a very sad day, but what we are seeing is the insurers increasingly spending a lot of money on TV trying to get the word out that somehow what we are trying to do with the Patients' Bill of Rights is not going to work, that it is going to cost more money, that it is not going to achieve the desired result.

The fact of the matter is that the American people are crying out for comprehensive HMO reform. They want to see something like the Patients' Bill of Rights passed. Again, I want to commend some of my Republican colleagues, particularly the physicians on the other side of the aisle who are saying, you know, we are practicing doctors. We see what happens. We know there are abuses, and we want strong HMO reform passed, something like the Democratic bill, and we will work together with the Democrats to achieve a bipartisan proposal.

If I could just conclude tonight, I always like to talk when I come to the floor about local people in my part of New Jersey who have had problems with HMOs, because that is really what it is all about. We are talking a little bit in the abstract here about what needs to be done, but the bottom line is it is our own constituents coming to us and saying we need HMO reform, we need something done because of what is happening to them.

If I could just conclude tonight with a letter that was in the Asbury Park press, which is the largest circulation daily in my district in Monmouth County, New Jersey, and this was in the Asbury Park Press, a letter to the editor on Thursday, July 15, from Jack Moriarty of Dover Township. I am going to read part of it because I think it is so telling.

He says,

> Each time I must deal with my health maintenance organization on any matter other than the routine and the basic, problems continue. This is a system designed and managed to restrict our access to medical care and to place roadblock after roadblock in our way as we attempt to circumvent that design feature.
>
> On July 6th I sustained an eye injury while swimming when a thumb with sharpened fingernail found its way into my eye. I stopped

the bleeding, applied ice and went to bed. This morning there was blood on the pillowcase, the pain had intensified, and my vision was blurred. I reasoned this required an objective medical evaluation to ensure there was no permanent damage. Thus began my hassle for the day.

What followed was more than a dozen telephone calls to various medical professionals and administrators to get permission to go to the doctor and secure the required referral for them to be paid. I knew what had to be done, but what is the justification for wasting my time and causing me anxiety and aggravation? As a professional, if I am not working, I am not being paid. Consequently, the very real financial loss I endure by sitting in a waiting room makes me choose the medical visit option only as a last resort.

That day I wasted additional time and resources playing phone tag all around the State trying to get some paperwork-pushing clerk to give me permission to do what I knew to be right. And, by the way, we pay for this, which is what truly amazes me.

What should we do? I suggest we all write to our State and Federal elected officials demanding that they return the right of self-determination in health matters to us by passing the Patients' Bill of Rights and similar state statutes. It is no wonder the doctors are unionizing. Perhaps the patients should too.

He was talking about an eye injury, but we just know that with the case of eye injury or so many other serious problems that people face the same reality.

All I am really saying tonight, Mr. Speaker, because this may be the last opportunity we get to talk about this before the August break, is let us bring up the Patients' Bill of Rights. Let us bring up HMO reform. Let those Democrats and those Republicans, and I see my colleague is going to come after me, the gentleman from Iowa (Mr. GANSKE), let us put together a bill I think that is very close to the Patients' Bill of Rights that really provides comprehensive HMO reform. This is what the public wants, this is what we keep hearing every day from our constituents, and I know that I am going to use the time during this August break to go out and explain to the public why we need to bring this up on the floor of the House when we come back in September.

I am confident when I see people like my colleague, the gentleman from Iowa (Mr. GANSKE) and others on the Republican side that are demanding that we take action, that when we come back in September, either through the means of a discharge petition or because the Republican leadership finally sees they have to do something, that we will see comprehensive HMO reform. But I am not going to rest, and I know the gentleman from Iowa (Mr. GANSKE) and a lot of us are not going to rest until that happens.

MANAGED CARE REFORM

The SPEAKER pro tempore (Mr. VITTER). Under the Speaker's announced policy of January 6, 1999, the gentleman from Iowa (Mr. GANSKE) is recognized for 34 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, here it is, about 11:30 p.m. in Washington, and our families will be happy to know that we are here on the floor, taking care of the country's business. I wish to speak for the remainder of this evening about managed care reform. One of these days we are going to pass this, and my friend from New Jersey and I will maybe have to stop passing like ships in the middle of the night, coming to the floor to speak about this issue.

But, Mr. Speaker, it has become I think commonplace knowledge that we have problems with managed care in this country. That is recognized by a lot of the humor that we see in the country.

Several years ago, a joke started going around the country about the three doctors who died and went to heaven. The first doctor was a neurosurgeon. St. Peter asked him, ''What did you do for a living?'' He said, ''I took care of victims of automobile crashes who had injured their heads and tried to get them back to a normal life.'' St. Peter said, ''Enter, my son, and enjoy heaven.''

The next doctor who came up to the pearly gates was asked by St. Peter what he did. He said, ''I was a heart surgeon and I took care of people who were having heart attacks and managed to prolong their lives so that they could spend them with their families.'' St. Peter said, ''Enter, my daughter, and enjoy heaven.''

The third doctor who came up to the Pearly Gates was asked by St. Peter, ''What did you do?'' He said, ''Well, I was an HMO manager.'' St. Peter kind of stroked his beard and he said, ''Son, you may enter, but only for 3 days.''

Now, everyone has heard that joke. Why is that funny? Well, number one, because there is a kernel of truth in it and there is a twist. All of us who have had to deal with managed care, and as a physician I certainly have in advocating for my patients, knows that managed care has put severe time limits on whether patients can stay in the hospital. We will talk about some of those examples.

So now it is sort of funny that this HMO manager is going to get his comeuppance. I think that is part of the humor.

The humor of HMOs, in order for something to be humorous, people have to understand the underlying point. So let us just look, for example, at some of the cartoons that we have seen around the country.

Here is one. We see a doctor sitting at a desk. He is reading a paper. Behind him is an eye chart that says ''enough is enough,'' and the doctor is saying, ''Your best option is cremation, $359 fully covered.'' The patient, sort of nonplussed, is sitting there saying, ''This is one of those HMO gag rules, isn't it doctor?''

Now, this is a little harder to see for my colleagues here in the audience tonight. I will have to read this to you. Here is a physician sitting behind his desk. He is talking to a patient. The physician is saying, ''I will have to check my contract before I answer that question.''

Now, what is the point of this cartoon? Well, about 3 years ago it became known that HMOs were writing contracts that required the doctor to check with the HMO before they told the patient all their treatment options. Now, think about that.

□ 2330

Let us say that one is a woman, one has a lump in one's breast, one goes in to see one's doctor. One's doctor takes one's history, does one's physical exam, and then says, ah-hah, excuse me, and steps outside, gets on the phone to the HMO and says, ''Mrs. So-and-so has a lump in her breast. She has got three treatment options. One is more expensive than the other. Is it okay if I tell her what her three options are?''

I mean, that is awful. As a practicing physician in solo practice for 10 years after medical school and residency, I can tell my colleagues, that the doctor-patient relationship will not stand that type of restriction on communication.

Patients have to trust their physician to be able to tell them the whole story. It may be that the HMO is not going to cover part of the treatment or one of the options, but the patient has every right to know what all the options are at a minimum.

Then we start to get into some things that are a little less than funny on an issue like this. Here is a headline from the New York Post: ''What his parents did not know about HMOs may have killed this baby.'' Now, here is an infant that died possibly because his HMO prevented his physician from communicating to his parents the entire story. It is not so funny anymore.

Let us go to the case of a lady whose story was covered in Time Magazine a couple years ago, well documented. This lady is no longer alive. Her HMO made a medical decision to try to limit her and her family, her husband, from knowing all of her treatment options. They put a lot of pressure on the medical center to prevent and actually change their opinion on what kind of treatment this patient should have.

This lady could be alive today as a mother to her children and a wife to her husband had not that HMO made a medical decision that limited the information that she got. Not so funny anymore.

So what happened? Well, I and the gentleman from Massachusetts (Mr. MARKEY) in a bipartisan fashion reached across the aisle, and we got about 285 co-sponsors to sign a bill called the Patient Right To Know Act. This was about 3 years ago now, 285 bipartisan co-sponsors.

We discussed some suspension bills here tonight. Just with the cosponsors alone, we could have brought that to the floor and passed it under suspension. Not to be. I could not get my

leadership to allow that limited bill with such widespread bipartisan support to handle the problem that HMOs were limiting communications between the doctors and their patients. I could not get the leadership to allow that to be voted on and debated on the floor.

Well, let us go back to some of the humor that has gone on about HMOs. Remember the movie ''As Good As It Gets''? I went with my wife to this movie in Des Moines, Iowa, and something happened I had never seen before. When Helen Hunt was describing the care that her HMO gave in the movie to her asthmatic son, she expressed a rather strong expletive about her HMO and the treatment she was getting for her son. It elicited a lot of laughs in the audience.

But something else happened that I had never seen in a comedy in a movie theater. Some people stood up and clapped. They actually started clapping for her strong statement of disapproval about the way her son was being treated. Now, that does not happen. Humor like that is not effective if it is not understood and if it doesn't strike a nerve and a cord. But it sure did in that movie.

Now, she was having problems with her son getting care and was frequently having to take him to emergency rooms.

Here is another cartoon, sort of, that I saw. Here is a nurse on the phone. I think this is from an old TV show, this picture. She is saying, ''Chest pains? Well let me find the emergency room preapproval forms.''

What is one of the other problems that we have seen with HMOs? Well, it happens to be that a lot of HMOs, a few have refused to pay for emergency room visits. Let us say a patient gets a chest pain, severe crushing chest pain. The American Heart Association says this is a sign one could be having a heart attack.

One's wife takes one to the emergency room. They do the EKG, but it is normal. They find out that, instead, one has severe inflammation of one's esophagus and one's stomach instead.

Afterwards, what does the HMO do? They say, ''See, your EKG was normal. You were not having a heart attack. You did not need to go to the emergency room. We are not going to pay for it.''

What is the lessen that people start learning from that? Gee, maybe if the HMO is not going to cover these things that the common layperson would say is an emergency, maybe I should just take my time a little bit. Except that we know, when that happens, a certain number of people die before they get to the hospital.

Now there certainly is such a thing as black humor, and this cartoon has some of the blackest humor I have seen. What we have here is a medical reviewer at an HMO, and I am going to read this for my colleagues. She is speaking on the telephone.

She says, ''Cuddly Care HMO. My name is Bambi. How may I help you?''

She continues speaking on the phone. ''Oh, you are at the emergency room and your husband needs approval for treatment. He is gasping? Writhing? Eyes rolled back in his head? It does not sound all that serious to me.'', she says.

Far side. She says, ''Clutching his throat? Turning purple? Uh-huh. Have you tried an inhaler? Oh, he is dead? Well, then he certainly does not need treatment, does he?''

Her last comment is, ''People are always trying to rip us off.''

Pretty black humor.

But let us talk about a real case. Let us talk about this young woman who, about a year and a half ago was hiking in the Appalachian Mountains. She fell off a 40-foot cliff. She was lying at the bottom of that cliff with a broken skull, a broken arm, a broken pelvis, semi-comatose, almost drowning in a pool of water.

Fortunately, her boyfriend was able to get an air ambulance in. They took her to the hospital. Here she is all bundled up on the stretcher going to airlift her to the hospital.

She makes it to the hospital emergency room. She is stabilized. She is treated. She is in the hospital for a month or so, in the ICU for a couple of weeks. She is on a morphine drip. Those are pretty painful problems that she had. Plus she has broken her head. She has got a fractured skull.

What happens to this young woman? Her HMO refuses to pay the bill. Now, why is that? Well, the HMO said that she did not call ahead for prior authorization. I mean, think of that. She was supposed to know that she was going to fall off this cliff. Maybe when she is lying at the bottom of the cliff with the broken skull, a broken arm, and a broken pelvis, she is supposed to reach into her coat pocket with her nonbroken arm, pull out a cellular phone, dial a 1–800 number and say, ''Bambi at that HMO, I have a broken skull. I need to go to the emergency room. Is that okay?''

□ 2340

I mean that is the type of thing that we do not need to see; that we need to fix. And we need to fix it because Congress passed a law about 25 years ago called ERISA, and what it did for employer plans was it took them out of State oversight.

State insurance commissioners and State legislatures, they do not have much to say about plans that are offered by employers. We talk a lot as Republicans about devolving power back to the States, but I have not seen my leadership too much interested in making sure that the States can provide proper oversight for health plans.

And so we have this law that Congress created that basically left a vacuum. State insurance commissioners cannot tell a plan, like that woman who fell off the cliff, they cannot tell her plan, if she is in an employer plan, that they have to cover her services. Those plans have been exempted from State oversight. Congress made that problem; Congress needs to fix it.

Let us look at a few other cartoons that have been in the press. Here is one called the HMO bedside manner, and we have an individual lying there with broken arms, in traction. And on the wall is the HMO bedside manner, and it says, ''Time is money. Bed space is loss. Turnover is profit.'' And then we have a physician at the bedside saying, ''After consulting my colleagues in accounting, we have concluded you're well enough. Now go home.''

Or how about this one. ''Remember the good old days, when we took refresher courses in medical procedures,'' this doctor is saying to a colleague. Now they are going into the HMO medical school and the course directory for the HMO medical school is, first floor, basic bookkeeping and accounting; second floor, advanced bookkeeping and accounting; third floor, graduate bookkeeping and accounting.

Now here we have another example of the HMO emphasis on bottom line profits versus taking care of the patient. This is the HMO claims department, and we have a claim's reviewer saying into her telephone, ''No, we don't authorize that specialist.'' Then she goes on, ''No, we don't cover that operation.'' Then she says, ''No, we don't pay for that medication.'' Then, apparently the person on the other end of the line says something where she kind of jerks, and she says, ''No, we don't consider this assisted suicide.''

How about this cartoon that appeared in the Boston Globe. We have an HMO doctor here and the patient is saying, ''Do you make more money if you give patients less care?'' The HMO employee says, ''That's absurd, crazy, delusiona.'' The patient comes back and says, ''Are you saying I'm paranoid?'' The HMO employee says, ''Yes, but we can treat it in three visits.''

Now, my colleagues may think that this is kind of funny, but as a plastic and reconstructive surgeon, I took care of a lot of patients with this type of defect. This is a little child born with a cleft lip and a cleft palate. Now, the standard treatment for correction of this child's cleft palate is a surgical repair. That gets the roof of the mouth together so that this child can learn to speak normally. It also keeps food and liquids from going out his nose. That is standard treatment.

Do my colleagues know what some HMOs are doing now? They are writing into their contract language a definition of medical necessity that says we will only authorize payment for the cheapest, least expensive care. Under Federal law they can do that and nobody can challenge it because that is written into their contract.

So what does that mean for a little baby that is born with this type of defect? It means that that HMO, under Federal law, could tell the parents that they are not going to cover surgery; that they are just going to provide

their child with a little piece of plastic to kind of shove up into the roof of his mouth that will kind of fill in that hole.

Of course, if baby spits it out, that does not matter. If baby chokes on it, I guess that could be a problem. And, of course, the baby will not be able to learn to speak normally, and eventually will continue to have problems with food coming out of his nose. But under current Federal law, the current Employee Retirement Income Security Act law, that HMO can write that medical definition any way they want.

Not exactly the best way to take care of patients, and one of the reasons why we need to do something to fix that.

Now, I just read this. This is from the Albany Times Union. Here is another emergency room story, and this is about a lady by the name of Elsa Goldstein. She had a medical emergency one night. She went to the hospital emergency room. She was given a medication in the hospital by the emergency room doctor. She was supposed to take the medicine twice a day. So she went to the local pharmacy where she has coverage through her HMO, but the pharmacy would not provide her the medicine. They wanted to charge her $109 for the medication.

So she said, why is that? I mean my insurance company is supposed to pay for this, is it not? And she was told, yes, but only if the HMO doctor writes the prescription. She said, well, wait a minute, I was in the emergency room. This was an emergency room doctor who wrote me the prescription. My HMO doctor's office is closed. It is in the middle of the night and I need that medication. The response was, sorry, you cannot have it. You can pay for it yourself.

And then she got on the phone with an HMO representative who said, oh, just take this medication, this over-the-counter medication. Funny thing about this, though. This Elsa Goldstein happened to be a physician herself, and the medication that this HMO bureaucrat was prescribing over the telephone she knew would have been detrimental to her health.

This is the type of stuff that goes on all of the time. Here is another one of these cost-cutting mechanisms. What did that HMO try to do? They tried to just dun this patient. If they do it enough, enough people will just give in, they will just buy it on their own and then the HMO just makes more money.

Now, what did the HMOs come up with as a great idea a few years ago? Remember this? Remember when they were saying, oh, people can just go to the hospital and go home right away?

□ 2350

In fact, we are going to mandate those sort of drive-through deliveries. So here we have a picture of the maternity hospital and we have here the drive-through window. Now only 6-minute stays for new moms. ''Congratulations. Would you like fries with that?'' And you have this as far as the woman in the car holding her newborn baby ready to drive through and drive out.

By the way, this was the result of one of those Milleman and Robertson guidelines that the HMOs like to use that they like to flaunt as their solutions.

How about Dr. Welby? Now maybe he would be saying, she had her baby 45 minutes ago; discharge her.

Once again we are getting into a little bit more black humor. Because here we have the operating room. We have the doctors here. And the doctor is saying, ''scalpel,'' and the HMO bean counter says, ''pocket knife.'' And then the doctor says, ''suture,'' and the HMO bean counter says, ''Band-Aid.'' And the doctor says, ''Let us get him into intensive care.'' And the HMO bentonite says, ''Call a cab.''

But here is a real story, front page headlines, New York Post: ''HMO's Cruel Rules Leave Her Dying for the Doc She Needs.'' All of a sudden it is not so funny anymore. Because now we have a picture of a person who has probably lost her life because of an HMO medical decision, which, by the way, under Federal law, an employer plan is not liable for the consequences of their medical decisions other than providing the cost of care not delivered. And if the patient happens to die early, then they are not responsible for anything.

Well, Mr. Speaker, it is getting kind of late, so I want to talk about two more patients. I want to talk about a conversation I had about a year ago with a pediatrician who worked in the Washington, D.C. area. She is now doing research at one of the national labs.

I asked her why she left the practice of medicine. She was a pediatric specialist in a pediatric ICU. And she said, Well, I just got past the point of being able to deal with those HMOs anymore. But the straw that really broke my back was one day we had come into the intensive care unit a 5- or 6-year-old boy who had been drowning. He was still alive but just barely. We had him hooked up to the ventilator. We had him plugged into the IV. We were giving him all the medicine that we could to try to save his life. We were standing around the bedside. It was not looking good. But we were expending every effort to try to save this child's life. And the phone rings in the ICU and it is some HMO reviewer a thousand miles away wanting to know about the case, probably looking at a computer screen and an algorithm, and the questioning went sort of like this:

Well, tell me about this young patient. Oh, he is on the ventilator. Well, what is his prognosis? The doctor says, well, it is not too good. We are trying to do everything to save his life. He has only been here an hour or so.

This HMO reviewer from a thousand miles away, never having seen this patient, then says this incredible thing, probably looking at that computer screen, on the ventilator, poor prognosis. Next suggestion from the HMO, one of these HMO guidelines: Well, if his prognosis is so bad, why do you not just send him home on a home ventilator?

Now, for anyone who has any medical experience on this, that would make the hair on the back of their head stand up. If that little child is going to survive, he is going to need every ounce of expertise and skill from a whole team of nurses and doctors. And for this medical reviewer to say send him home on a home ventilator is a death sentence.

What is the motivation behind it? To save a few bucks.

I am going to close with one story. This is a story about this little boy right here. You see him tugging at his sister's sleeve. When he was about 2 months old, about 3 in the morning he was pretty sick. He had a temperature of 104. And as mothers can tell, he needed to go to the emergency room.

So his parents lived south of Atlanta, Georgia. His mother does the thing that the HMO says, phones the 1–800 number, gets a distant voice from somebody who has never seen this little boy. He says, Well, I will let you go to an emergency room, but I am only going to let you go to this one emergency room which is more than 65 miles away. That is all I will authorize. That is the only one we have a contract with, to save money.

So Mom and Dad, they are not health professionals, they wrap up little Jimmy in a blanket. They get in the car. Dad starts driving. They are halfway there, and they pass three other hospital emergency rooms they could have stopped Jimmy at. But they do not have authorization. They are not health care professionals. But they do know if they stop unauthorized they will be stuck with potentially a very large bill.

So they follow the medical decision that that HMO reviewer made and push on. Except that before they get to the hospital that Jimmy is supposed to go to, he has a cardiac arrest. His eyes roll back in his head. He stops breathing. His heart stops. And his mom tries to keep him alive. They pull into the emergency room.

Mom leaps out of the car with this little baby, screaming, save my baby. Save my baby.

A nurse comes out gives him mouth-to-mouth resuscitation. They bring the crash cart out. They start the IVs. They give him the medicine. And they manage to get him going again. They manage to save his life.

Unfortunately, they do not manage to save everything on Jimmy. Because of that cardiac arrest from that decision that that HMO made, Jimmy ends up with gangrene of both hands and both feet and the doctors have to amputate both hands and both feet.

Here is a picture of little Jimmy today. In order to save as much length

on his arms and his legs, they put skin grafts on after they amputated his hands and his feet.

I talked to his mom about a month ago. Jimmy is now learning to put on his bilateral leg prosthesis. But he still needs a lot of help on getting on his bilateral hook prosthesis.

This little boy will never play basketball. I will tell the Speaker of the House that that little boy will never wrestle. When this little boy grows up and marries the woman that he loves, he will never be able to caress her cheek with his hand.

Do my colleagues know what the opponents of this patient protection legislation say? They say this is just an anecdote; we should not legislate on the basis of anecdotes.

I would say to them, this little anecdote, if he had a finger and you pricked it, it would bleed. And do my colleagues know that, under Federal law, that HMO which made that medical decision is liable for nothing.

Is that justice? Is that fair? We need to change that law to encourage HMOs not to cut corners like this so that we do not end up having to cut off hands and feet.

A judge reviewed this case and the HMO's decision and came to the determination that that HMO's margin of safety was ''razor thin.'' I would add to that, as razor thin as the scalpel that had to amputate little Jimmy's hands and feet.

My colleagues, as my colleague from New Jersey pointed out, for years now we have been trying to get this to the floor for a fair debate. We had a rigged debate last year with a fig leaf bill.

I am telling my friends on both sides of the aisle that there are Republicans and there are Democrats that have come together and we are working on a bipartisan bill. We will introduce that soon, and we will do everything we can with more than a majority of the Members of this House to bring this to the floor and to correct these types of abuses.

I would encourage my friends on the Republican side of the aisle to contact myself or the gentleman from Georgia (Mr. NORWOOD), the Georgia bulldog, who has done as much as anyone to advance this, or my friends on the Democratic side of the aisle, to contact the gentleman from New Jersey (Mr. PALLONE) or the gentleman from Michigan (Mr. DINGELL) and get on board this bipartisan effort.

The only way we are going to solve this is to work together, both Republicans and Democrats, put aside partisan differences, and fix this for the people in our country.

CORRECTION TO THE CONGRESSIONAL RECORD OF MONDAY, AUGUST 2, 1999, AT PAGE H6810

REQUEST FOR CONSIDERATION OF S. 1467, EXTENSION OF AIRPORT IMPROVEMENT PROGRAM

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1467) and ask for its immediate consideration in the House.

Mr. OBEY. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair is not able to entertain the gentleman's request at this time.

Mr. SHUSTER. Mr. Speaker, the gentleman from Minnesota (Mr. OBERSTAR), I understand, is reserving the right to object.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. SHUSTER) is not recognized for that purpose.

Mr. SHUSTER. May I ask why the gentleman is objecting? Is it in order, Mr. Speaker, for me to ask why the gentleman is objecting?

The SPEAKER pro tempore. Under the Speaker's guidelines, the Chair is not recognizing the gentleman from Pennsylvania for that purpose at this time.

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

Ms. WOOLSEY, for 5 minutes, today.

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

Mr. SPRATT, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

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

Mr. MANZULLO, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOYER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 335. An act to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes; to the Committee on Government Reform.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 880. An act to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program, and for other purposes.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 4, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3381. A letter from the Secretary of Agriculture, transmitting the annual Animal Welfare Enforcement Report for fiscal year 1998, pursuant to 7 U.S.C. 2155; to the Committee on Agriculture.

3382. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule— Tart Cherries Grown in the States of Michigan, et al.; Decreased Assessment Rates [Docket No. FV99–930–3 IFR] received July 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3383. A letter from the Animal and Plant Health Inspection Service, Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Limited Ports; Memphis, TN Sec.Docket No. 98–102–2] received June 24, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3384. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision in Minimum Grade, Container, and Pack Requirements [Docket No. FV98–925–3 FIR] received July 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3385. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Licensing Requirements for Dogs and Cats [Docket No. 97–018–4] (RIN: 0579–AA95) received July 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3386. A letter from the Animal and Plant Health Inspection Service, Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Noxious Weeds; Permits and Interstate Movement [Docket No. 98–091–1] (RIN: 0579–AB08) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3387. A letter from the Congressional Review Coordinator Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Cut Flowers [Docket No. 98–021–2] received July 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3388. A letter from the Congressional Review Coordinator Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Citrus Canker; Addition to Quarantined Areas [Docket No. 95–086–3] received July 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3389. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule— Amendments to Rules of Practice Under the Perishable Agricultural Commodities Act (PACA) [Docket Number FV98–358] received July 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3390. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Benzoic Acid, 3, 5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide; Pesticide Tolerance [OPP–300896; FRL–6092–1] (RIN: 2070–AB78) received July 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3391. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide; Pesticide Tolerance [OPP–300886; FRL–6088–8] (RIN: 2070–AB78) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3392. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fosetyl-Al; Pesticide Tolerance for Emergency Exemptions [OPP–300889; FRL–6089–8] (RIN: 2070–AB78) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3393. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Loan Policies and Operations Leasing; General Provisions; Accounting and Reporting Requirements (RIN: 3052–AB63) received June 24, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3394. A letter from the Secretary of Defense, transmitting notification of the approval of the retirement of Lieutenant General Joseph E. Hurd, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3395. A letter from the Secretary of Housing and Urban Development, transmitting the Department's Five Year Plan for Energy Efficiency for the five years from 1999 through 2003, pursuant to Public Law 101—625, section 945(d) (104 Stat. 4416); to the Committee on Banking and Financial Services.

3396. A letter from the Assistant General Counsel for Regulations, Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban transmitting the Department's final rule—Technical Amendment to the Section 8 Management Assessment Program (SEMAP) [Docket No. FR–4498–1–01] (RIN: 2577–AC10) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3397. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Community Development Block Grant (CDBG) Program; Clarification of the Nature of Required CDBG Expenditure Documentation [Docket No. FR–4449–I–01] (RIN: 2506–AC00) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3398. A letter from the President and Chairman, Export-Import Bank, transmitting a report involving U.S. exports to China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

3399. A letter from the President and Chairman, Export-Import Bank, transmitting a report involving U.S. exports to Taiwan, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

3400. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—List of Communities Eligible for the Sale of Flood Insurance [Docket No. FEMA–7716] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3401. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Suspension of Community Eligibility [Docket No. FEMA–7717] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3402. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations—received July 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3403. A letter from the Chairman, Federal Reserve System, transmitting the Board's mid-year Monetary Policy Report, pursuant to 12 U.S.C. 225a; to the Committee on Banking and Financial Services.

3404. A letter from the Director, Office of Management and Budget, transmitting a report to Congress on appropriations legislation within seven days of enactment; to the Committee on the Budget.

3405. A letter from the Assistant Attorney General, Office of Justice Programs, Violence Against Women Office, Department of Justice, transmitting the Department's final rule—Grants to Combat Violent Crimes Against Women on Campuses (RIN: 1121–AA49) received July 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3406. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the 1998 Annual Report of the Federal Energy Regulatory Commission, pursuant to 16 U.S.C. 797(d); to the Committee on Commerce.

3407. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule—Requirements for Child Resistant Packaging; Household Products Containing Methacrylic Acid—received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3408. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Occupational ALARA Program Guide; to the Committee on Commerce.

3409. A letter from the Acting Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department of Energy Employee Concerns Program; to the Committee on Commerce.

3410. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Management and Administration of Radiation Protection Programs Guide; to the Committee on Commerce.

3411. A letter from the Acting Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the report entitled, ''Interface with the Defense Nuclear Facilities Safety Board''; to the Committee on Commerce.

3412. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting an Acquisition Letter on Consortium Buying; to the Committee on Commerce.

3413. A letter from the Acting Assistant General Counsel for Regulatory Law, Department of Energy, transmitting an Assessment; to the Committee on Commerce.

3414. A letter from the Senior Attorney, NHTS, Department of Transportation, transmitting the Adminstration's final rule—Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards [Docket No. 99–NHTSA–5240; Notice 2] (RIN: 2127–AH45) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3415. A letter from the Senior Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule—Civil Penalities [Docket No. NHTSA 99–5448; Notice 2] (RIN: 2127–AH48) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3416. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implemention Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Mojave Desert Air Quality Management District; Ventura County Air Pollution Control District[CA 105–153a; FRL–6378–7] received July 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3417. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland —Fuel Burning Equipment [MD063–3023a; FRL–6379–6] received July 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3418. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning [FRL–6376–5] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3419. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Approval of Revisions to Coal Preparation Plants and Coal Handling Operations [WV016–6010a; FRL–6372–3] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3420. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Report to Congress: Cigar Sales and Advertising and Promotional Expenditures for Calendar Years 1996 and 1997; to the Committee on Commerce.

3421. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule— Secondary Direct Food Additives Permitted in Food for Human Consumption [Docket No. 98F–0894] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3422. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the 1997 annual report as required by the Energy

Reorganization Act of 1974; to the Committee on Commerce.

3423. A letter from the Secretary of Health and Human Services, transmitting the sixteenth annual report to Congress of the Orphan Products Board (OPB), pursuant to 42 U.S.C. 236(e); to the Committee on Commerce.

3424. A letter from the Deputy Secretary, Market Regulation, Securities and Exchange Commission, transmitting the Commission's final rule— Broker-Dealer Registration and Reporting [Release No. 34–41594; File No. S7–16–99] (RIN: 3235–AH73) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3425. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services (Transmittal No. 99–20), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3426. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 99–25), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3427. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense articles or defense services to French Guiana (Transmittal No. DTC 74–99), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3428. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment sold under a contract to Turkey [Transmittal No. DTC 80–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3429. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement for export of defense services under a contract to Spain (Transmittal No. DTC 2–99), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

3430. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 78–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3431. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective July 4, 1999, the 15% danger pay allowance for Eritrea has been eliminated, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

3432. A letter from the Secretary of Agriculture, transmitting the Management Report for the 6-month period ending March 31, 1999, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

3433. A letter from the Secretary of Energy, transmitting the twentieth Semiannual Report to Congress prepared by the Department of Energy's Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

3434. A letter from the Comptroller General, transmitting a list of GAO reports from the previous month; to the Committee on Government Reform.

3435. A letter from the Associate Administrator for Human Resources and Education, General Accounting Office, transmitting a list of vacancies; to the Committee on Government Reform.

3436. A letter from the Director, Office of Management and Budget, transmitting the Office's report entitled the ''1999 Federal Financial Management Status Report and Five-Year Plan,'' pursuant to Public Law 101—576, section 301(a) (104 Stat. 2849); to the Committee on Government Reform.

3437. A letter from the Director, Office of Management and Budget, transmitting Amendments to Deferred Maintenance Reporting; to the Committee on Government Reform.

3438. A letter from the Acting Deputy Director for Management, Office of Management and Budget, transmitting the report entitled, ''Electronic Purchasing and Payment in the Federal Government''; to the Committee on Government Reform.

3439. A letter from the Director, Office of Personnel Management, transmitting notification of the approval of the final plan for a human resources management demonstration project at the Naval Research Laboratory; to the Committee on Government Reform.

3440. A letter from the Office of Special Counsel, transmitting the Annual Report of the Office of the Special Counsel (OSC) for Fiscal Year (FY) 1998, pursuant to Public Law 101—12, section 3(a)(11) (103 Stat. 29); to the Committee on Government Reform.

3441. A letter from the Secretary of Education, transmitting notification that effective June 21, 1999, the Commissioner of the National Center for Education Statistics resigned; to the Committee on Government Reform.

3442. A letter from the Librarian of Congress, transmitting the Annual Report of the Librarian of Congress, for the fiscal year ending September 30, 1998, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

3443. A letter from the Secretary of the Interior, transmitting the 1998 Annual Report for the Office of Surface Mining (OSM), pursuant to 30 U.S.C. 1211(f), 1267(g), and 1295; to the Committee on Resources.

3444. A letter from the Assistant Secretary, Lands and Minerals Management, Department of the Interior, transmitting the Department's final rule—Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Bonus Payments with Bids (RIN: 1010–AC49) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3445. A letter from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Amendments to Gas Valuation Regulations for Indian Leases (RIN: 1010–AB57) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3446. A letter from the Manager, Yakima River Basin Water Enhancement Project, Department of the Interior, transmitting a report on Biologically Based Flows for the Yakima River Basin; to the Committee on Resources.

3447. A letter from the Acting Director, Office of Sustainable Fisheries National Marine Fisheries Service, Department of Commerce, transmitting the Department's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 990304062–9060–01; I.D. 072199A] received July 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3448. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting the Department's final rule—Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry [Docket No. 960223046–9151–04; I.D. 050799B] (RIN: 0648–ZA09) received July 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3449. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting the Department's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Observer and Inseason Management Requirements for Pollock Catcher/Processors; Extension of Expiration Date [Docket No. 990113011–9011–01; I.D. 010699A] (RIN: 0648–AM06) received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3450. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Safe Harbor Agreements and Candidate Conservation Agreements With Assurances (RIN: 1018–AD95) received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3451. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Certification Bycatch [Docket No. 990330083–9166–02; I.D. 031999B] (RIN: 0648–AK32) received July 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3452. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species (HMS) Fisheries; Fishery Management Plan (FMP), Plan Amendment, and Consolidation of Regulations [Docket No. 981216308–9124–02; I.D. 071698B] (RIN:0648–AJ67) received July 19, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3453. A letter from the Acting 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; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 071699B] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3454. A letter from the Acting 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; Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 071699A] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3455. A letter from the Deputy Assistant Administrator For Fisheries National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries off Alaska; Extension of an Expiration Date [Docket No. 990115017–9193–02; I.D. 011199A] (RIN: 0648–AM08) received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3456. A letter from the Acting 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; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 071699C] received July 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3457. A letter from the Secretary of the Interior, transmitting notification that the National Park Service has recently purchased lands and interests in land in Katmai National Park and Preserve, Alaska, and has conveyed other lands into private ownership within this unit of the National Park System; to the Committee on Resources.

3458. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Labor Certification Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measure To Improve Program Performance (RIN: 1205–AB19) received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3459. A letter from the Secretary of Transportation, transmitting the Department's annual report entitled ''Report to Congress on Transportation Security'' for Calendar Year 1997, pursuant to Public Law 101—604, section 102(a) (104 Stat. 3068); to the Committee on Transportation and Infrastructure.

3460. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule— Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes [Docket No. 98–NM–62–AD; Amendment 39–11236; AD 99–16–01] (RIN: 2120–AA64) received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3461. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule— Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines [Docket No. 98–ANE–21–AD; Amendment 39–11233; AD 98–23–07 R1] received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3462. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule— Airworthiness Directives; Boeing Model 737–600 Series Airplanes [Docket No. 99–NM–155–AD; Amendment 39–11229; AD 99–15–09] (RIN: 2120–AA64) received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3463. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule— Establishment of Class E Airspace; Taylor, AZ [Airspace Docket No. 97–AWP–2] received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3464. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule— Correction of Class D Airspace, Bullhead City, AZ [Airspace Docket No. 99–AWP–8] received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3465. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Management Information System (MIS) Requirements [USCG–1998–4469] (RIN: 2115–AF67) received July 22, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3466. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—National Standards for Traffic Control Devices; Metric Conversion [FHWA Docket No. FHWA–97–2353; 96–20] (RIN: 2125–AD63) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3467. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Amendment to Class E Airspace; York, NE [Airspace Docket No. 99–ACE–25] received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3468. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Revision of Class E Airspace, Santa Catalina, Ca [Airspace Docket No. 99–AWP–6] received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3469. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Establishment of Class E Airspace; Taylor, AZ [Airspace Docket No. 97–AWP–2] received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3470. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Airworthiness Directives; Cessna Aircraft Company Models 206H and T206H Airplanes [Docket No. 99–CE–23–AD; Amendment 39–11197; AD 99–13–04] (RIN: 2120–AA64) received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3471. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Amendment to Class E Airspace; Macon, MO [Airspace Docket No. 99–ACE–20] received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3472. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule— Amendment to Class E Airspace; Emporia, KS [Airspace Docket No. 099–ACE–24] received June 21, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3473. A letter from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Miscellaneous Administrative Revisions—received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

3474. A letter from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA FAR Supplement; Protests to the Agency—received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

3475. A letter from the Secretary of Veterans Affairs, transmitting a response to the Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance; to the Committee on Veterans' Affairs.

3476. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule—General Regulations Governing U.S. Securities—received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3477. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule— Regulations Governing U.S. Savings BONDS, Series A, B, C, D, E, F, G, H, J, and K, and U.S. Savings Notes; Regulations Governing United States Savings BONDS, Series EE and HH; Regulations Governing Book-Entry Treasury BONDS, Notes and Bills; and Electronic Transactions and Funds Transfers Related to U.S. Securities—received July 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3478. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—BLS-LIFO Department Store Indexes— June 1999—received July 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3479. A letter from the Secretary of Health and Human Services, transmitting notification that the Department is allotting emergency funds to 16 States and the District of Columbia; jointly to the Committees on Commerce and Education and the Workforce.

3480. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled, ''Medicaid and Children's Health Insurance Program Amendments of 1999''; jointly to the Committees on Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 273. Resolution providing for consideration of the bill (H.R. 2670) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–284). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 940. A bill to establish the Lackawanna Heritage Valley American Heritage Area; with amendments (Rept. 106–285). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALSH: Committee on Appropriations. H.R. 2684. A bill making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–286). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, Committee on Government Reform discharged. H.R. 1907 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 1907. A bill to amend title 35, United States Code, to provide enhanced protection

for inventors and innovators, protect patent terms, reduce patent litigation, and for other purposes, with an amendment; referred to the Committee on Government Reform for a period ending not later than August 3, 1999, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 106–287, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MCCOLLUM:

H.R. 2678. A bill to amend title 39, United States Code, to provide for the establishment of a notification system under which individuals may elect not to receive mailings related to skill contests or sweepstakes, and for other purposes; to the Committee on Government Reform.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 2679. A bill to amend title 49, United States Code, to establish the National Motor Carrier Administration in the Department of Transportation, to improve the safety of commercial motor vehicle operators and carriers, to strengthen commercial driver's licenses, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. JACKSON-LEE of Texas (for herself, Mr. CONYERS, Mr. BERMAN, Mr. GUTIERREZ, and Mr. MEEHAN):

H.R. 2680. A bill to replace the Immigration and Naturalization Service with the National Immigration Bureau, to separate the immigration enforcement and adjudication functions performed by officers and employees of the Bureau reporting to the Director, to amend the Immigration and Nationality Act to restore eligibility for adjustment of status under section 245(i) of that Act and to restructure the use of fees collected for providing adjudication and naturalization services, and for other purposes; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 2681. A bill to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents; to the Committee on Transportation and Infrastructure.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) (all by request):

H.R. 2682. A bill to amend title 49, United States Code, to enhance the safety of motor carrier operations and the Nation's highway system, including highway-rail crossings, by amending existing safety laws to strengthen commercial driver licensing, to improve compliance, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 2683. A bill to authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WALSH:

H.R. 2684. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes.

By Mr. BONILLA (for himself and Mr. SAM JOHNSON of Texas):

H.R. 2685. A bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections; to the Committee on House Administration, and in addition to the Committees on Veterans' Affairs, and the Judiciary, 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. DAVIS of Virginia:

H.R. 2686. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes; to the Committee on Government Reform.

By Ms. LOFGREN (for herself, Mr. CONYERS, Mr. DOOLEY of California, Ms. ESHOO, Ms. PELOSI, Ms. SANCHEZ, Mrs. TAUSCHER, Ms. WOOLSEY, Mr. MATSUI, Mr. THOMPSON of California, Ms. JACKSON-LEE of Texas, Mr. BERMAN, Mr. MEEHAN, and Mr. KIND):

H.R. 2687. A bill to amend the Immigration and Nationality Act to establish a 5-year pilot program under which certain aliens completing a postsecondary degree in mathematics, science, engineering, or computer science are permitted to change nonimmigrant classification in order to remain in the United States for a 5-year period for the purpose of working in one of those fields; to the Committee on the Judiciary.

By Mr. MORAN of Virginia (for himself and Ms. NORTON):

H.R. 2688. A bill to reduce traffic congestion, promote economic development, and improve the quality of life in the metropolitan Washington region; to the Committee on Transportation and Infrastructure.

By Mr. NEY:

H.R. 2689. A bill to impose a one-year moratorium on promulgation of new rules by the Health Care Financing Administration; 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. SMITH of New Jersey (for himself and Mr. PAYNE):

H.R. 2690. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. MARKEY, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. MOAKLEY, Mr. OLVER, Mr. CAPUANO, and Mr. GORDON):

H.R. 2691. A bill to amend the Internal Revenue Code of 1986 and titles XVIII and XIX of the Social Security Act to provide a range of long-term care services; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Government Reform, 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. WEINER:

H.R. 2692. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Ways and Means.

By Ms. WOOLSEY:

H.R. 2693. A bill to amend the Child Care and Development Grant Act of 1990 to provide for improved care for young children; to the Committee on Education and the Workforce.

H.R. 2694. A bill to increase the availability of child care for children whose parents work nontraditional hours or shifts; to the Committee on Education and the Workforce.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H. Con. Res. 171. Concurrent resolution congratulating the American Public Transit Association for 25 years of commendable service to the transit industry and the Nation; to the Committee on Transportation and Infrastructure.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

179. The SPEAKER presented a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1043 memorializing Congress to pass legislation requiring labels that disclose the country of origin on meats, poultry, and fresh produce; to the Committee on Agriculture.

180. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Joint Resolution No. 12 memorializing Congress and the Department of Agriculture to re-examine our national agricultural policy and give due attention and action to remedy the current agricultural economic dilemma; to the Committee on Agriculture.

181. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Joint Resolution No. 7 memorializing support for the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System; to the Committee on Agriculture.

182. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1032 memorializing Congress to repeal all provisions of federal law that allow or require a labor organization to represent employees who choose not to join or financially support such labor organization; to the Committee on Education and the Workforce.

183. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 6 memorializing the President and Congress to fund 40 percent of the average per pupil expenditure in public elementary and secondary schools in the United States as promised under the IDEA to ensure that all children, regardless of disability, receive a quality education and are treated with the dignity and respect they deserve; to the Committee on Education and the Workforce.

184. Also, a memorial of the Legislature of the State of New York, relative to Senate No. 1557 memorializing the New York State Congressional Delegation to effectuate a repeal of the oxygenate mandate for reformulated gasoline; to the Committee on Commerce.

185. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1047 memorializing Congress to subject the ''Regional Haze Rule'' to congressional rule review, to reject the rule, and return it to the EPA for proper participation by all interested parties prior to promulgation in accordance with the requirements of the federal ''Administrative Procedures Act''; to the Committee on Commerce.

186. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1037 memorializing Congress to require the EPA

to recognize that the State of Colorado has the requisite authority, expertise, experience, and resources to administer delegated federal environmental programs; to the Committee on Commerce.

187. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Joint Resolution No. 2 memorializing federal air pollution programs to not punish early adopters of air pollution control technology; to the Committee on Commerce.

188. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Joint Resolution No. 9 memorializing Congress to eliminate the oxygenate requirements of the federal Clean Air Act without imposing any new federal requirements to reduce air pollution; to the Committee on Commerce.

189. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 12 memorializing Congress to enact legislation amending the Social Security Act to prohibit recoupment by the federal government of state tobacco settlement funds; to the Committee on Commerce.

190. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 12 memorializing Congress to enact legislation amending the Social Security Act to prohibit recoupment by the federal government of state tobacco settlement funds; to the Committee on Commerce.

191. Also, a memorial of the House of Representatives of the State of Alabama, relative to House Joint Resolution No. 178 memorializing Congress to enact legislation amending the Social Security Act to prohibit recoupment by the federal government of state tobacco settlement funds; to the Committee on Commerce.

192. Also, a memorial of the General Assembly of the State of Rhode Island, relative to Joint Resolution 99–S 1003 memorializing the President and Congress to ratify the United Nations convention on the Rights of the Child; to the Committee on International Relations.

193. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 219 HD1 memorializing the United Nations Children's Fund to establish a center for the health, welfare, and rights of children and youth in Hawaii and support for the center is respectfully requested from the President of the United States and Congress; to the Committee on International Relations.

194. Also, a memorial of the Legislature of the Commonwealth of Guam, relative to Resolution No. 126 memorializing Guam's Delegate to the U.S. Congress introduce legislation that would further amend the Organic Act of Guam to allow for the first election of the Attorney General of Guam to be held in the General Election in the year 2000; to the Committee on Resources.

195. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1023 memorializing the Department of the Interior and the Bureau of Land Management to withdraw the current proposal to amend the federal regulations, 43 C.F.R. subpart 3809 and published at 64 F.R. 6422 on February 9, 1999, governing hardrock mining activity; to the Committee on Resources.

196. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1020 memorializing opposition towards H.R. 829, the ''Colorado Wilderness Act of 1999''; to the Committee on Resources.

197. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1051 memorializing Congress to adopt certain amendments to the federal ''Endangered Species Act of 1973''; to the Committee on Resources.

198. Also, a memorial of the House of Representatives of the State of Colorado, relative to House Joint Resolution No. 99–1049 memorializing support for the most integrated setting mandate in regulations adopted by the United States Attorney General pursuant to the federal ''Americans With Disabilities Act of 1990''; to the Committee on the Judiciary.

199. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 4 memorializing the Secretary of Transportation to expeditiously authorize the inclusion of U.S. Route 2 through the states of Maine, New Hampshire, and Vermont as a designated border corridor highway under the auspices of Section 1118 and 1119 of the Transportation Equity Act of the 21st Century; to the Committee on Transportation and Infrastructure.

200. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 11 memorializing Congress and the Internal Revenue Service to make changes to the Internal Revenue Code and federal tax regulations necessary to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds and to permit all contributions toward future decommissioning expenses to receive beneficial tax treatment; to the Committee on Ways and Means.

201. Also, a memorial of the Senate of the State of Nevada, relative to Senate Joint Resolution No. 22 memorializing Congress to ensure that the provisions of H.R. 10, S. 900 and any similar federal legislation do not interfere with the jurisdiction of Nevada to regulate providers of insurance for the protection of its residents; jointly to the Committees on Commerce and Banking and Financial Services.

202. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 5 memorializing support for the stabilization of payments of the United States Forest Service to county governments through the State Treasurer; jointly to the Committees on Resources and Agriculture.

203. Also, a memorial of the Senate of the State of Colorado, relative to Senate Joint Memorial No. 99–003 memorializing Congress to establish a block grant program for the distribution of federal highway moneys, to use a uniform measure when considering the donor and donee issue, to eliminate demonstration projects, and to expand activities to combat the evasion of federal highway taxes and fees; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

204. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Concurrent Resolution No. 9 memorializing the federal government to review Medicare policies and procedures to ensure that New Hampshire senior citizens retain all Medicare options; jointly to the Committees on Ways and Means and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FRANK of Massachusetts introduced A bill (H.R. 2695) to provide for the relief of Kathy Barrett; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. COOK, Ms. ESHOO, Mr. MCHUGH, Mr. GARY MILLER of California, and Mr. WATTS of Oklahoma.

H.R. 269: Mrs. THURMAN, Mr. STARK, and Mr. HILLIARD.

H.R. 274: Mr. ENGLISH and Mr. SMITH of Washington.

H.R. 303: Ms. STABENOW, Mr. RYAN of Wisconsin, and Ms. LEE.

H.R. 382: Mr. DOYLE and Mr. WEXLER.

H.R. 393: Mrs. NAPOLITANO.

H.R. 405: Mr. KOLBE and Mr. MURTHA.

H.R. 410: Mr. WU.

H.R. 488: Mr. STARK.

H.R. 489: Mr. BLUMENAUER.

H.R. 531: Mr. OXLEY.

H.R. 552: Mr. PACKARD.

H.R. 566: Mr. GALLEGLY.

H.R. 583: Mr. KUCINICH and Mr. CUNNINGHAM.

H.R. 595: Mr. REYES.

H.R. 601: Mr. WATTS of Oklahoma.

H.R. 606: Mr. BASS.

H.R. 655: Mr. SMITH of Washington.

H.R. 671: Mr. SNYDER.

H.R. 776: Mr. LAMPSON.

H.R. 783: Mr. LAHOOD.

H.R. 784: Mr. ACKERMAN and Mrs. MORELLA.

H.R. 809: Mr. WATTS of Oklahoma.

H.R. 852: Mrs. EMERSON.

H.R. 854: Mr. WEYGAND.

H.R. 919: Mr. BERMAN, Mr. CUMMINGS, Mr. LANTOS, and Mr. TIERNEY.

H.R. 997: Mr. SMITH of Washington, and Mr. BLUMENAUER.

H.R. 1055: Mr. ENGLISH and Mr. GREEN of Texas.

H.R. 1067: Mr. CAMPBELL and Mr. SHOWS.

H.R. 1102: Mr. MASCARA, Mr. PASCRELL, Mr. SUNUNU, Mr. GREEN of Texas, Mr. CUNNINGHAM, and Mr. KUYKENDALL.

H.R. 1111: Mr. WALSH, Mr. BONILLA, Mr. BAKER, Mr. KILDEE, and Mr. Menendez.

H.R. 1168: Mr. DIAZ-BALART and Mr. ALLEN.

H.R. 1221: Mr. WEXLER and Mr. GOSS.

H.R. 1272: Mr. FLETCHER.

H.R. 1317: Mr. MCCRERY.

H.R. 1322: Mr. MINGE and Mr. ROYCE.

H.R. 1334: Mr. STENHOLM.

H.R. 1344: Mr. BAKER, Mr. KOLBE, and Mr. UDALL of New Mexico.

H.R. 1355: Mr. OSE.

H.R. 1356: Mr. GOODLING, Mr. STEARNS, Mrs. KELLY, Mr. PITTS, and Mr. HALL of Ohio.

H.R. 1360: Mr. GORDON and Mr. RAHALL.

H.R. 1399: Mr. WEINER and Mr. NEAL of Massachusetts.

H.R. 1452: Mr. HINCHEY, Mr. NEY, and Mr. JEFFERSON.

H.R. 1505: Mr. KUCINICH and Mr. CANNON.

H.R. 1531: Mr. WEINER and Mrs. THURMAN.

H.R. 1547: Mr. MCHUGH.

H.R. 1577: Mr. DOOLITTLE, Mr. GRAHAM, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Kentucky, Mr. POMBO, Mr. SESSIONS, and Mr. WHITFIELD.

H.R. 1579: Mr. OSE.

H.R. 1592: Mr. BERRY and Mr. STENHOLM.

H.R. 1594: Mr. BERMAN, Mr. STARK, Ms. SLAUGHTER, Mr. WYNN, Mr. WEYGAND, Mr. MCDERMOTT, Mr. TRAFICANT, and Mr. MEEHAN.

H.R. 1621: Mr. COYNE, Mr. ADERHOLT, Ms. LEE, Mr. HOLDEN, and Mr. BLUMENAUER.

H.R. 1622: Mr. ISAKSON.

H.R. 1640: Mr. KILDEE, Ms. KILPATRICK, Mr. NEAL of Massachusetts, Mr. BROWN of Ohio, Mr. MCNULTY, Mr. MCGOVERN, Mr. CLAY, Mr. MOAKLEY, Mr. BARCIA, and Mr. SCOTT.

H.R. 1649: Mr. STUMP.

H.R. 1685: Mr. PETERSON of Pennsylvania.

H.R. 1728: Mr. OLVER, Mr. COYNE, and Ms. DANNER.

H.R. 1750: Mr. PETERSON of Minnesota.
H.R. 1777: Mr. KUCINICH.
H.R. 1791: Mr. DOYLE.
H.R. 1810: Mr. COSTELLO.
H.R. 1821: Ms. DANNER, Mr. REYES, and Ms. DELAURO.
H.R. 1824: Mr. HYDE.
H.R. 1832: Mr. HALL of Texas, Mr. SMITH of New Jersey, and Mr. TRAFICANT.
H.R. 1838: Mrs. MALONEY of New York, Mr. BILIRAKIS, and Mr. LINDER.
H.R. 1844: Mr. BOEHLERT.
H.R. 1856: Mr. VITTER.
H.R. 1876: Mr. BARTON of Texas, Mr. HALL of Texas, Mrs. NORTHUP, Mr. SESSIONS, and Mr. ISAKSON.
H.R. 1883: Mr. DELAHUNT, Mr. FOSSELLA, Mrs. NAPOLITANO, Mr. MINGE, Mr. PHELPS, Mr. DREIER, and Mr. LEWIS of Georgia.
H.R. 1887: Mr. DOYLE.
H.R. 1899: Mr. GEJDENSON, Mr. BARTON of Texas, and Mr. OLVER.
H.R. 1933: Mr. SOUDER, Mr. TIAHRT, and Mr. HOSTETTLER.
H.R. 1977: Mr. HILLIARD and Ms. KILPATRICK.
H.R. 1987: Mr. NETHERCUTT.
H.R. 1990: Mr. BARRETT of Wisconsin, Mr. HOLT, Mr. OXLEY, and Mr. GILCHREST.
H.R. 1998: Mr. LEWIS of California.
H.R. 2004: Ms. LEE.
H.R. 2030: Mr. LUTHER.
H.R. 2057: Mr. PETERSON of Pennsylvania and Mr. BLUNT.
H.R. 2120: Mr. HASTINGS of Florida and Mr. EDWARDS.
H.R. 2221: Mr. VITTER.
H.R. 2241: Mr. KOLBE, Mr. DELAHUNT, Mr. MURTHA, Mr. GEJDENSON, and Mr. GEKAS.
H.R. 2245: Mr. WHITFIELD.
H.R. 2258: Mr. DAVIS of Illinois.
H.R. 2260: Mr. DUNCAN, Mr. RYAN of Wisconsin, Mr. QUINN, Mr. BLILEY, and Mr. GALLEGLY.
H.R. 2268: Mr. KOLBE.
H.R. 2282: Mr. NETHERCUTT.
H.R. 2303: Mrs. TAUSCHER, Mr. PORTMAN, Mr. HAYES, Mr. HASTINGS of Washington, Mrs. CUBIN, Mr. DOYLE, Mr. REGULA, Mr. SUNUNU, Mr. HALL of Ohio, and Mr. NADLER.
H.R. 2308: Mr. UDALL of New Mexico.
H.R. 2354: Mrs. MEEK of Florida.
H.R. 2357: Mrs. JONES of Ohio, Mr. HALL of Ohio, Mr. OXLEY, Mr. STRICKLAND, Mr. HOBSON, Ms. KAPTUR, Mr. KUCINICH, Mr. BROWN of Ohio, Mr. SAWYER, Mr. NEY, Mr. LATOURETTE, Mr. PORTMAN, Mr. FRELINGHUYSEN, Mr. LIPINSKI, Mr. FRANK of Massachusetts, Mr. JACKSON of Illinois, Ms. MCKINNEY, Mr. CLAY, Mrs. CHRISTENSEN, Mrs. THURMAN, Mr. SKELTON, Mrs. MEEK of Florida, Mr. HILLIARD, Mr. CHABOT, and Mr. GILLMOR.
H.R. 2372: Mr. MCHUGH, Ms. PRYCE of Ohio, Mr. WATKINS, Mr. SHIMKUS, Mr. BOYD, Mr. DEAL of Georgia, Mr. THORNBERRY, Mr. TURNER, Mr. FOLEY, Mr. HUTCHINSON, Mr. HOEKSTRA, Mr. STEARNS, Mr. HILLEARY, Mrs. EMERSON, Mr. HOLDEN, Mr. HOBSON, Mr. HOYER, and Mr. POMBO.
H.R. 2395: Mr. BEREUTER and Mr. SIMPSON.
H.R. 2419: Mr. HILLIARD, Mr. RODRIGUEZ, Mr. RADANOVICH, and Mr. ROGERS.
H.R. 2420: Mr. JONES of North Carolina, Mr. BOYD, and Mr. ISAKSON.
H.R. 2424: Mr. DAVIS of Illinois.
H.R. 2434: Mr. BARRETT of Nebraska, Mr. BLILEY, Mr. LEWIS of Kentucky, and Mr. NETHERCUTT.
H.R. 2441: Mr. UPTON, Mr. COX, Mr. OWENS, and Mr. BARRETT of Wisconsin.
H.R. 2470: Mr. LIPINSKI.
H.R. 2494: Mr. LARGENT.
H.R. 2498: Mr. RAMSTAD, Mrs. CAPPS, and Mr. SMITH of Washington.
H.R. 2512: Ms. MCCARTHY of Missouri, Mr. FORD, and Mr. SAWYER.
H.R. 2515: Ms. LOFGREN.
H.R. 2534: Ms. LOFGREN and Mr. MOORE.
H.R. 2543: Mr. STEARNS and Mr. GILMAN.
H.R. 2548: Mr. BURTON of Indiana, Mr. JONES of North Carolina, Mr. TRAFICANT, and Ms. KILPATRICK.
H.R. 2558: Mr. FROST.
H.R. 2559: Mr. HILL. of Montana, Mr. GILMAN, Mr. SMITH of Michigan, and Mr. COOKSEY.
H.R. 2574: Mrs. NAPOLITANO, Mr. UDALL of Colorado, and Mrs. MCCARTHY. of New York.
H.R. 2586: Mr. ROMERO-BARCELO..
H.R. 2631: Mr. UNDERWOOD and Mr. DICKS.
H.R. 2662: Mr. HOUGHTON.
H.J. Res. 2: Mr. FORBES.
H Con. Res. 111: Mr. WEINER and Ms. SANCHEZ.
H. Con. Res. 129: Mr. PORTER.
H. Con Res. 134: Mr. OBERSTAR.
H. Res. 155: Mr. DEFAZIO, Mr. HOYER, Mr. HUNTER, Mrs. LOWEY, and Mr. STARK.
H. Res. 268: Mr. BAKER.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

43. The SPEAKER presented a petition of the Municipal Assembly of Isabela, relative to Resolution No. 87 petitioning the President of the United States to withdraw the Navy from Vieques, Puerto Rico; to the Committee on Armed Services.

44. Also, a petition of the City of Strongsville, relative to Resolution No. 1999–141 petitioning support for the ratification, by the United States, of the United Nations Convention on the elimination of all forms of discimination against women; to the Committee on International Relations.

45. Also, a petition of the Legislature of Rockland County, relative to Resolution No. 191 of 1999 petitioning Congress to return to state side Land and Water Conservation Fund funding in the 1999–2000 Federal Budget; to the Committee on Resources.

46. Also, a petition of the City of Miami Commission, relative to Resolution No. 99–359 petitioning support for Stiltsville, and recommending that it not be demolished as presently intended, and supporting efforts to have Stiltsville reconsidered as a designated historic site by Biscayne National Park, the National Park Service, the U.S. Department of the Interior, and further directing the City Clerk to transmit a copy of this resolution to the officials designated herein; to the Committee on Resources.

47. Also, a petition of the Common Council of the City of Albany, relative to Resolution No. 79.102.98R petitioning support for the adoption of pending federal and state hate crimes legislation and urging speedy action by colleagues in the Congress and State Legislature; to the Committee on the Judiciary.

48. Also, a petition of the Legislature of Rockland County, relative to Resolution No. 204 of 1999 petitioning Congress to adopt the Immunosuppresive Drug Extension Coverage Act of 1999; jointly to the Committees on Ways and Means and Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2670

OFFERED BY: MR. BLAGOJEVICH OF ILLINOIS

AMENDMENT NO. 4: At the end of title I, insert the following new section:

SENSE OF THE CONGRESS THAT THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM SHOULD IMMEDIATELY NOTIFY THE APPROPRIATE AUTHORITIES ABOUT ATTEMPTED FIREARMS PURCHASES BY INELIGIBLE PERSONS

It is the sense of the Congress that—

(1) if the national instant criminal background check system determines that receipt of a firearm by a person would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, the system should immediately notify the State and local law enforcement authorities (if willing to accept the information), and the field office of the Bureau of Alcohol, Tobacco and Firearms, that the Attorney General deems appropriate, of—

(A) the determination (including why the receipt would constitute such a violation);

(B) the name of, and such other identifying information about the person as the system possesses; and

(C) the location of the licensee involved.

(2) neither a government nor an employee of a government responsible for providing a notice or information pursuant to subparagraph (A) should be liable in an action at law for damages for failure to so provide such a notice or such information.

H.R. 2670

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 5: At the end of the bill, insert after the last section (preceding the short title) the following:

SEC. ____. None of the funds appropriated under this Act may be used to enforce the provisions of 8 U.S.C. 1534(e)(3)(F)(ii).

H.R. 2670

OFFERED BY: MR. COOK

AMENDMENT NO. 6: Page 28, line 11, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

Page 29, line 5, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

Page 32, line 18, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

Page 32, line 23, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

Page 32, line 25, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

Page 43, line 1, after the dollar amount, insert the following: ''(reduced by $11,972,000)''.

Page 43, line 5, after the dollar amount, insert the following: ''(reduced by $11,972,000)''.

Page 43, line 6, after the dollar amount, insert the following: ''(reduced by $11,972,000)''.

Page 43, line 12, after the dollar amount, insert the following: ''(reduced by $11,972,000)''.

H.R. 2670

OFFERED BY: MR. CROWLEY

AMENDMENT NO. 7: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used for joint training programs between the Royal Ulster Constabulary and any Federal law enforcement agency.

H.R. 2670

OFFERED BY: MR. HALL OF OHIO

AMENDMENT NO. 8: In title IV, under DEPARTMENT OF STATE, ARREARAGE PAYMENTS, strike the first proviso.

H.R. 2670

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 9: Page 18, line 18, after the dollar amount, insert the following: ''(increased by $3,700,000)''.

Page 27, line 17, after the dollar amount, insert the following: ''(reduced by $3,700,000)''.

H.R. 2670

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 10: Page 19, line 24, after the dollar amount, insert the following: ''(increased by $15,600,000)''.

Page 22, line 9, after the dollar amount, insert the following: ''(reduced by $15,600,000)''.

H.R. 2670

OFFERED BY: MR. MALONEY OF CONNECTICUT

AMENDMENT NO. 11: In title I, in the item relating to ''DEPARTMENT OF JUSTICE—OFFICE OF JUSTICE PROGRAMS—COMMUNITY ORIENTED POLICING SERVICES''—

(1) after the third dollar amount, insert ''(increased by $500,000)''; and

(2) after the fourth and eighth dollar amounts, insert ''(reduced by $500,000)''.

H.R. 2670

OFFERED BY: MRS. MEEK OF FLORIDA

AMENDMENT NO. 12: Page 47, line 19, strike ''activities;'' and insert ''activities (of which $26,000,000 is for community-based organizations for community outreach in census tracts undercounted in the 1990 census);''.

H.R. 2670

OFFERED BY: MR. GEORGE MILLER OF CALIFORNIA

AMENDMENT NO. 13: At the end of the bill (preceding the short title), add the following:

TITLE —LIMITATION

SEC. . Of the amounts made available by this Act, not more than $2,350,000 may be obligated or expended for the Inter-American Tropical Tuna Commission.

H.R. 2670

OFFERED BY: MR. OBEY

AMENDMENT NO. 14: In title II, in the item relating to ''BUREAU OF THE CENSUS—PERIODIC CENSUSES AND PROGRAMS'', strike ''the entire amount'' the first and third places it appears and insert ''of this amount, $1,723,000,000''.

H.R. 2670

OFFERED BY: MR. SANFORD

AMENDMENT NO. 15: Page 110, after line 6, insert the following new title:

TITLE VIII—OTHER GENERAL PROVISIONS

SEC. 801. None of the funds appropriated in this Act shall be available for a United States assessed contribution for membership during calendar or fiscal year 2000 to the following international organizations:

(1) Bureau of International Expositions.

(2) International Copper Study Group.

(3) International Cotton Advisory Committee.

(4) International Center for the Study of Preservation and Restoration of Cultural Property.

(5) International Institute for the Unification of Private Law.

(6) International Lead and Zinc Study Group.

(7) International Natural Rubber Organizations.

(8) International Vine and Wine.

(9) International Union for the Conservation of Nature and Natural Resources.

H.R. 2670

OFFERED BY: MR. STEARNS

AMENDMENT NO. 16: Page 110, after line 6, insert the following new title:

TITLE VIII—LIMITATION PROVISIONS

SEC. 801. None of the funds appropriated in this Act shall be available for the official entertainment expenses of the Secretary of State until Linda Shenwick, a former senior executive service level employee of the Department of State, (1) is reinstated to her former position as Minister Counselor for Resources Management at the United States Mission to the United Nations, (2) is fully reimbursed for all lost wages and expenses incurred in defending herself from the Department of State's retaliation against her, and (3) has her employment files expunged of the unprecedented and punitive ''Unsatisfactory'' evaluation and the documentation used to support such evaluation.

H.R. 2670

OFFERED BY: MR. STEARNS

AMENDMENT NO. 17: At the end of the bill, insert after the last section (preceding the short title) the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801.(a) None of the funds provided under this Act to combat violence in schools in the item relating to ''DEPARTMENT OF JUSTICE—Community Oriented Policing Services'' may be used to provide funds to a State that has not enacted a law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined—

(1) to be in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State; or

(2) to have brought a firearm to a school under the jurisdiction of a local educational agency in that State;

except that the State law shall allow the chief administering officer of the local educational agency to modify the expulsion requirement for a student on a case-by-case basis.

(b) Nothing in subsection (a) shall be construed to prevent a State from allowing a local educational agency that has expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting and the provisions of subsection (a) shall be construed in a manner consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

H.R. 2670

OFFERED BY: MR. TERRY

AMENDMENT NO. 18: Page 53, line 26, after the dollar amount insert ''(reduced by $14,000,000)''.

Page 54, line 12, after the dollar amount insert ''(reduced by $14,000,000)''.

Page 54, line 13, after the dollar amount insert ''(reduced by $14,000,000)''.

Page 54, line 19, after the dollar amount insert ''(reduced by $14,000,000)''.

Page 88, line 3, after the dollar amount insert ''(increased by $10,000,000)''.

H.R. 2670

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 19: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum security prisoner, other than to a prison or other facility classified as a maximum security prison or facility.

H.R. 2670

OFFERED BY: MR. VISCLOSKY

AMENDMENT NO. 20: At the end of the bill, insert after the last section (preceding the short title), the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds appropriated in this Act may be used to negotiate or otherwise enter into any suspension agreement under section 734 of the Tariff Act of 1930, with respect to any of the following categories of steel products: semifinished, plates, sheets and strips, wire rods, wire and wire products, rail type products, bars, structural shapes and units, pipes and tubes, iron ore, and coke products.

H.R. 2670

OFFERED BY: MR. WU

AMENDMENT NO. 21: Page 52, line 19, after the dollar amount, insert the following: ''(increased by $194,996,950 for the Advanced Technology Program)''.

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. Total appropriations made in this Act for ''DEPARTMENT OF STATE—Administration of Foreign Affairs'' are hereby reduced by 5 percent.