HOUSE OF REPRESENTATIVES—*Thursday, June 24, 1999*

The House met at 10 a.m.

The Reverend Dr. Calvin V. French, Reorganized Church of Jesus Christ of Latter Day Saints, Washington, D.C., offered the following prayer:

Eternal Father, who neither slumbers nor sleeps, we look to Thee at the beginning of the new day for a blessing of enlightenment and wisdom upon this body as they do their work today.

We thank You that You have chosen men and women from the common walks of life, and with Your empowerment, made them leaders of uncommon strength. You have called them to serve with a sense of commitment as truly as if before the altars of Thy sanctuary.

Endow each Member of this body with a sense of divine vocation. May their diversity of thought and vision become the manifestation of strength that comes when diversity is crowned with Thy grace. We stand on common ground when we seek the common good. It is for this purpose we have assembled to ask Thy help.

Finally, we invoke the counsel of Thy servant, David, who said: ''Blessed is the Nation whose God is the Lord.'' Our Forefathers understood that simple truth and so structured our Republic in the security of Thy word.

May the inspiration of the old Gospel hymn prevail today and in the days to come: ''Thy word our law, Thy paths our chosen way.'' Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. GILMAN led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills and a resolution of the following titles, in which the concurrence of the House is requested:

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.

S. 886. An act to authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

S. Res. 127. That the Secretary of the Senate is directed to request the House to return the official papers on S. 331.

The message also announced that pursuant to section 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Alabama (Mr. SESSIONS) as a member of the Senate Delegation to the Mexico-United States Interparliamentary Group Meeting during the First Session of the One Hundred Sixth Congress, to be held in Savannah, Georgia, June 25–27, 1999.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize the gentleman from Iowa (Mr. BOSWELL) and then 15 one-minutes on each side.

WELCOME TO THE REVEREND DR. CALVIN V. FRENCH

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

Mr. BOSWELL. Mr. Speaker, I ask my colleagues to join me in thanking our distinguished guest Chaplain Dr. Calvin French.

Calvin French is a graduate of Graceland College, Lamoni, Iowa, where he presently serves on the board of trustees. He received a B.S. degree in education from the University of Iowa, a master's degree from Temple University, with doctoral studies at Harvard University, and received his doctorate in educational administration from Drake University in Des Moines.

He has given a lifetime of ministry with principal appointments to Philadelphia, Boston and Des Moines. For the past 20 years he has been the Reorganized Church of Jesus Christ of Latter Day Saints Pastor of the Washington, D.C., congregation where he continues to serve on Massachusetts Avenue.

Dr. French is a clinical member of the American Association of Marriage and Family Therapists. For 10 years he served on the board of Park College in Kansas City. He was appointed to the National Institutes of Health Advisory Board for Minorities Health and Education, Bethesda, Maryland, and for many years was a member of the executive board of the National Conference on Ministry to the Armed Forces.

Dr. French was a delegate to the Attorney General's Commission on Pornography. He is currently a member of the Secretary of Education's Advisory Council on Partnership for Family Involvement in Education and has provided liaison services to U.S. Government units for the RLDS Church. On several occasions he has presented opening prayers in the U.S. Senate and the U.S. House of Representatives.

He is an active member of Rotary International and served as president of the Washington, D.C., Rotary Club. He is presently president of the Rotary Foundation Board that provides financial support for 48 charitable organizations in Washington, D.C.

His wife LaVon and their two children, Colin French, an attorney in Dallas, Texas, and Dr. Kelsey French, a clinical psychologist, Washington, D.C., are all graduates of Graceland College.

PASS THE PATIENTS' BILL OF RIGHTS

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

Ms. KILPATRICK. Mr. Speaker, one of the most important things that this Congress can do is to pass an effective health plan for American citizens. That is why I am happy that 168 Democrats signed a discharge petition yesterday to bring our Patients' Bill of Rights to the House floor. Let us debate it, debate it now.

Yesterday, the Nation's doctors passed a resolution to unionize. They want to be able to practice medicine, to decide which care their patients should have, to decide what medicines, the length of stay their patients need.

Let us have meaningful debate on the Patients' Bill of Rights today. It is important, Americans want it, and Democrats want to get the job done.

SUPPORT H.R. 2280, VETERANS BENEFITS IMPROVEMENT ACT OF 1999

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

Mr. GIBBONS. Mr. Speaker, yesterday the Committee on Veterans' Affairs marked up H.R. 2280, the Veterans Benefits Improvement Act of 1999. I would like to take this opportunity to inform my colleagues of a very important provision of this much-needed bipartisan legislation for our Nation's veterans. That provision is the expansion of the fund-raising authority of the American Battle Monuments Commission to expedite the establishment of the World War II memorial in our Nation's Capital. This memorial, to one of this Nation's greatest generations, is long overdue.

Mr. Speaker, of the 16 million Americans that answered their Nation's call to duty and sacrificed to protect humanity against tyranny and aggression, fewer than 7 million are alive today. We are losing them at the rate of 1,000 of these courageous veterans each and every day. We cannot wait if we are to honor these great men and women while they are still with us.

I encourage all Americans to donate what they can to the World War II memorial and my colleagues to support this important legislation. It is truly time to say thank you and to provide a permanent tribute and inspiration so future generations of Americans will be reminded of the sacrifices that were necessary to preserve the freedoms and opportunities that we enjoy today.

SUPREME COURT IS OUT OF TOUCH

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

Mr. TRAFICANT. Mr. Speaker, the first amendment says there is freedom of speech, and that freedom of peaceable assembly shall not be abridged. The Supreme Court ruled that this language permits dissidents to burn our flag. Beam me up. I believe the Founding Fathers are rolling over in their graves. From school prayer to flag burning, the Supreme Court is out of touch. They are wrong, and Congress must reverse that wrong. In America, the people govern, not the Supreme Court, and Congress should pass a law to protect our flag. A Nation that does not protect and honor their flag is a Nation that will not survive.

I yield back any common sense left in this Congress.

SUPPORT H.R. 1218, CHILD CUSTODY PROTECTION ACT

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

Ms. ROS-LEHTINEN. Mr. Speaker, at my alma mater, Southwest High School in Miami, a student with a headache did not receive an over-the-counter aspirin to relieve her pain because the school nurse did not have a signed parental medical waiver; a teenager who wanted to pierce her ears was not able to because she did not have a parental consent form; and a school field trip accompanied by teachers and chaperones left behind a student because he failed to get a parent's signature. How ironic is it that friends and peers of these same teenagers are undergoing dangerous life-altering and potentially fatal medical procedures without parental consent or even notification.

Yesterday, the Committee on the Judiciary approved my bill, H.R. 1218, the Child Custody Protection Act, which will prevent nonparental adults who deliberately circumvent State parental consent or notification laws so that someone else's daughter or perhaps the teenager whom they have raped could obtain an abortion.

Young girls face complications and perhaps even death from botched abortions that their parents may never know about. This bill will put an end to the exploitation of young, immature, vulnerable girls. I hope the House will soon favorably vote on the Child Custody Protection Act.

ON GUN SAFETY AND MANAGED CARE REFORM LEGISLATION

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the question this morning is what is our legislative agenda? Last week this House missed an enormous opportunity to pass real gun safety legislation. The only thing we did was prolong the time that criminals can get guns in their hands, and 13 of our children die every day by gun violence. As a mother, I will never give up on passing real gun safety legislation in this House, and we are going to do it.

Mr. Speaker, I will also not stop the fight for a Patients' Bill of Rights that responds to the needs of seniors and families and children that need real health care in America.

My question, Mr. Speaker, is what is our legislative agenda? Are we here for the American people? Or are we just here for special interests?

RECOGNIZING HASKELL SLOUGH SALMON HABITAT RESTORATION PROJECT

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

Mr. METCALF. Mr. Speaker, recently I attended a demonstration of the Haskell Slough Salmon Rehabilitation Project in my district. Private landowners working cooperatively with government agencies and volunteer groups have been able to restore approximately 3½ miles of old riverbed into prime salmon habitat by excavating 6,000 feet of stream channel, thus connecting 11 existing ponds.

The efforts of private citizens donating their time to projects like this one are absolutely vital as we work to rehabilitate salmon runs. Everyone involved with the undertaking should be proud of what they are doing and what they have already accomplished. All around the State, we are mustering community support for projects like the one at Haskell Slough. These voluntary community efforts are paying big dividends in the salmon rehabilitation effort.

MANAGED CARE REFORM DISCHARGE PETITION

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

Mr. GREEN of Texas. Mr. Speaker, yesterday we began signing a discharge petition to bring the HMO reform bill to the floor of the House, simply because of the refusal to bring up the Patients' Bill of Rights for debate on this floor. The American people have been very clear about their desire for meaningful HMO reform. It is estimated that 122 million Americans who have insurance do not have these same patient protections.

In my home State of Texas, we passed health care legislation similar to the Patients' Bill of Rights, which has proven to be very successful. However, we still have 8 million insured people in Texas who fall under ERISA, which preempts Texas law, who do not have these basic patient protections.

This is not about politics, it is about fairness, protection and accountability. The American people deserve a Patients' Bill of Rights that eliminates gag clauses, open access to specialists, external and timely appeals, coverage for emergency room care for families to go to the closest emergency room, and accountability for medical decisions.

□ 1015

Mr. Speaker, the American people cannot afford any more delays. We need to support the Patients' Bill of Rights. Let us sign that discharge petition today.

U.S. MILITARY FORCES FALLING UNDER SEVERE STRAIN

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

minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, we Republicans are the first to urge government to do more with less. However there are limits, and the United States military has reached them. More and more experts are becoming alarmed at the level of funding available to meet our defense needs. U.S. military forces are being called to perform more and more missions, but they are being given fewer and fewer resources to accomplish them.

Mr. Speaker, while precious resources are being diverted to the Balkans, our critical missions in both Iraq and Korea are falling under severe strain. Our forces are short on ammunition, and our force levels have been reduced to dangerously low levels. Since 1989, the Army and Air Force have been cut by almost 50 percent, the Navy by 36 percent, and the Marine Corps by 12 percent. All while our commitments overseas have increased some 300 percent.

This mismatch must not continue, Mr. Speaker.

WE NEED A PATIENTS' BILL OF RIGHTS

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

Mr. WYNN. Mr. Speaker, I rise today to talk about the Patients' Bill of Rights.

As my colleagues know, health care in America works real well until we get sick or until we grow old. Then HMOs begin to tell us, ''Well, your concerns don't meet our criteria.'' or ''We're not going to refer you to the specialist that you need to see.'' or ''The person who is reviewing your case is not in; he's on vacation.'' Then our system breaks down critically.

People are concerned about access to specialists. Sixty-two percent of the American population say they have a problem with HMOs because they cannot get access to needed specialists. ''Your specialist is not in our network.'' That is what we often hear.

We need a Patients' Bill of Rights. We need to guarantee access to specialists. We need to guarantee redress in the courts when HMOs make decisions that hurt our health. We need to have a deterrent which says if they deny people access to specialists, if they deny people access to care, then they can be brought to a court of law, and they can be made to pay for it. That not only gives the victim a remedy, it gives the HMOs a strong incentive to provide high quality care.

SUPREME COURT SHIFTS POWER FROM FEDERAL GOVERNMENT BACK TO THE STATES

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

Mr. WELDON of Florida. Mr. Speaker, this morning we hear the hue and cry of big government liberals everywhere, and what are they languishing over today? Not once, not twice, but three times yesterday the Supreme Court struck down overreaching Federal laws and uplifted the concept of State federalism. This was like a punch in the nose to those who relish more and more federal laws. They are now staggering under the blow.

Mr. Speaker, what is their nose bent out of shape about? The Supreme Court shifted power from the Federal Government back to the States. More importantly, it said that the Federal Government has no business in usurping State sovereignty by placing layers and layers of Federal statutes on them.

Mr. Speaker, yesterday the Supreme Court rightly halted decades of presumption and arrogance by the Federal Government, and they are right moving the powers back to where it belongs, outside the Beltway and back to the people.

Three cheers for the checks and balances.

UNIONS IN AMERICA

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

Ms. SANCHEZ. Mr. Speaker, I rise today to pay tribute to the unions of America.

Unless someone is a member of a union or unless they grew up in a union household they may not understand the advantages in the workplace that have been made because of unions for the American worker.

Like many Americans, I know how hard it is to earn a paycheck. I worked my way through college as a clerk at a Sav-on Drug store in Anaheim, and I was a member of the Retail Clerks Union in Orange County.

If someone is a worker in America and they have a pension, they should thank the unions. They understand about dignity and retirement. Thank the unions for their efforts to secure the 8-hour workday, the 40-hour work week, overtime pay and compensatory time off. Unions have been instrumental in obtaining health benefits for workers. We all know how expensive health care is, and without the unions' efforts think of how many workers and families would be without health insurance.

Quality of life; unions understand this.

Today I thank the unions for all they have done to make our country better.

WHAT DOES IT TAKE TO GET LIBERALS OUTRAGED?

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

Mr. SCHAFFER. Mr. Speaker, what would it take to get Congress outraged over high taxes, a tax code that looks like it was designed by Saddam Hussein and an IRS less accountable than the weather man? Is there anything at all that would provoke liberal Democrats to denounce the greedy hand of government, the insatiable force of government and the government's sponsored erosion of our liberties?

If they knew that Taxpayer Freedom Day, the day when Americans are finally finished paying Uncle Sam was May 12, would that outrage them? If the White House knew that average middle class families pay somewhere around half of their income to the government, would that outrage them?

If they knew that most Americans pay more in payroll taxes than they do in Federal income taxes, would that outrage them? If they knew that the tax code was so complicated that even Members of Congress on the House Committee on Ways and Means have to hire professional help to figure out their tax forms, would that get anyone's attention around here?

If they knew that the IRS is simply incapable of reforming itself, would that spark their outrage?

Mr. Speaker, just what does it take?

REPUBLICANS PREVENTING DEBATE ON HEALTH CARE REFORM

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

Mr. McDERMOTT. Mr. Speaker, yesterday was a watershed day. I never thought I would pick up the Washington Post and have it read: AMA Votes to Unionize Doctors.

Now I graduated from medical school in 1963, and the thought of being in a union or being an employee of an insurance company never ever crossed our minds. But this world has changed, and doctors are frustrated.

This was not the leadership of the AMA that came forward with this. This came from the grass roots, and the reason it came is that as HMOs have taken over the control of the health care industry in this country, they and the patients have lost control.

Now the Republican party gets total control, and they get total everything for making this happen because they would not have a debate on a Patients' Bill of Rights. The longer they push and prevent us discussing this issue, the more they drive the doctors into the arms of the Democratic party and the labor unions, and they destroy the health care system we know.

Bring up health care debate.

THE MIRACLE AND GIFT OF HUMAN LIFE

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

minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, today I want to draw attention to an amazing scientific and medical breakthrough that has received little attention in the press. It should cause each of us to pause and ponder the miracle and gift of human life.

Little Neal Borkowski is still a tiny baby, yet he differs from most because he already has undergone brain surgery, not since his birth, but while he was still in his mother's womb. It was discovered as young Neal was only 20 weeks old and in utero that he had a condition of fluid on the brain.

Without corrective measures he surely would not have survived, so at such a critical stage of development doctors opened Neal's mother's uterus, and brain surgery was performed on this unborn baby so that fluid could not collect on his brain.

Mr. Speaker, when will we, as a Nation, begin to see this unborn life as sacred and valuable and protected as it deserves? Let us bring our children and grandchildren into the world where they know that all human life, born and unborn, is a miracle and gift from God.

Not a sermon, just a thought.

WE MUST PASS AN EFFECTIVE PATIENTS' BILL OF RIGHTS

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. WATT of North Carolina. Mr. Speaker, my colleague, the gentleman from Washington (Mr. MCDERMOTT) has pointed to the headline in the Washington Post this morning that says the AMA Votes To Unionize Doctors, and that comes at the same time that we are considering in the Committee on the Judiciary granting an exemption for doctors to ban together and not be subject to antitrust laws.

The question I ask is: How do we pass those rights to patients? How do we get them together to assert their rights? HMOs can do it, doctors will be able to do it, but who will be speaking for the patient? Mr. Speaker, that is where the Patients' Bill of Rights comes into play.

We have got to pass an effective Patients' Bill of Rights in this body so consumers and patients will have the rights that are being bargained for by doctors and already given to HMOs in the health care system.

ACCOUNTABILITY IN EDUCATION

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

Mr. STEARNS. I would say to my colleague from Washington (Mr. MCDERMOTT) I do not think the doctors are ever going to run to the Democratic party because they do not want to have socialized medicine.

Now when it comes to education, Mr. Speaker, Republicans and Democrats have different visions. We differ on our assumptions, and that leads to very different policy choices. Democrats start with the assumption that what ails public education is more money. We need much more money.

Republicans do not agree. If money were the problem, and given that Congress has increased federal spending on education every single year since 1960, the schools would long ago have improved. However, both parties agree smaller class size, better teacher training, writing, wiring classrooms for the Internet; that will improve education.

But here is the main point, my colleagues. What it needs is more accountability for the money that is already spent and discipline in the classroom. Democrats believe that competition is bad and that the public school monopolies are good. Republicans do not agree. Competition produces excellence and requires, Mr. Speaker, accountability.

But we do have exactly the same goal: better schools for our children.

LAW ENFORCEMENT OFFICIALS WANT GUN SAFETY LEGISLATION

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

Mrs. TAUSCHER. Mr. Speaker, last week's failure by this Republican-led Congress to deliver commonsense, practical gun safety legislation disappointed working families and law enforcement officials of both parties in my suburban district in San Francisco's East Bay.

I would like to call attention to the reaction of a Republican law enforcement official in my district. Saying he had enough, Alameda County Sheriff Charles Plummer, a life long Republican, switched his party registration away from the Republican party. These are Sheriff Plummer's words:

I was coming back from a meeting Friday and listening to a couple of Republicans on the radio talking about gun rights saying this legislation is not needed. I went ahead and changed my registration after being a Republican for 47 years.

Sheriff Plummer said that gun safety, and I quote, ''has to be solved nationally . . . Even in the hunting country where I was raised, my friends think if someone needs an AK–47 to kill a deer they are not much of a sportsman.''

Mr. Speaker, I could not have said it better myself.

CLOSING THE LOOPHOLE

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

Mr. SMITH of Michigan. Mr. Speaker, I was going to make some comments on the Republican agenda and the best program on where we go on saving Social Security, and our best defense, our excellence in education and tax relief, but after the previous speaker, I want to mention my disappointment that we have not closed the loophole in a vote by this House on what happens at gun shows. And for the information of those that voted against the loophole closing bill the other day, I just want to explain what happens if an individual lies on the form in the application to buy the gun and they do not find out that he has committed a felony until maybe 2 days later or 3 days later.

What happens is the FBI and the ATF call local law enforcement because this individual has now committed two felonies, one in lying on the application; second, taking possession of the gun. They go after him.

□ 1030

They do that immediately. They take him, they prosecute him, they confiscate the weapon.

Additionally, States have the right to impose restrictions as they see fit. I am disappointed on that side of the aisle that we did not move ahead with closing the loophole.

HOUSE SHOULD ALLOW DEBATE AND VOTE ON DEMOCRATS' PATIENTS' BILL OF RIGHTS

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

Mr. ROTHMAN. Mr. Speaker, yesterday I joined my Democratic colleagues in signing a discharge petition to force the Republican leadership here in the House to bring the Democrats' Patients' Bill of Rights up for debate and a vote. The Republican leadership refuses to permit debate and a vote on the Democrats' Patients' Bill of Rights.

The Democrats' Patients' Bill of Rights is based on a revolutionary idea that managed care should be more about managing the health of our loved ones than managing the profits of the HMOs.

We need to ensure that treatment decisions are made by a patient's doctors, not by an HMO accounting clerk; that patients can enforce their rights by taking HMOs to court if the HMO wrongfully denies surgery, specialists, hospitalization or other medically necessary care that causes the death or injury to the patients.

Moderates on both sides of the aisle have endorsed the Democrats' Patients' Bill of Rights, but the Republican leadership here in the House of Representatives refuses to allow us to debate and vote on it.

I urge my Republican colleagues to persuade your Republican leadership here in the House to allow debate and a vote on the Democrats' Patients' Bill of Rights.

CONGRESSIONAL ACTION REQUIRED ON 50 CALIBER ARMOR-PIERCING AMMUNITION

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

Mr. BLAGOJEVICH. Mr. Speaker, the role of the United States military is to provide for the national security of our country. We are grateful for that. What is not the role of the military is to provide armor-piercing ammunition to the civilian market.

Mr. Speaker, 50-caliber sniper rifles are among the most powerful and destructive weapons available today. Armor-piercing ammunition that that weapon uses can destroy aircraft and armored personnel vehicles. The General Accounting Office reports that, unbelievably, our military provides surplus ammunition to a company in West Virginia that refurbishes the ammunition and then resells it to the civilian market.

Adding insult to injury, we, the taxpayers, pay the company to take the ammunition. This ammunition is easily accessible to the general public. One can buy it by mail order, one can buy it by the Internet, and one can buy it in gun stores.

Who would want to buy this ammunition, one might ask? If one is a hunter and a sportsman, one does not need this ammunition. But if one wants to take out a helicopter, take out a limousine, or commit some sort of heinous crime, one might want that ammunition.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT THE PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

The SPEAKER pro tempore (Mrs. EMERSON). The unfinished business is the further consideration of the joint resolution (H.J. Res. 33) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. When proceedings were postponed on Wednesday, June 23, 1999, pursuant to the previous order of the House, all time for debate on the joint resolution had expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, pursuant to the rule, and as the designee of the ranking member, the gentleman from Michigan (Mr. CONYERS), I offer an amendment in the nature of a substitute, which has been made in order.

The SPEAKER pro tempore. The gentleman from North Carolina is the designee of the gentleman from Michigan (Mr. CONYERS).

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

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

Amendment in the nature of a substitute offered by Mr. WATT of North Carolina:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.''.

The SPEAKER pro tempore. Pursuant to House Resolution 217, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Speaker, I yield myself 1 minute.

Madam Speaker, we engaged in an exciting debate yesterday, and today is the culmination and continuation of that debate in which we have an opportunity to make it explicitly clear that whatever amendment we pass in this body will be subject to the first amendment to the United States Constitution.

My amendment in the nature of a substitute simply says, not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States. That simply makes this proposed constitutional amendment subject to the provisions that have stood us in good stead for 200 years, and shapes and focuses the value of this debate.

Madam Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I urge support of the amendment that has just been offered. The gentleman from North Carolina has, in his service here, distinguished himself by the careful thought he brings to difficult issues, and this amendment today is an example of that.

I am one of those who questioned whether there was a need for any amendment at all. I thought there was not. We have had people say, well, but desecrating the flag is not simply an expression of opinion, as crude and as stupid an expression as it is, and, of course, the first amendment protects crudeness and stupidity in expression; but people have said there is something about the desecration which as a physical act could go beyond expression.

Well, the amendment of the gentleman from North Carolina is very carefully drawn so as to say, to the extent that one is simply engaging in an expression of opinion by desecrating the flag, one is protected, but if there are elements involved in that desecration that go beyond expression, we will leave that to the courts to decide in the specific circumstances. I think that is a reasonable compromise.

I want to address, therefore, the part of the amendment that says, to the extent this desecration is an expression of opinion, we should not make it illegal.

I understand, all of us do, the motivation of those who want to make it illegal. The flag is a very powerful symbol. The flag symbolizes the greatness of this country. Yes, there are veterans who saw their comrades lose their lives, who lost their health, who sacrificed years when they could have been with their families, and they did it under a flag which they understandably want to protect. But we have to look at the implications of what we do.

In the first place, passing the amendment as originally presented says that there are times when one can express oneself in ways that we find so offensive that we will make it illegal. That is a great breach in a wall that we have had between the rights of individuals and the government. And I am surprised that many of my friends who are conservative, who want to limit government, want to put this forward, because what this amendment says, without the refinement added by the gentleman from North Carolina, is there are things that one does to one's property, we are talking about now people who own a flag; remember, this applies to people who own a flag and who desecrate the flag they have bought, the physical flag; no one owns the symbol, but they have bought the physical material, they have desecrated it by writing outrageous words on it, by physically mistreating it. Remember, desecration covers things one would write on the flag that would be abusive and offensive, and we are saying we are so offended by what you have done to your property, on your property; you can be standing in your yard with a flag you own and desecrate it, we are so offended by that, that we will make that illegal. We will perhaps send you to prison.

That is a fundamental line that has been crossed. No one is affecting your property; no one is disrupting your peace of mind; no one is making noise

and interfering with your right to privacy. Someone on his or her own property, with his or her own physical property, is doing something you find outrageous. But it does not affect you in any material or physical way.

That is a great expansion in the power of government in and of itself.

I was very impressed with the Special Order I heard the night before last by our colleague, the gentleman from Texas (Mr. PAUL), when he talked about and said correctly, the purpose of a first amendment freedom of speech clause is precisely to protect people's right to be obnoxious and offensive, and we do that not because we think obnoxiousness is a virtue, although sometimes, watching this House, people might fall into the assumption that we do; we do it because we fear government. We do it because there is no neutral, impersonal arbiter that can decide which expressions are so offensive as to ban them and which ones should be allowed. We will do it. Elected officials will do it. Politicians a couple of months before an election will do it. Elected judges will do it.

And we have said, we think the danger of discriminatory and arbitrary interference with freedom of expression is so great that we would rather put up with the occasional obnoxious jerk than to empower the government to decide what is acceptable and what is not.

Of course, we have not had many flag burnings lately. My guess is that this debate will probably increase the number of flag desecrations, because it will put ideas in people's heads. But the fact is, to most of us, the fact that some fool wants to desecrate the flag as a way to get attention ordinarily would not work.

There is one other aspect of this that I want to address. There is no logical way that one can say, if one adopts this principle, that someone who has expressed himself or herself obnoxiously should be banned. How can we limit it to the flag? Because once we have said, look, if we care enough about something, we will make it illegal to desecrate, what are we then saying about people who desecrate venerated religious symbols? What about people who burn crosses? Because the Supreme Court said, and I agree, burning a cross on your own land should not be a crime.

This is a principle it is impossible to limit, because if we say burning a flag, desecrating a flag, writing rude words on a flag is so offensive that we are going to make it illegal, then what we are apparently saying is, but it is okay to do this with anything else. I do not think it will stop. We will ratify this amendment, if we do, and we will soon after be asked to protect important religious symbols, the Constitution, other important symbols of our unity.

We choose here, if we pass this amendment without the gentleman from North Carolina's proposal, to break a very important line, and we say that we, the government, will say what is too offensive to express, and that is a terrible step to take.

Mr. CANADY of Florida. Madam Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) is recognized for 30 minutes.

Mr. CANADY of Florida. Madam Speaker, I do rise in opposition to the substitute amendment offered by the gentleman from North Carolina. While I understand and respect the gentleman's intention in offering this substitute, I must point out that the adoption of the substitute would produce a measure that is, quite frankly, meaningless. The fundamental flaw in the gentleman's proposal arises from the fact that the present Supreme Court would declare that any legislation prohibiting the physical desecration of the flag is inconsistent with the first amendment to the Constitution.

The reason we are here today considering this constitutional amendment is that the Supreme Court has made it clear beyond any doubt in the Johnson and Eichmann cases that, under the Court's current view of the Constitution, individuals who physically desecrate the flag of the United States enjoy the protection of the first amendment.

The decisions of the Court demonstrate that any law which prohibits the physical desecration of the flag will be held to involve an impermissible suppression of free expression. The Court is committed to this position, which I can only view as mistaken, that trampling, shredding, defacing, burning, or otherwise desecrating the flag is protected expression under the first amendment. Everyone understands that this is the Court's view of the issue, and there is really no debate on that.

I would like to quote again what the representative of the Department of Justice said back in 1995 on an earlier constitutional amendment on this subject. Mr. Dellinger wrote on behalf of the Department of Justice that the Supreme Court's decision in Eichmann, invalidating the Federal Flag Protection Act, appears to foreclose legislative efforts to prohibit flag burning. There is really no dispute about that. Everyone has acknowledged that any meaningful legislation to protect the flag would be found unconstitutional by the Supreme Court. That is beyond dispute.

Once we understand that basic point, I think we can all see that the amendment of the gentleman from North Carolina (Mr. WATT) travels in a circle to nowhere. How would the Supreme Court interpret the power of Congress under the gentleman's amendment? What statutory provision would the Court be bound to uphold under the Watt amendment? It is obvious that the Court would find that the introductory phrase of the amendment, not inconsistent with the first article of amendment to this Constitution, is the language that the gentleman uses, and the Court would find that to be the crucial operative language in the measure. The introductory phrase would limit and restrict the clause that follows, and this is no great revelation. That is, I am sure, the very clear intent of the gentleman from North Carolina in offering this substitute.

But the fact remains that, given the Court's interpretation of the first amendment, the introductory language of the amendment of the gentleman would rob the clause granting Congress power to protect the flag of any force or meaning.

□ 1045

Under the amendment of the gentleman from North Carolina (Mr. WATT) the court would continue to strike down any laws protecting the flag from desecration. As the gentleman from North Carolina (Mr. WATT) well knows, when he adds ''not inconsistent with the first article of amendment to the Constitution,'' he simply ratifies the constitutional status quo.

But we are here today because the status quo created by the Supreme Court is unacceptable. We are here today because, a decade ago, the Supreme Court imposed novel and flawed interpretation of the First Amendment. We are here today because the Supreme Court, in its mistaken interpretation of the First Amendment, stripped our flag of the protection to which it is entitled. We are not here to ratify that mistaken interpretation. We are here to repudiate it.

It is important for us all to understand that this was something that was new, prior to these decisions about a decade ago, the flag had enjoyed protection against desecration. It was the virtually universal view that such legislative restrictions protecting the flag were constitutional.

Indeed, as I pointed out in my statement yesterday, some of the greatest civil libertarians of this century who have served on the Supreme Court, recognized the power of the government to protect our national symbol from acts of desecration. Justice Hugo Black, Justice Earl Warren, Justice Abe Fortas, all clearly expressed their view that it was not inconsistent with the First Amendment to protect the flag from acts of desecration.

Let me also address the point that has been made by the gentleman from Massachusetts that somehow the First Amendment provides absolute protection for expression in any form, in any circumstance. That is simply not so.

We know that the First Amendment does not protect obscenity, for instance. That is carved out by the Supreme Court's interpretation of the First Amendment, and I think it is a proper interpretation. I do not believe the First Amendment was ever intended to protect that sort of expression.

We also know that certain conduct, which may have an expressive element in it, and that is what we are really talking about here when we talk about the desecration of the flag, it is conduct which admittedly can have an expressive element is not always protected under the First Amendment simply because of the expressive element.

There are certain indecent things that people will not be permitted to do in public simply because they have chosen to use that indecent act as a way of expressing themselves.

People may wish to parade through the streets unclothed as a way of expressing a particular viewpoint. Now, that conduct may have an expressive element in it, but the fact that the people engage in that conduct have chosen that means to express a particular viewpoint or idea does not mean that the indecent public conduct has a protection of the First Amendment.

It is the same point here with the flag. We are not limiting anyone who wishes to express any idea about anything. They can say whatever they choose about the flag, about the leaders of this country, about our Constitution, about the Congress. The list goes on and on.

Free and full public debate can go forward without any restriction under this proposal. All we are saying is that, when people choose to engage in conduct that involves the physical desecration of the flag, they have gone too far, they have transgressed a limit into behavior that is not acceptable, and behavior that is not, like obscenity, expression which is not protected by the First Amendment of our Constitution.

That is why we are here on the underlying proposal. The amendment of the gentleman from North Carolina (Mr. WATT) would simply undo what we are trying to accomplish through the underlying proposal.

So I would submit to the House that the amendment of the gentleman from North Carolina (Mr. WATT) should be rejected by the House and that we should proceed with the passage of the proposal of the gentleman from California (Mr. CUNNINGHAM), and we should proceed with the important work of restoring the legal protection for the flag of the United States of America.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Madam Speaker, the flag symbolizes our Nation, its history, and its values. We all love the flag, I think, equally.

That is not what this debate is about. The flag is our national symbol of pride, of unity, and of freedom. Many of us have family or friends who died defending it, and so we have to be heard on this. So this becomes deeply personal.

I think what they really died for were the freedoms embodied in the Bill of Rights that the flag represents. We can and should be incensed when the flag is burned or defaced. We have a responsibility to protect the flag.

That is why I have cosponsored the Flag Protection Act which was introduced by the gentleman from Virginia (Mr. BOUCHER). This legislation would protect the flag by punishing those that burned or defaced it. This bill would also punish any person who steals our flag or commits trespass in order to do damage to one.

The Bill of Rights is one of America's greatest gifts to mankind. For over 200 years, the First Amendment, which protects our freedom of speech and expression, has never been amended. Amending the Constitution, I think, is the wrong way to protect the flag.

I urge my colleagues to support a statutory approach which would protect the flag without doing violence to what it stands for. We need a tough law consistent with our Constitutional responsibilities that can be enacted in a timely fashion and can accomplish what we want without compromising the integrity of our Constitution and Bill of Rights.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I want to address this issue about a limited statutory approach to protecting the flag. I think the emphasis there should be on the ''limited.'' I have looked at the proposal that has been brought forward as an alternative to the constitutional amendment; and the truth of the matter is, it does nothing to protect the flag from physical desecration. The only thing that that statute does is prohibit some actions that are already crimes, like destroying government property. It prohibits things that would be prohibited under laws that impose penalties for disorderly conduct.

But the bottom line is, it does not protect the flag from physical desecration. There is a very good reason that the statute does not do that. The reason is that the Supreme Court has made very clear that any statute which does that, under their interpretation of the First Amendment, would be struck down. That is the dilemma that those face who wish to talk about offering a statute. It just does not work.

Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding to me.

I also want to say to the gentleman from North Carolina (Mr. WATT), he is offering this amendment, he is a true gentleman, he is a friend, and he is an American, but we look at it differently. We can have a difference of opinion without having a difference of principle.

This weekend, I am going to be speaking to the State American Legion Convention in Tennessee in Gatlinburg, Tennessee. I will tell my colleagues that I am proud of those veterans. I am proud of the fact of what they have meant to this country. I am proud of the fact that they were willing to lay their life on the line in order for us to be free.

I rise today in strong support of the flag protection amendment to the Constitution. As one who served in the U.S. Army, and who currently serves as a colonel in the Tennessee Army National Guard, my colleagues do not have to tell me about the significance of the flag.

To me, the flag represents the many sacrifices our veterans have made throughout history to protect our precious freedoms and to preserve our democracy. Historically, the flag has served as a sacred emblem of the principles on which our Nation was founded. The flag is a national asset which I believe deserves our respect and protection.

While I fully support an individual's right to express himself or herself freely, when it comes to the American flag and such a gross disrespect for something so precious as our national symbol of freedom, I feel it is necessary for Congress to take action.

I believe the ideas flag burners want to communicate can be expressed just as effectively without burning our national symbol. We should not protect such horrendous behavior when our forefathers, our veterans, and many patriotic citizens of this great land sacrificed and fought to protect the freedom it symbolizes.

Madam Speaker, I stand up here, not as a legal scholar, but I say that, if the Supreme Court holds that our Constitution permits flag burning, it is time to change our Constitution.

As we prepare to celebrate the independence of this great Nation, I urge my colleagues to join me in saying thank you to every veteran that fought and every soldier that died to defend this flag and the country for which it stands by voting for the flag protection amendment.

A lot of people may not have thought about this, but we celebrated our 200th birthday in 1976. We are now 223 years old. But do my colleagues know what the average longevity of the great democracies of the past is? Two hundred years.

If we want to rededicate and recommit ourselves, we need to fight for this country in order to make sure that we have that opportunity to celebrate our 300th birthday. Vote for the flag protection amendment.

Mr. WATT of North Carolina. Madam Speaker, I yield 3½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Madam Speaker, I want to thank the gentleman from North Carolina (Mr. WATT) for yielding to me. I also want to thank the gentleman for all of his good work. He is a good friend, and he is a great American.

Our flag is worthy of the emotion it stirs deep within us. It is worthy of reverence. I love the flag. We all love the flag. Our flag is worthy to stand, by itself, against the attacks of those who seek to denigrate it and all that it stands for.

Is our flag so weak that it cannot withstand public desecration and attack? Is our flag so weak that we must pass a constitutional amendment to protect it? No, our flag is greater than that.

America, our America, is the free-est Nation on earth. In our America, we have freedom of speech, freedom of assembly, freedom of press, freedom of religion. Our Constitution guarantees each of these freedoms.

The Constitution is a sacred document. It is the foundation of our democracy. It is the foundation of our freedom.

Our flag, Old Glory, is worthy of every word of praise and respect that will be spoken here today, tomorrow, and years to come. Throughout the world, the American flag symbolizes freedom, liberty, and the glory of democracy. Old Glory has served as a beacon of hope and opportunity for generation upon generation, not just in the United States, but throughout the world.

But above Old Glory, above a symbol of our liberty, is our sacred Constitution. The Constitution guarantees that we have the freedom to have political belief and express those beliefs openly.

An amendment to our Constitution will not protect Old Glory, it will destroy Old Glory. Because Old Glory is nothing without freedom. When freedom is strong, Old Glory is strong. When we persecute our citizens for expressing political belief, yes, even the burning or desecration of the flag, we weaken our freedom. When freedom is denied, Old Glory dies.

My colleagues, if Old Glory could speak to us today, she would cry for us. She would weep. Today, on the floor of this House, we are attacking freedom. We are attacking the liberties guaranteed in the Bill of Rights.

□ 1100

To honor our flag and all that it stands for, we must reject a constitutional amendment. We must embrace not just a symbol of freedom, but freedom itself. To suppress freedom by passing a constitutional amendment is to make a flag stronger than the people and the Nation it represents.

For the sake of our people, our freedoms and our Constitution, I urge my colleagues to reject this well-meaning but unnecessary constitutional amendment. I urge my colleagues to vote ''no.''

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Madam Speaker, I thank the gentleman for yielding me this time, and as I listened to the debate, I could not help but come to the floor to talk about this very important bill.

I have the greatest amount of respect for the gentleman from Georgia who preceded me. He is certainly a hero. He has served his country well. And certainly in this Nation where we have freedom of speech and the freedom to disagree, I must respectfully disagree with his opinion on this very important issue.

I also greatly respect the sponsor of this bill, the gentleman from California (Mr. CUNNINGHAM), and people like him who not only can talk about liberty and patriotism and wave that flag, but actually, when it came time to serve his country, he did so greatly. He, too, is a great American hero.

Many of my colleagues that are new to this Congress may not know that the gentleman from California (Mr. CUNNINGHAM) was the inspiration for the movie Top Gun. I think all those military scenes and those kinds of things he certainly stood for and was representative of many of those actual events, and during Vietnam was a top gun pilot himself. I think some of the other scenes he did not represent, but certainly as a military man he is one of our true American heroes, and it is a privilege to serve in Congress with him.

I think people like the gentleman from California, who have fought over the years, and we have heard it argued they fought for the freedom to burn the flag, I do not think that was the case. They fought for the freedom that is in the Constitution, but they stood for that flag. At Iwo Jima they raised those flags, and those marines certainly did not intend for that flag to be burned.

But I think what this comes down to can be boiled down to this. Very simply, the overwhelming majority of the American people, whom we represent in Congress, we are elected to represent these people throughout the country, the majority of the American people want this protection of the American flag. They believe, like I do, that it is the symbol of this country and deserves to be protected, deserves that constitutional protection.

It takes an amendment to the Constitution, because the courts have, over the years, declared any law, any statute, any simple bill that we pass as unconstitutional. But in the end we have had as many as 48 States at one time who had their own individual State laws against burning flags. Right now this Congress has, I believe, resolutions from 49 of the 50 States asking us to pass a constitutional amendment to protect the flag.

And, yes, there are limitations to the first amendment freedom of speech. We have probably heard them argued many times on this floor already. We cannot yell fire in a crowded theater; we cannot slander or libel somebody; and in most places we cannot walk around without clothes on, if that is someone's way of freedom of speech. It is against the law to do that. So we have, as a lawful society, placed some restrictions on freedom of speech. This would simply be another that the people want. Three-fourths of the States have to ratify it. We are simply setting forth that process today that allows them to make that choice.

Madam Speaker, I ask support for this bill.

Mr. WATT of North Carolina. Madam Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Speaker, I love our flag. It stirs my heart every time I recite the Pledge of Allegiance, but the Constitution says Congress shall make no law abridging our freedom of speech. We also know that the Supreme Court twice has ruled that flag burning, as upsetting and despicable as it is to many of us, comes under the protection of the first amendment.

I believe that the patriotic thing to do is to condemn flag burning whenever and wherever it happens, but not to ban it. The right thing to do is to leave well enough alone with the Constitution. That means leaving the Constitution the way it is by keeping the first amendment intact.

Cutting into the first amendment, the cornerstone of our great democracy, would curtail what our beautiful flag stands for: freedom, the very freedom that each of us holds so near and dear, the very freedom that so many brave Americans have courageously fought to protect throughout history.

I am so very proud of our veterans, but I believe the best way to honor our veterans is to defend the Constitution. Let us show respect for our precious flag by pledging allegiance to the flag for which it stands and upholding the integrity of the Constitution.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the amount of time remaining on each side?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining, and the gentleman from North

Carolina (Mr. WATT) has 16 minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute.

I wanted to respond again to the point that has been made that here we are attempting to change the first amendment. That is not what we are attempting to do, and that is not what we would do here. We are simply responding here to a flawed and novel interpretation of the first amendment that the Supreme Court imposed a decade ago.

Let me quote once more what Justice Black said back in 1969. He said, ''It passes my belief that anything in the Federal Constitution bars making the deliberate burning of the American flag an offense.'' And Chief Justice Earl Warren said this: ''I believe that the States and the Federal Government do have power to protect the flag from acts of desecration and disgrace.''

That was the understanding of the first amendment until the Supreme Court 10 years ago changed direction and created this right to desecrate the flag which previously had not been recognized. I think the Supreme Court was wrong, and that is why we are here with this amendment today.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Speaker, I have to speak out today on this issue because the first amendment means so much to me, and I want to thank the gentleman from North Carolina (Mr. WATT) for yielding me this time and for his hard work on this issue.

As an African American woman, the right to free speech has allowed me to challenge the inequities in the society based on race, gender, age, sexual orientation and disabilities. The proposal to amend the first amendment's guarantee of free speech for the first time in the Constitution's history will have a chilling effect on those who fight for freedom and justice.

Madam Speaker, this amendment will weaken one of our most fundamental rights. Our government cannot, must not, prohibit freedom of expression simply because it disagrees with its message. We condemn other countries for stifling dissent. We condemn the lack of freedom of speech. In fact, we impose blockades against countries which we believe crack down on citizens who oppose their own government. This Congress needs to stop its hypocrisy.

I implore my colleagues not to be superficial and to stand for the freedom, yes, the liberty and the justice that the flag represents.

Mr. CANADY of Florida. Madam Speaker, I yield myself such time as I may consume.

I just want to point out that what we are talking about here is conduct which attacks our national symbol. What this amendment represents is the view that the people of the United States have a compelling interest in protecting our national symbol from that sort of physical act which is intended to desecrate it.

Let me refer again to something that Justice Stevens said in his dissent in the Eichmann case where he started off by acknowledging that we all understand that the government should not attempt to suppress ideas because we find them to be objectionable. I certainly accept that the government should not be in the business of suppressing debate about public issues in this country. That is not the purpose of the government. That does contravene the first amendment of the Constitution. But that does not mean that there are no limitations on the type of conduct that people can engage in in this country in the name of freedom of expression.

Justice Stevens said in his dissent that, ''In addition to being well settled that we should not attempt to suppress disagreeable or offensive ideas, it is equally well settled that certain methods of expression may be prohibited if, A, the prohibition is supported by a legitimate societal interest that is unrelated to the suppression of the ideas the speaker desires to express; B, the prohibition does not entail any interference with the speaker's freedom to express those ideas by other means; and, C, the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.''

Now, I believe if we look at this test, which is a very responsible test, and a test which is quite protective of freedom of expression, we will see that prohibitions on the desecration of the flag are not objectionable. The prohibition is supported by a legitimate societal interest that is unrelated to the suppression of the idea the speaker desires to express.

We are not attempting to express any idea when we protect the flag from desecration. The truth of the matter is, desecration of the flag is conduct which is used by people who are trying to express a whole range of different ideas in a very inarticulate way. The Chief Justice, I think, has aptly described this as more like an inarticulate grunt or roar as opposed to real articulate expression.

But what we are doing is not related to the expression of any idea, and we are not interfering, under the second part of this test, with the speaker's freedom to express those ideas by other means. People can choose any other means to express whatever idea they wish to express. We are simply saying that they cross the line and they will not be permitted to use the one means to express their view, which is the desecration of the flag of our Nation, which I believe is the property of the people of the United States and is not to be used for desecration by any one individual.

I believe that that interest of the people of the United States, in protecting the symbol of our Nation, of our national unity, is more important than whatever marginal value some individual might derive from using the particular means of flag desecration to express some viewpoint. I believe that full and robust and free public debate will go forward. There is no question that that will take place. It took place before the Supreme Court decided those cases 10 years ago. There was wide-open debate on public issues. Nobody's opinion was suppressed even though the flag was, before that decision and for many years, had been protected under the laws of the United States and the laws of the various States of the Union.

So looking at this all in context, I think we see how reasonable what we are asking is, and it is just another reason for opposing the gentleman's amendment, which would render the underlying proposal by the gentleman from California (Mr. CUNNINGHAM) meaningless.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me again put in context what this debate is all about. First of all, we all abhor the desecration of the flag, and the proposed constitutional amendment that my colleague the gentleman from Florida (Mr. CANADY) and my colleague the gentleman from California (Mr. CUNNINGHAM) have put forward express that abhorrence for the desecration of the flag in the precise wording of their proposed amendment. It says, ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''

□ 1115

My proposed substitute amendment expresses that same abhorrence for the desecration of the flag, but at the same time it expresses a higher commitment to the command of the First Amendment that is already in the Constitution of the United States that has stood our Nation so well for over 200 years.

My proposed substitute to their amendment simply says, not inconsistent with the First Amendment, not inconsistent with the First Amendment, the Congress shall still have the power to prohibit the physical desecration of the flag of the United States. So we have got two clear options.

Now, their defense to my proposal is, on the one hand, that it is meaningless and, on the other hand, that it is too

meaningful. Now, they have got to make a choice. And my colleagues must make a choice.

First of all, they say they are not doing anything to the First Amendment by proposing to protect the flag from physical desecration under the amendment that they have offered. If that is the case, if that is the case, the language that I have proposed to insert here in this amendment is meaningless.

Well, it might be meaningless. But if it is, I want to be on record as saying that I support the First Amendment to the Constitution.

The other side of their argument is, well, it is so powerful this language that I have proposed in my amendment that it undermines completely the amendment that they have offered. That is the opposite side of their argument. And if that is what they are saying, what I want my colleagues to know is that that is exactly what should be the case. I am not backing away from that.

But if their proposed constitutional amendment is inconsistent in any respect with the First Amendment to the Constitution, which they say it is not and which I do not know because we do not know how it will be interpreted, but if it is, then I want to go on record right now as saying I want the First Amendment to rule in this conflict. And that is really what this debate is all about.

We talked a lot yesterday about things that the debate is not about, and I want to go through those things one more time. We all agree that this is not about patriotism. There are patriots on every side, both sides of this issue. In the committee, the patriot the gentleman from California (Mr. CUNNINGHAM) came. Another patriot came from the Republican side who was on our side of this issue.

So second, it is not even about partisan politics. Is that not wonderful that we have something on the floor of the House of Representatives that we can debate that we can all stand up and say to America, this is not about partisan politics? We have agreed on that.

Third, we have agreed that it is not a liberal versus conservative issue. Because if we read the opinions of the court, we have got conservative justices and liberal justices on both sides of the Supreme Court's opinion. So it is not a liberal-conservative issue.

The gentleman from Florida (Mr. CANADY) and I even agreed that it is not even about where we went to law school. Because both of us went to law school at the same place. He is on one side of this issue. I am on the other side of it. So it is not even about that.

I want to talk to my colleagues about one other thing that this amendment is not about. It is not about burning the flag. Let me repeat that. This is not about burning the flag. We have heard all this discussion about burning of the flag, but this is not about burning of the flag.

There is a reason that my colleagues decided not to use the word ''burning'' in this proposed constitutional amendment. The reason is that the appropriate way to dispose of a flag is to burn it. The court has acknowledged that. Where is the language here that I can just point that out and be explicit? I had it right here. Well, I cannot find it right now. But it will come back to me. Here it is. This is from the underlying case that was decided by the Supreme Court.

''The Defendant Johnson was prosecuted because he knew that his politically charged expression would cause serious offense. If he had burned the flag as a means of disposing of it because it was dirty or torn, he would not have been convicted of flag desecration under this Texas law. Federal law designates burning as the preferred means of disposing of a flag when it is in such condition that it is no longer a fitting emblem to display.''

So we have got a Federal law that says we can burn the flag. So what is this about? What is this word ''desecration'' all about? It is about expression of an opinion. Because if we burn the flag in reverence to the flag as an honorable way to put that flag to bed, to end the use of that flag, the Federal statute protects us. But if we go out and we burn that same flag as an expression of our disgust with some idea that our constitutional government has not lived up to or some disgust with the principles for which that flag stands, it is, at that point, desecration, which has a different connotation than burning, kicks into this equation.

So this is not about burning the flag. This is about what they are thinking about, what they are saying, what they are expressing when they burn that flag. That is what this debate is about. The case law clearly says they can have antiburning statutes at the local level. Sure they can have antiburning statutes. But they cannot single out the flag and say they cannot burn the flag as a process for expressing themselves. That is what the underlying amendment does. That is why the word ''desecration'' is used instead of ''burning.''

Just think about it. That is a little subtle difference. I know some of my colleagues are just going to say, well, he is just playing on words. But think about why they did not use the word ''burning'' in the statute, in the proposed constitutional amendment. Because the law already allows the flag to be burned as long as they are thinking good thoughts and supportive thoughts when they burn it.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the time remaining.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 9 minutes remaining, and the gentleman from North Carolina (Mr. WATT) has 3½ minutes remaining. The gentleman from Florida (Mr. CANADY) has the right to close.

Mr. CANADY of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to commend the gentleman from North Carolina (Mr. WATT) on the role that he has played in the debate. I think the gentleman from North Carolina has made the best case that can be made against the amendment. I do not think it is a strong case, and I disagree with it. But I think the gentleman has made the case that can be made.

The problem that I think underlies the attack on this proposal is it does not come to terms with the fact that we in this proposal are not preventing anyone from expressing any idea or opinion they wish to express. This is simply a restriction on the means that they have chosen. And this is a point I have made before. But I think this is a fundamental flaw in the argument that is used by those against this amendment who claim that somehow we are undoing the First Amendment or that we are acting in a way that is inconsistent with the purpose of the First Amendment.

It is true that we are acting in a way that is inconsistent with the interpretation of the First Amendment that has come down from the Supreme Court. That is why we are here. But the substitute, in my view, does not, as the gentleman from North Carolina (Mr. WATT) said, express a higher commitment to the command of the First Amendment.

What the substitute of the gentleman from North Carolina (Mr. WATT) does instead is express a higher commitment to the command of the Supreme Court. I would just remind the gentleman that, under our Constitution, the Congress also has a role to play and under Article V, we are playing the role that we have in the constitutional amendment process.

That was put in the Constitution for a purpose. I believe that one of the reasons it was put there is to make certain that the people's representatives and the people themselves ultimately could address mistakes that might be made by the Supreme Court.

Now, the gentleman has also argued that we are claiming that his amendment is meaningful in one sense but not meaningful in another. Well, we are claiming that. I will confess to that. Now, the change that the gentleman is making by his amendment in the amendment that has been offered by the gentleman from California (Mr. CUNNINGHAM), the underlying constitutional amendment, is quite meaningful.

There is no question that the change that the gentleman from North Carolina (Mr. WATT) is attempting to make to the amendment of the gentleman from California (Mr. CUNNINGHAM) is extraordinarily meaningful. It is so meaningful that it destroys the Cunningham proposal. That is true. But another way of looking at that is saying that the end result of making the change that the gentleman from North Carolina (Mr. WATT) would have us make is a constitutional amendment that is meaningless because it would ratify the constitutional status quo, which has been established not by the First Amendment itself but by the Supreme Court of the United States.

So the amendment that the gentleman offers is meaningful in that it changes the proposal that the gentleman from California (Mr. CUNNINGHAM) has brought forward, and it is meaningless in that the end result of adopting the Watt amendment would be a constitutional amendment that simply ratifies the status quo and, thus, does nothing. And I do not know why anyone would want to do that.

I would have to candidly suggest that I find it hard to believe that the gentleman or any of the other opponents of the Cunningham amendment would actually want to adopt the substitute as a part of the Constitution of the United States.

Now, I know they do not want to adopt the amendment of the gentleman from California (Mr. CUNNINGHAM) either, but I really have a hard time believing that they would support adoption of the substitute. Because they understand, of course, that it is a proposal that would simply endorse what the Supreme Court has already said.

□ 1130

For that reason, I think we need to move on, vote down the amendment of the gentleman from North Carolina, and then go on to the important business of passing the resolution that has been brought to this House by the gentleman from California, whose leadership on this has been outstanding.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, first I want to associate myself with the words of the gentleman from North Carolina.

The Constitution has been amended only 27 times over 200 years, and this was to expand our freedom. Why should we amend our Constitution to limit a person's freedom? This Nation stands for freedom, not for enslavement of one's views. The ultimate demonstration of a Nation's commitment to freedom of expression is to allow its symbol of freedom to be used for individual expression.

Freedom of speech is one of the most fundamental rights we as United States citizens have. What makes the United States different from Iran, China, Cuba and other countries is that we can voice our concerns freely under the first amendment without the penalty of being fined or going to jail. If we strip our citizens of this right, we will be taking a step backwards to the practices that are pervasive in many tyrannical countries.

I am not for flag burning. As the gentleman from North Carolina has indicated, this is not about flag burning, but this amendment would infringe on a person's right to express what they feel. For example, I am against the practices of the Ku Klux Klan, but they still have the right to their freedom of expression.

The 1st Amendment protects all people and their opinions—if their opinions disagree with your beliefs—that is what makes this country unique—the environment of discourse and the ability to pick and choose what you believe in.

As we debate many beliefs in this great House, let us not forget that each and everyone of us has the opportunity to hear both sides and make an individual decision on what is right and wrong for their constituents. But, the wrong decision would be to limit a person's freedom of expression by penalizing how they feel.

The First Amendment makes the U.S. unique from all other countries. Let us continue to be a world leader in preserving our citizen's right under the 1st Amendment.

Mr. WATT of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Madam Speaker, the people of my district are conflicted on this issue. They and I have a special feeling towards our flag. I represent Fort McHenry in which Francis Scott Key saw the flag that inspired the National Anthem, the symbol of our freedom. But they and I also understand that protecting the first amendment of the Bill of Rights, we must do. It is part of the founding principles of our country, the right to speak out even when it is not popular.

I want to applaud the gentleman from North Carolina for giving us the opportunity to both protect the Constitution and the Bill of Rights and putting this issue in proper context. Yes, we want to protect the flag from desecration, but we also want to protect our Bill of Rights.

Mr. WATT of North Carolina. Madam Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from North Carolina is recognized for 1¾ minutes.

Mr. WATT of North Carolina. Madam Speaker, the words keep resonating in my head from my senior law partner that I talked about yesterday, when I was sent to represent people who had demonstrated on an issue that was on the opposite side of a position that I held, and I called my senior law partner and said, ''Why would you send me here to represent these demonstrators that are demonstrating against something that I believe in?'' And his simple words to me were, ''Don't you believe in the first amendment?''

That is what I ask my colleagues today: ''Don't you believe in the first amendment?''

This is what Justice Kennedy said in his concurring opinion in the Supreme Court case:

> For we are presented with a clear and simple statute to be judged against a pure command of the Constitution. The outcome can be laid at no door but ours. The hard fact is that sometimes we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution compel the result.

I call on my colleagues today to make the decision that they know is right. It is a difficult political decision. It was not easy for the Supreme Court. But they stood and upheld the first amendment to the Constitution of the United States. I ask my colleagues in this House to do the same in the face of this adversity.

AMERICAN BAR ASSOCIATION,
Washington, DC, June 21, 1999.

DEAR REPRESENTATIVE: On behalf of the American Bar Association, I write to urge you to oppose H.J. Res. 33, the proposed constitutional amendment to prohibit the physical desecration of the flag of the United States.

The Association deplores any desecration of the flag, but we must not forget that the flag is a symbol of both national unity and sovereignty and the individual freedoms we so uniquely enjoy in this country—freedom to think one's own thoughts, to express one's beliefs, and to associate freely with those of like mind. As important as the flag is to all of us, we must never protect it at the expense of the precious freedoms it symbolizes.

Proponents of this measure argue that it would merely restore 200 years of ''tradition'' of protecting our flag. In fact, the amendment would actually violate our nation's true tradition of preserving and expanding individual freedoms. The Bill of Rights has endured intact since its adoption in 1791. Previous amendments to the Constitution have acted only to expand the individual liberties guaranteed in the Bill of Rights, not to limit them. As Acting Assistant Attorney General Randolph Moss noted, ''[p]art of the unique force, security, and stature of our Bill of Rights derives from the widely-shared belief that it is permanent and enduring.''

In a recent statement, Keith A. Kreul, a U.S. Army veteran and former National Commander of the American Legion, warns that this amendment ''will neither protect the flag nor promote true patriotism.'' He goes on to say that, ''Our nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and the Bill of Rights.'' Mr. Kreul cautioned Congress against attempting to impose patriotism by legislative fiat. ''We must not delegate to government our responsibility of citizenship lest we endanger our most precious freedoms . . . Respect for our beautiful flag can only come from the hearts of the people. Attempts to bestow honor by government decree upon the flag are idle myths and must not prevail.''

Arguments that this amendment is needed in order to address moral malaise in this country are misdirected. Moral malaise did not begin ten years ago with the Supreme Court's ruling in *Texas* v. *Johnson*. The notion of drawing a line in the sand on this issue in order to send a message on morality diverts attention and resources from real and serious problems. The issues of concern facing our nation today—violence in our streets and schools, economic security, questions of race, and armed conflict abroad—will have a far greater impact on the shape of our society than a constitutional amendment on flag desecration. It would better serve our nation if the time and effort Congress is expending on the flag amendment would be directed toward those and other critical issues.

Proponents of the amendment argue that flag desecration is a serious national problem. They cite 72 incidents that have taken place over the past five years and claim that ''hundreds'' more have occurred but remain unreported. First, if they have been unreported, how can the proponents possibly affirm they have occurred? What evidence of the ''hundreds'' of cases has been offered? None. Second, of the 72 specific incidents they do cite, almost ⅔ involved actions that are already punishable under existing law.

Amending our Constitution is a serious endeavor that must be reserved for issues of the fundamental structure of American government and social order. As James Madison once stated, amending the Constitution should be reserved for ''great and extraordinary occasions.'' Infrequent incidents of flag desecration do not warrant this unprecedented action to undermine the freedom of speech guaranteed under the First Amendment.

In the more than 200 years since the adoption of the Bill of Rights, we have seen that our institutions cannot be destroyed by the exercise of the First Amendment freedoms, only strengthened. Do we really want or need to go to the extreme of tampering with the First Amendment to deal with the rare actions of a few individuals? Walter Cronkite, a highly respected journalist and one who has personally witnessed and recorded for history some of our nation's most difficult challenges, says emphatically ''no.'' In his own words;

''This tiny band of malcontents has inspired a threat by otherwise thoughtful, serious citizens to amend the very foundation of our liberties, which has stood solid and unshaken through political and economic crises, through insurrection and civil war, through assaults by foreign ideologies. Even if the flag desecrators were of far greater numbers and represented a cause of some significance, they still would cause no threat to the integrity of our national emblem. But those who would amend the Constitution do threaten the integrity of that far more precious of our possessions—our freedom of thought and speech.''

The American Bar Association urges you to oppose the amendment and vote ''no'' to protect the American flag by preserving one of the most precious constitutional principles it represents—the First Amendment's guarantee of freedom of expression.

Sincerely,

ROBERT D. EVANS.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 22, 1999.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.J. RES. 33—CONSTITUTIONAL AMENDMENT AGAINST FLAG DESECRATION

(Cunningham (R) California and 279 cosponsors)

The President is deeply committed to protection of the United States flag and will continue to condemn those who show it any form of disrespect. The Administration believes, however, that efforts to limit the First Amendment to make a narrow exception for flag desecration are misguided. The Congress should be deeply reluctant to tamper with the First Amendment.

AMERICAN SOCIETY OF NEWSPAPER EDITORS,
Reston, VA, May 5, 1999.

AMERICAN SOCIETY OF NEWSPAPER EDITORS STATEMENT ON FLAG AMENDMENT

In order to defend the foremost symbol of freedom, the American flag, proponents of this amendment are prepared to diminish freedom itself.

For more than two centuries, our Bill of Rights has guarded individual liberties against the awesome power of government. It has been the blueprint for freedom around the world, as other societies seek to establish and emulate the democratic traditions they so admire here.

And now, with the Cold War won and liberty blossoming in soil once ruled by tyranny, Congress is considering a proposal to trim back the Bill of Rights for the first time in our history and give itself the power to punish offensive speech.

What urgent national interest demands that America turn even slightly away from its singular heritage of freedom and liberty? Is it public order? Does violence against the flag create a climate of physical violence, even chaos among the public as a whole?

No, it does not. Even the proponents of this amendment cite only a handful of flag-burning and other disrespectful acts each year, and those episodes hardly constitute a pressing threat to public order. Thirty years ago, this country weathered a thunderstorm of political turmoil and civil unrest. These current acts of flag-desecration cannot begin to test our democratic resilience and resolve.

To the contrary, this amendment would likely encourage the very acts it seeks to punish. Criminal prosecution would provide the attention that those who set the flag on fire most crave.

Is common decency, then, the reason to erode the liberties established by the Bill of Rights? Does even a single act of flag-burning so offend the patriotic spirit that we must outlaw this particular expression?

Such disrespect does offend all who honor the values the flag symbolizes and the heroic sacrifices made defending them. But offensive speech comes in many varieties beyond desecration of the flag. Is flag desecration a special category of speech, clearly more hateful than other brands of offensive expression?

Does the person who sets fire to a flag, for example, clearly do greater damage to the public good than the person who advocates racism or other bigotry? and if not, how will the rest of us know where to stop, once we start putting limits on the things that may be said and defining some ideas that cannot find voice?

That is the great threat posed by this amendment, a threat that far exceeds the harm it is supposed to prevent. The occasional act of disrespect for the American flag creates but a flickering insult to the values of democracy—unless it provokes America into limiting the freedoms that are its hallmark.

The architects of the Constitution were themselves veterans of a war that began as a revolution against the power of government. To guarantee the liberties for which they risked everything, those authors of America drafted the Bill of Rights, and they put the freedom of expression first.

After more than 200 years, we must not diminish their enduring promise of freedom by putting this footnote on the First Amendment.

PAUL C. TASH, *Chair,*
FREEDOM OF INFORMATION COMMITTEE,
St. Petersburg Times, Florida.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. CUNNINGHAM).

The SPEAKER pro tempore. The gentleman from California is recognized for 4 minutes.

Mr. CUNNINGHAM. Madam Speaker, this is a very difficult issue for many of us. I would like to thank my friend the gentleman from North Carolina (Mr. WATT), and he is my friend. I would also like to thank Mr. Solomon who I am just the torch bearer of a long evolution, as well as Major General Patrick Brady who is President of the Citizens Flag Alliance that put most of this whole effort together in the grassroots. I would say to my friend that I laud him. It would be very difficult for me to represent David Duke or the KKK or anybody of that kind, but I would support him in the same manner on the first amendment.

Nothing in this amendment prevents anyone from expressing themselves in writing, speech, or any other way except for the desecration of the flag. For over 200 years, all the Supreme Courts in the United States, the Congress and the American people agreed. It does not violate the first amendment. That is why 48 States had laws to protect the flag from desecration. One bad, in my opinion, Supreme Court voted against 200 years of tradition. My friend's amendment would throw this whole amendment back to that pack of wolves, that particular Supreme Court, and it would destroy this whole process, or the amendment. We think that is wrong.

The Massachusetts' 54th Regiment, a regiment of African American soldiers who fought for the Union for freedom. Among its leaders was Frederick Douglass. The movie ''Glory'' was produced about this whole episode. It was a suicide mission, these African Americans knew it, but they were fighting for freedom and their country, and the Constitution of the United States. Colonel Robert Shaw, commander of the 54th asked these men, he said, ''I will carry the flag into battle, but when the flag falls, who will carry it for me?''

There have been people given the Medal of Honor specifically for protecting the flag. Article 5 of the Constitution allowed us to have the first

amendment to give us the freedom for speech. I was amazed at my colleague from California (Mr. BILBRAY) that brought up the fact that article 5 also used in the Dred Scott decision that said African Americans were only property, they could not be citizens of this great country. The Supreme Court ruled that. And quite often, as the gentleman from California (Mr. BILBRAY) pointed out, the Supreme Court has been wrong. Fortunately, Congress enacted the 14th amendment which protected those rights.

I would say to my friend, if I felt the first amendment was abridged, as much anger as I felt for Jane Fonda during the Vietnam War when she wanted to open a sports store, I was there protecting her right to do that. I think she stepped over the line in that particular issue. But I would support every issue and my friend, but to support this amendment would kill everything that we are trying to do as far as this bill that the gentleman from North Carolina has offered.

Many of us were moved by the speech of the gentlewoman from New York (Mrs. MCCARTHY) last week, deeply moved, because we knew that she was speaking from the heart. But many of us disagreed on that issue because of a second amendment right.

Mr. WATT of North Carolina. Madam Speaker, I ask unanimous consent that the gentleman be granted 1 additional minute.

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

There was no objection.

Mr. CUNNINGHAM. But many of us disagreed with the gentlewoman, not because of special interest groups but because we have a strong belief in the second amendment, and we thought it would be violated. In the same vein, my friend feels that the first amendment would be violated. We disagree. Two hundred years of Supreme Courts disagree with my friend.

I am not worried if God is on the side that we are portraying, because God is always on the right side. I think we need to ask ourselves, are we on the side of God?

Mr. PRICE of North Carolina. Madam Speaker, two pictures of the American flag are etched in our minds, and they embody the kind of nation we are: one is of the U.S. Marines planting the flag at Iwo Jima and the other is Neil Armstrong standing next to the flag on the moon. Those visions move us because they show the commitment and courage of our people, representing what we can overcome and what we can achieve as a nation working together.

I do not understand people who are unmoved by these visions, or the even smaller minority who, for whatever reasons, feel compelled to desecrate our flag. These people do not reflect my values or the values of our people. To me, the American flag is a symbol of our nation's greatness, of our aspiration toward "liberty and justice for all," and of the Constitutional protections that we offer our citizens.

I don't think any of us would disagree with the goals we are discussing today, protecting our flag and honoring the values it stands for. But we do have significant disagreement about the means by which this can best be accomplished.

Along with a bipartisan group of members, I am cosponsoring the Flag Protection Act, which would protect the flag without compromising or changing the Constitutional protections which the flag symbolizes. I am reluctant to base a change in the Bill of Rights—something we have not done in over 200 years—on the misguided actions of a small group of people who choose to express themselves by desecrating the flag. The Flag Protection Act would let us honor and protect both the flag and the Constitution, which is what I believe most of our fellow citizens and most of us here today wish to accomplish.

The alternative Constitutional amendment offered by my friend from North Carolina would leave the Bill of Rights intact and is consistent with the approach I am advocating. It would state simply that "not inconsistent with the First Amendment, the Congress shall have the power to prohibit the physical desecration of the flag of the United States." I believe this is the proper and appropriate way to prevent the desecration of the American flag. We don't need to change the Bill of Rights to protect our nation's most powerful symbol.

I urge passage of the Watt substitute.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 217, the previous question is ordered on the joint resolution and on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

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

Mr. WATT of North Carolina. 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 115, nays 310, not voting 9, as follows:

[Roll No. 251]

YEAS—115

Abercrombie
Ackerman
Allen
Baldwin
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
Dicks
Dixon
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gejdenson
Gonzalez
Greenwood
Hastings (FL)
Hinchey
Hoeffel
Hoekstra
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E.B.
Jones (OH)
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
McCarthy (MO)
McDermott
McIntosh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Minge
Mink
Moore
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne
Pelosi
Porter
Price (NC)
Rivers
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Slaughter
Stark
Tauscher
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NAYS—310

Aderholt
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Filner
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Kelly
Kildee
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt

Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Barton
Brown (CA)
Davis (VA)
Gilchrest
Hefley
Kasich
Millender-McDonald
Rangel
Towns

□ 1203

Mrs. KELLY, and Messrs. PEASE, GOODLING, MATSUI, SAXTON, SHAYS, DOGGETT, HOBSON, and HILLIARD changed their vote from ''yea'' to ''nay.''

Mrs. MEEK of Florida and Mrs. MALONEY of New York changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. MILLENDER-McDONALD. Madam Speaker, during rollcall vote no. 251 on June 24, 1999, I was unavoidably detained. Had I been present, I would have voted ''yes.''

Mr. STARK. Madam Speaker, I rise today in strong opposition to H.J. Res. 33, ''The Flag Desecration Constitutional Amendment.'' This constitutional amendment would undermine the very principles for which the flag stands—freedom and democracy.

The First Amendment to the Constitution reads as follows: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.''

Those who founded our nation recognized that the First Amendment to the Constitution must protect citizens from their objections to the workings of their government. Freedom of expression is what makes the United States of America strong and great—it is the bedrock of our nation and has kept our democracy strong for over 200 years.

In an effort to overturn two Supreme Court decisions that upheld flag burning as symbolic speech protected by the Constitution, the Flag Desecration Amendment would be the first to amend the Bill of Rights and limit Americans' freedom of expression.

It would also open the door to other ''well-intentioned'' limits on our free speech. Just last week this Congress debated an amendment that would have barred the sale of films, books, pictures, and sculptures that qualify as ''patently offensive'' or lack ''serious literacy, artistic, political or scientific value.''

Who is to decide what is offensive, what is desecration, and what is free expression? While the idea of someone burning or destroying an American flag is upsetting, the thought of police arresting peaceful protesters is even more so. Our government's toleration of criticism is one of America's greatest strengths.

This is not an issue of patriotism, it is an issue of preserving every American's protected right to dissent. Our commitment to freedom can best be displayed with a vote against this misguided constitutional amendment.

Mr. LEACH. Madam Speaker, as has been the case in past Congresses, this amendment is being brought forward in an attempt to affirm all that is good about our great country. This is an honorable motive and I am reluctant to oppose it.

Moreover, as in the past this amendment is championed by organizations—particularly the American Legion, VFW and DAV—which represent those without whose sacrifices this country and its values would not exist. Had it not been for our nation's veterans, the only competition in the world today would be between totalitarianism of the Left and totalitarianism of the Right.

These are honorable men and women, and I am reluctant to oppose them.

Yet I remain unable to support this amendment because I remain convinced that to do so is to undercut the very essence of the system of governance for which the flag itself stands.

At the heart of our democracy is a struggle, an ongoing conflict of ideas for which the Constitution provides the rules. It is in this conflict that the e pluribus unum—the ''one out of many,'' as the motto borne on the ribbon held in the mouth of the American bald eagle on The Great Seal of the United States puts it—arises. And it is precisely this unity in multiplicity for which our flag with its 50 stars and 13 stripes stands.

The genius of our Constitution lies in the way in which it structures and ensures the continuity of this conflict of ideas which is our democracy. It does so through the system of checks and balances and separation of powers with which it structures our government on the one hand, and the protection of freedom of expression it provides in the First Amendment on the other. the former ensures that the fight is always a fair one and that no momentary majority uses its temporary advantage to destroy its opponents; the latter ensures that no idea, however obnoxious, is excluded from consideration in the debate.

It should be stressed that the protection provided by the First Amendment is a two-edged sword. In fact, the Bill of Rights does not exempt ideas and the actions that embody them from criticism, but ensures they are exposed to it. As Jefferson put it in his ''Act for Establishing Religious Freedom'' in Virginia:

> Truth is great and will prevail if left to herself; . . . she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapon, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

Thus any abridgment of the protections provided by the First Amendment, no matter how nobly motivated, would diminish freedom and in all likelihood precipitate, in this instance, more symbolic incidents tarnishing the flag than would otherwise be the case. Accordingly, great care must be taken not to take actions in the name of protecting the flag that have the effect of misinterpreting the meaning of the flag.

In making this assessment, the distinction between liberties to protect and symbols to rally behind remains essential. Freedom of speech and freedom of religion require constitutional protection. The flag, on the other hand, demands respect for what it is—the greatest symbol of the greatest country on the face of the earth. It is appropriate to pass laws expressing reverence for the flag and applying penalties, wherever possible, to those who would desecrate it, but I have grave doubts the Constitution is the right place to address these issues.

Mr. BLUMENAUER. Madam Speaker, the authors of the Constitution and the Bill of Rights gave us a wise and enduring framework, one that has guided this Nation for over 200 years. We should but rarely and in moments of absolute necessity alter their work. I can say unequivocally, that this flag burning amendment does not meet that test.

Americans cherish their flag and all it represents. It is fitting and proper to honor this symbol. This proposed constitutional amendment however, is the wrong way to attempt to protect the flag. Ironically, the fastest way to take the very rare occurrences of flag burning and make them more frequent would be to pass this amendment.

Once it is illegal, and after all the publicity surrounding ratification by the states occurs, we will have made our flag the target for every publicity-seeking kook in America. Burning the flag will be the fastest way to go to court, to jail and onto the evening news.

Regardless of how distasteful burning or otherwise desecrating the flag is to most Americans—it is important to note that flag burning is not a major problem today. What is clear is that making flag burning illegal would backfire.

The First Amendment doesn't need any help from this Congress.

Mr. KOLBE. Madam Speaker, Congress enacted the first Federal flag protection act in the midst of the Vietnam War protests. However, Madam Speaker, I was not here to see these protests, I was in Vietnam, fighting for the very freedoms some are seeking to limit today. The flag is a special symbol for our country, but it is certainly no more than the Constitution itself. Embodied in our Constitution is the First Amendment.

The First Amendment is no small part of the protections that make our country unique in

the history of civilization and no small part of the freedoms others and I fought to protect. Freedom of speech protects both those with whom we agree and those with whom we disagree.

What we are debating today is a proposal to chip away at the First Amendment and I cannot support that. I would like to see the intellectual prowess of this institution brought to bear upon the task of drafting legislation would make it illegal to desecrate the flag of the United States and still meet the Constitutional standard. However, taking the simplistic but dangerous task of amending the Constitution to accomplish this end is neither agreeable nor advisable. I ask my colleagues to consider the monumental implications of today's proposal. We are toying with a right we all hold dear: that of free speech.

Though this Amendment may sound reasonable on the surface, I implore you to look beyond the superficial. Recall that in the 1975 case of Spence v. Washington, taping a peace symbol to the flag was at issue. Do you really believe imprisonment is the appropriate punishment for such an act? The fundamental issue is public protest—that is what gave rise to this issue and that is also the heart of First Amendment protection.

The Supreme Court articulated a standard in the 1989 case of Texas v. Johnson by which each of us should consider this issue. In that flag desecration case, the Court said: the First Amendment stops the government from prohibiting expression of an idea merely because society finds the idea offensive, even when the flag is involved. Can anyone stand before us with intellectual honesty and deny that this is precisely what we aim to do? Consider the language of the 1990 flag case of U.S. v. Eichman:

> The Government's desire to preserve the flag as a symbol for certain national ideals is implicated ''only when a person's treatment of the flag communicates [a] message'' to others that is inconsistent with those ideals.

To me freedom is greater than any symbol can encapsulate. How can we possibly promote freedom by restricting an object that is so clearly identified as a symbol of freedom? What should give all of us pause is that we stand in the Capitol of the government and debate outlawing speech with which we disagree. I cannot support such an Orwellian piece of legislation.

Mr. SHAYS. Madam Speaker, today I rise in opposition to the Flag Desecration Constitutional Amendment.

I find it abhorrent anyone would burn our flag. It's a symbol of all the values we cherish—freedom, democracy and tolerance for others.

When I think of the flag I think about the men and women who died defending it. What they really were defending was the Constitution of the United States and the rights it guarantees.

The Constitution has been amended only 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that guarantees freedom of speech and freedom of religion, and that eventually outlawed slavery and gave blacks and women the right to vote.

These are monumental, historic issues—issues that directly affect people's lives. Amending the Constitution is a very serious matter. I don't think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, and there is no constitutional amendment.

Madam Speaker, I love the flag for all that it represents, but I love the Constitution even more. The Constitution is not just a symbol. It's the very principles on which our nation was founded.

Mr. MOORE. Madam Speaker, I rise in opposition to H.J. Res. 33, a bill to prohibit the physical desecration of the flag of the United States of America.

Since our nation was born in battle 223 years ago, hundreds of thousands of American soldiers, sailors, airmen and women, and Marines have fought and died across the globe to preserve the great American experiment in freedom and democracy. One of the cornerstones of our freedom is our Constitution, including the Bill of Rights. The Bill of Rights, including the First Amendment protections for speech and political expression, has been the envy of the world for more than two hundred years.

Our democracy has withstood many tests over time, and has been strengthened as a result. The occasional, random, despicable acts of public desecration of our flag by a few malcontents presents another such test. There is no more important protection provided by the First Amendment than its protection of political expression.

I love our country. I love our flag—and the principles for which it stands. The American flag is a symbol for liberty and justice, for freedom of speech and expression and all of the other rights we cherish which are guaranteed in the Bill of Rights. But as important as the symbol may be, more important are the ideals and principles which the symbol represents.

That our nation can tolerate dissension and even disrespect for our flag is proof positive of the strength of our nation. It would be a hollow victory to preserve the symbol of freedom by chipping away at the freedoms we hold sacred.

As one who served with the U.S. Army and the Army Reserves, I know how deeply our veterans love and revere our flag. I share those feelings for our flag and all that it represents. I have absolute faith and every confidence that even without amending our Bill of Rights, our nation and our flag are strong and will survive and continue to be a source of hope and inspiration to all Americans and freedom loving people around the world.

Ms. PELOSI. Madam Speaker, as an issue, the flag-desecration amendment is, of course, entirely symbolic. Its sponsors believe that support is, symbolically speaking, tantamount to being a patriotic American.

But what is true patriotism in the context of the American experiment? At its heart, I believe, is an abiding tolerance—a tolerance so deep and so pervasive that it easily absorbs all insults. The American saga is, in essence, a tale of ever-expanding realms of acceptance and inclusion.

Tolerance of extraordinary diversity is the mystery that lies at the heart of our origins and our destiny, the magnificent quality that renders the American project unique in human experience—diversity in ethnic and religious origins; diversity in language and lifestyle; diversity in aptitude and ambition; and, yes, diversity in behavior, including the bizarre, the distasteful, and even the contemptuous.

We Americans are most patriotically American when we display our tolerance of virtually all behavior short, of course, of crimes against people and property. Simply turning away from even such objectional behavior as the burning of the flag is, then, a true test of our tolerance, a measure of our patriotism, a demonstration of our Americanism.

E Pluribus Unum!

The SPEAKER pro tempore (Mrs. EMERSON). The question is on 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.

RECORDED VOTE

Mr. CANADY of Florida. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 124, not voting 5, as follows:

[Roll No. 252]

AYES—305

Aderholt	Chabot	Franks (NJ)
Andrews	Chambliss	Frelinghuysen
Archer	Chenoweth	Frost
Armey	Clement	Gallegly
Bachus	Clyburn	Ganske
Baird	Coble	Gekas
Baker	Coburn	Gephardt
Baldacci	Collins	Gibbons
Ballenger	Combest	Gillmor
Barcia	Condit	Gilman
Barr	Cook	Goode
Barrett (NE)	Cooksey	Goodlatte
Bartlett	Costello	Goodling
Barton	Cox	Gordon
Bass	Cramer	Goss
Bateman	Crane	Graham
Bentsen	Crowley	Granger
Bereuter	Cubin	Green (TX)
Berkley	Cunningham	Green (WI)
Berry	Danner	Gutierrez
Biggert	Davis (FL)	Gutknecht
Bilbray	Davis (VA)	Hall (TX)
Bilirakis	Deal	Hansen
Bishop	Delahunt	Hastings (WA)
Blagojevich	DeLay	Hayes
Bliley	DeMint	Hayworth
Blunt	Deutsch	Hefley
Boehlert	Diaz-Balart	Herger
Boehner	Dickey	Hill (MT)
Bonilla	Dooley	Hilleary
Bono	Doolittle	Hilliard
Boswell	Doyle	Hinojosa
Boyd	Dreier	Hobson
Brady (TX)	Duncan	Holden
Brown (FL)	Dunn	Horn
Brown (OH)	Edwards	Hostettler
Bryant	Ehrlich	Houghton
Burr	Emerson	Hulshof
Burton	English	Hunter
Buyer	Etheridge	Hutchinson
Callahan	Everett	Hyde
Calvert	Ewing	Isakson
Camp	Fletcher	Istook
Campbell	Foley	Jefferson
Canady	Forbes	Jenkins
Cannon	Ford	John
Capps	Fossella	Johnson (CT)
Castle	Fowler	Johnson, Sam

Jones (NC)
Kanjorski
Kaptur
Kelly
Kildee
King (NY)
Kingston
Knollenberg
Kucinich
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Martinez
Mascara
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pease
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—124

Abercrombie
Ackerman
Allen
Baldwin
Barrett (WI)
Becerra
Berman
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Capuano
Cardin
Carson
Clay
Clayton
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gejdenson
Gonzalez
Greenwood
Hall (OH)
Hastings (FL)
Hill (IN)
Hinchey
Hoeffel
Hoekstra
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E.B.
Jones (OH)
Kennedy
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
LaFalce
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McDermott
McKinney
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Minge
Mink
Moore
Moran (VA)
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Petri
Porter
Price (NC)
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Shadegg
Shays
Slaughter
Snyder
Stark
Tanner
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Woolsey
Wu

NOT VOTING—5

Brown (CA)
Gilchrest
Kasich
Millender-McDonald
Towns

□ 1221

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. MILLENDER-McDONALD. Madam Speaker, during rollcall vote No. 252 on June 24, 1999, I was unavoidably detained. Had I been present, I would have voted "no."

APPOINTMENT OF CONFEREES ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. GOODLATTE. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Madam Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the amendment of the Senate to the bill H.R. 775 be instructed to ensure, within the scope of conference, that their eventual report to the House reflects due regard for—

The substantive concerns of the high-technology community and the possible implications of the ''Y2K'' date change on that community and on the Nation's economy;

The substantive inputs of the Administration and of the bipartisan Leaderships in the Congress on the issues committed to conference; and

The sense of the House that a decision not to follow this process will lead to a failure to enact legislation.

The SPEAKER pro tempore. Under rule XXII, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. GOODLATTE) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

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

Madam Speaker, I rise today to urge my colleagues to support the motion to instruct the conferees to engage the administration and the congressional leadership of both parties in a substantive discussion to make every effort possible to produce a Y2K bill that President Clinton can sign.

The information technology community, as we know, has legitimate concerns due to the unique nature of the Y2K problem that should be and could be addressed through legislation. This legislation would first encourage remediation, it would then encourage mitigation, and finally, deter as much as possible frivolous lawsuits.

We are all interested in legislation that will solve the concerns of the high-tech community as we recognize the possible implications of the Y2K date change on the high-tech community and on the Nation's economy.

We are optimistic that the conference will result in a bipartisan compromise through a substantive discussion of the concerns of the information technology community, the administration, and the congressional leadership, and that we will address the unique nature of the Y2K problem. I urge this cooperation on the part of all the different forces that will be part of this conference.

We on the Democratic side are willing to engage in a deliberative conference that makes every effort to avert an impasse and to produce a bipartisan bill.

Mr. Speaker, I urge all my colleagues to support this motion to instruct, and I reserve the balance of my time.

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

Mr. Speaker, I would like to say to my good friend, the gentleman from Michigan, that we are prepared to accept the motion to instruct that the gentleman has offered, and I would say with regard to the legislative process that we have been through that we have from the outset been concerned about the substantive inputs of the administration and the leadership of both the House and Senate and both the Democratic and Republican leadership, and in fact, the House bill, which I think is an outstanding piece of legislation, which will go a long way to address the concerns of the American people, of the business community, of those who have been negatively affected by the failure to have certain equipment or software, whatever the case may be, ready for Y2K needs; that in all those cases we have in the legislation we passed listened to everyone who had input in this process, and have adapted the legislation that passed the House while taking those inputs into consideration, agreeing with some and disagreeing with others. I know that same process has taken place in the Senate, where they also have passed a good bill.

So when the conference meets and considers the relative merits of both

the House bill and the Senate bill, we will be interested in hearing the input of the leadership, and have heard the input of the administration in that process.

For that reason, we are prepared to accept this motion to instruct. I would say, however, that the House of Representatives is a sovereign body, that it is duly designated on the basis of the United States Constitution to represent the will of the people that we represent, and we will do so with input from a number of different sources, but most importantly, with input from the majority of the Members of the House who supported the bill that we passed through the House of Representatives, taking into account the fact that we want to see legislation signed into law by the President which will reflect the need to address the Y2K problem to avoid frivolous and fraudulent lawsuits, to encourage parties to work on solving the Y2K problem and not on an increasing amount of litigation.

We believe those things are reflected in the bill passed by the House. We believe they are also reflected in the bill passed by the Senate. So we will proceed in a fashion that will allow us to come up with legislation that surely the President will want to sign because it is urgent that we solve this problem.

One of the points to be made about Y2K legislation addressing this problem is that time is of the essence. It is not only important that we pass this before January 1, 2000, it is important that we pass this and get it signed into law by the President now, because the effects of this legislation will take place immediately.

Those who need to solve Y2K problems will be less fearful of getting into a litigation mess and more anxious to get about the business of correcting the actual technological problems that individuals and businesses face with their computer systems if they know now that they can get started now or continue work now without fear of a massive problem with litigation. That is what this bill that we have passed through the House is designed to do. I know that is what the Senate intended, as well.

So surely when we work out the differences between the House and Senate bills, we will be able to present to the President something that he should sign immediately, given, I know, the concern that the President has for addressing this problem and addressing it immediately and not dragging us through a long process involving a veto; the addressing of this problem with new legislation that we would have to take up with another version passed through the House, another version passed through the Senate, another conference, and then still not knowing whether the version that that we come up with in that conference would be signed by the President.

□ 1230

So it would be my hope that the version that we pass out of the conference will be signed into law by the President, recognizing that we have already been taking into account the concerns raised by the President, have, in the legislation passed in the House and in the legislation passed in the Senate, a reflection of a number of those concerns, but obviously not all of those concerns because, as I said, this is a body that must do the will of the people that we represent.

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

Mr. CONYERS. Mr. Speaker, I am delighted to yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I am pleased to hear the comments of the gentleman from Virginia (Mr. GOODLATTE) and glad to learn that the motion will be accepted.

But, at the very least, I want to explore a little bit further where I think we are in this whole process. I received yesterday a letter from the Year 2000 Coalition to the Speaker, to the gentleman from Texas (Mr. ARMEY), to the gentleman from Texas (Mr. DELAY), to the gentleman from Oklahoma (Mr. WATTS), and to the gentleman from Virginia (Mr. DAVIS). The letter outlines the hopes and expectations of many high-tech community leaders.

Let me just read a couple of important points they made in this letter. The Coalition points out that: ''A legislative process that terminates in a veto would be viewed as a complete failure, and would possess substantial risk to the American economy and could result in a serious economic set-back.''

The letter continues: ''We are confident that, in the course of discussions that may occur, resolution of differences can be achieved.'' They then go on to offer their assistance in whatever way they could to help us as we seek a resolution.

This letter is signed by dozens of associations; among them, there are: the American Electronics Association, the Business Software Alliance, the Computing Technology Industry Association, the Information Technology Association of America, the National Venture Capital Association, and the Semiconductor Industry Association. I might add that there are many others.

I think the concern expressed in this letter is based on various press reports as well as rumors that I think we should discuss openly.

In the Washington Post today, and I have no idea whether this quote is accurate so I shall just read it from the paper. Mr. HASTERT, the Speaker's spokesperson, was quoted as saying, ''You know that the President has to make a choice. Basically it is a take it or leave it proposition on the bill.''

The President's people are quoted in turn, saying that the bill that passed the Senate will be vetoed by the President. So I do not think there is a doubt about the veto. We have the President's statement on that.

So what I see unfolding here is a train wreck that we can avoid, and that, I believe, it is our obligation to avoid.

I note further that, in today's National Journal, in Congress Daily, that there is a suggestion, and I do not know if this is what is really going to happen, that the conferees will meet only for a short period of time, the sole purpose of which meeting would be to remove a section of the Senate bill inserted by Senator HOLLINGS, and that no further work would be done.

If this is the case, if this is what does happen, I think it will be a tremendous mistake. I think we ought to listen to the 2000 Coalition people and understand that we need to work through this and to compromise and to come up with legislation that will become law.

Now, as the gentleman from Virginia (Mr. GOODLATTE) and I have said privately from the beginning, it is my belief—and I think maybe his—that, if he and I were to go sit in the Speaker's lobby together, we could write up a bill that would be acceptable, and would be signed by the President.

There are six or seven different ways to approach the very contentious issues that are before us. There is no one magic solution. Part of legislation in an issue such as this is to stretch out, to reach your hand across the aisle and I would say down Pennsylvania Avenue as well, to come up with rational solutions that are flexible, that are narrowly tailored, that work.

I know we can do this. I know that we could do it together. I hope that we do it together. If we do not, if instead, we insist, having fallen in love with our own work product, that we cannot produce an alternative, we shall have failed. We must let go of the love we have for the work product we have created, and instead try and understand the other person's point of view, craft together narrowly tailored, rational responses. I know that we can solve this problem, and we can do so promptly.

But we are not going to be able to achieve this if, instead, we do what the press reports suggest, which is to go through a sham of a conference that really does not get into the substantive work.

So I do hope that we can approach this in this way. I am willing to do my very best to be flexible and respectful and to come together with my colleagues across the aisle and in the Senate and in the White House.

With that, in the spirit of optimism and hope, I appreciate the willingness to accept the motion, but I hope that it is more than just a motion. I hope it results in some good, solid hard work that extends more than an hour and is certainly not what the rumor control has said.

Mr. Speaker, I include the letter from the Year 2000 Coalition as follows:

YEAR 2000 COALITION,
June 22, 1999.

Hon. J. DENNIS HASTERT,
Hon. RICHARD K. ARMEY,
Hon. TOM DELAY,
Hon. J.C. WATTS,
Hon. THOMAS M. DAVIS III,
U.S. House of Representatives.

DEAR HOUSE LEADERSHIP: The Y2K Coalition, which has been working with all interested parties to successfully enact legislation which will promote Y2K remediation, is concerned by recent statements by the President's senior advisors that they will recommend the President veto the bill passed by the Senate if that were presented to him for his signature. We are convinced that if such a bill were vetoed, the momentum to legislate on this important matter would be lost. A legislative process that terminates in a veto would be viewed as a complete failure, and would pose substantial risk to the American economy and could result in a serious economic set-back. We therefore urge congressional leaders and the Administration to make every effort possible to avert an impasse and avoid such a catastrophe.

We are confident that, in the course of discussions that may occur, resolution of differences can be achieved. The Coalition will be prepared to offer suggestions for the resolution of such differences.

We further urge you to initiate and conclude such efforts before the 4th of July recess.

Sincerely,

Aerospace Industries Association, Airconditioning & Refrigeration Institute, Alaska High-Tech Business Council, Alliance of American Insurers, American Bankers Association, American Bearing Manufacturers Association, American Boiler Manufacturers Association, American Council of Life Insurance, American Electronics Association, American Entrepreneurs for Economic Growth, American Gas Association, American Institute of Certified Public Accountants, American Insurance Association, American Iron & Steel Institute, American Paper Machinery Association, American Society of Employers, American Textile Machinery Association, American Tort Reform Associates, America's Community Bankers, Arizona Association of Industries, Arizona Software Association, Associated Employers, and Associated Industries of Missouri.

Associated Oregon Industries, Inc., Association of Manufacturing Technology, Association of Management Consulting Firms, BIFMA International, Business and Industry Trade Association, Business Council of Alabama, Business Software Alliance, Chemical Manufacturers Association, Chemical Specialties Manufacturers Association, Colorado Association of Commerce and Industry, Colorado Software Association, Compressed Gas Association, Computing Technology Industry Association, Connecticut Business & Industry Association, Inc., Connecticut Technology Association, Construction Industry Manufacturers Association, Conveyor Equipment Manufacturers Association, Copper & Brass Fabricators Council, Copper Development Association, Inc., Council of Industrial Boiler Owners, Edison Electric Institute, Employers Group, and Farm Equipment Manufacturers Association.

Flexible Packaging Association, Food Distributors International, Grocery Manufacturers of America, Gypsum Association, Health Industry Manufacturers Association, Independent Community Bankers Association, Indiana Information Technology Association, Indiana Manufacturers Association, Inc., Industrial Management Council, Information Technology Association of America, Information Technology Industry Council, International Mass Retail Association, International Sleep Products Association, Interstate Natural Gas Association of America, Investment Company Institute, Iowa Association of Business & Industry, Manufacturers Association of Mid-Eastern PA, Manufacturer's Association of Northwest Pennsylvania, Manufacturing Alliance of Connecticut, Inc., Metal Treating Institute, Mississippi Manufacturers Association, Motor & Equipment Manufacturers Association, National Association of Computer Consultant Business, National Association of Convenience Stores, National Association of Hosiery Manufacturers, National Association of Independent Insurers, National Association of Manufacturers, National Association of Mutual Insurance Companies, National Association of Wholesaler-Distributors, National Electrical Manufacturers Association, National Federation of Independent Business, National Food Processors Association, National Housewares Manufacturers Association, and National Marine Manufacturers Association.

National Retail Federation, National Venture Capital Association, North Carolina Electronic and Information Technology Association, Technology New Jersey, NPES, The Association of Suppliers of Printing, Publishing, and Converting Technologies, Optical Industry Association, Printing Industry of Illinois-Indiana Association, Power Transmission Distributors Association, Process Equipment Manufacturers Association, Recreation Vehicle Industry Association, Reinsurance Association of America, Securities Industry Association, Semiconductor Equipment and Materials International, Semiconductor Industry Association, Small Motors and Motion Association, Software Association of Oregon, Software & Information Industry Association, South Carolina Chamber of Commerce, Steel Manufacturers Association, Telecommunications Industry Association, The Chlorine Institute, Inc., The Financial Services Roundtable, The ServiceMaster Company, Toy Manufacturers of America, Inc., United States Chamber of Commerce, Upstate New York Roundtable on Manufacturing, Utah Information Technology Association, Valve Manufacturers Association, Washington Software Association, West Virginia Manufacturers Association, and Wisconsin Manufacturers & Commerce.

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), a distinguished member of the committee.

Mr. SENSENBRENNER. Mr. Speaker, I support the motion to instruct, as does the gentleman from Virginia (Mr. GOODLATTE). But since the gentlewoman from California (Ms. LOFGREN) has expressed concerns of the administration, let me say that, first of all, the administration does not legislate under the Constitution. They have the choice of signing or vetoing the work product of both Houses of Congress.

However, the Senate, during its deliberations on this bill, moved in major efforts towards the President's position to try to modify the legislation to address many of the President's concerns. Included are changes in the proportional liability section of H.R. 775, the elimination of the liability caps on directors and officers, the elimination of the reasonable efforts defense, the tort claims, modification of the punitive damages provision in H.R. 775, and elimination of obligations on attorneys to disclose and report certain information to their clients, all of which were in the statement of administration position expressing opposition both to the House bill and to the Senate bill.

So there has been a huge movement in the direction of the President. However, we all know that this President has been very strongly opposed to any changes in tort liability law and any changes in product liability law. This is kind of a product liability bill, because it is dealing with software that is manufactured by computer companies that may or may not fail when the odometer rolls over next New Year's Eve, the danger that exists in agreeing to everything that the President objects to is, by the time we are done, the bill does not do anything. It is merely cosmetic in nature.

Then I think that, if that is the case, the President and the Congress will be equally guilty in fooling the American public that something is being done to shield people from frivolous litigation and destructive litigation when, in fact, that is not the case.

So the conferees, I think, have got to be careful. They have got to make sure that we give a conference report for consideration by this House and the other body which does address this problem and prevent frivolous litigation rather than simply passing a piece of paper, all of us taking a bow, and this bill becomes law, knowing full well that this bill really does not solve the legal problems relating to Y2K liability.

As a conferee, those are the goals I am going to try to achieve, and that is to pass a bill that does something, that addresses these problems. I would hope that the President, in the spirit of compromise, recognizing that the Senate really met him more than halfway with his objections to the House bill, would move a little bit by himself.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I appreciate the dialogue coming from both the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Wisconsin (Mr. SENSENBRENNER), and I would say to the gentleman from Wisconsin, many of those issues that he mentioned, as good as we were about working them out, they are more largely peripheral issues.

Now, some have made it clear that the conference's only purpose is to take up the Senate bill, and that is the troublesome part of our job in front of us, strip the Hollings language and send it to the President.

Now, we are not looking for veto bait. What he will do almost surely, if his word can be relied on, and I think that it can, is that he will veto the bill as he has suggested.

Now, the truth of the matter is that I do not think that the sides, the two sides are that far apart. I think that we can work something out. That is my desire and my hope.

But let us confront what the larger differences are. The first point is the extent to which punitive damages are capped. That has not been worked out. It is one that we need to give our most vigorous attention to. Then there is the situation, the extent to which joint liability is limited. That has yet to be resolved. But I think that we are, we are, within close proximity to which we can move forward on it. Then we have the extent to which we will federalize State class actions, another matter that needs to get our careful and cooperative attention.

Now, these are issues that can be resolved. They can be resolved between Republicans and Democrats, and they can be resolved between the administration. Now, I want a bill, and I think all of us here on the floor do. If we want a bill, we are going to resolve these issues. I hope that we will. I know that we can.

If there is any desire on anyone's part to kill the bill, then we can engage in a campaign, a season of finger pointing, and we will end up having a conference that does not attempt real negotiation.

So the question that this motion poses is, which road will we take? How are we going to move here, serious and sincere negotiation which will result in a bill within a week or weeks or an insincere process which will result in failed legislation and probably a veto?

I am confident that we can do the former. I am prepared to bring to the table conferees that will be working very sincerely on accomplishing that.

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

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Virginia (Mr. DAVIS), the sponsor of the legislation.

Mr. DAVIS of Virginia. Mr. Speaker, I appreciate the gentleman from Virginia (Mr. GOODLATTE) yielding me this time.

It is ironic that we have a Year 2000 Coalition letter referred to on the other side of the aisle, quoting it as somehow gospel. When they supported our legislation here in the House, they were not quoting it then, because they opposed what this Coalition wanted at that point. They did not give this Coalition the tools they wanted.

The Coalition, I have met with them subsequent to this letter. I might add, the letter was not addressed to the gentlewoman. The letter was not addressed to anyone on the other side. It was addressed to the Republican leadership, and we have subsequently had discussions with members of this group. I think that the representation coming from the other side is not quite appropriate, I think, to where everyone is.

□ 1245

We want a solution to this problem. The difficulty is on the other side of the aisle there is absolutely no willingness, no willingness that was put forward in their substitute to put any kind of caps on punitive damages to any companies at all. Small companies, large companies, anyone.

Their proportion liability was a joke. We cannot have proportion liability if, in fact, it is under the circumstances that they have outlined. What they have outlined is that if everybody can pay their proportion, then they get proportional liability. In point of fact, someone is always missing from the table. And it is a jury question, as they have defined how we get to it. It goes to a jury. And it just, I think, does not give the protection to companies that they need.

I was general counsel for an IT company out in Fairfax. It does a billion dollars a year in sales. I understand the issues that are raised here. What has been proposed by the administration to date does not advance the agendas of these companies one step. Now, if the President would reengage, if he would come and sit with us or send an emissary up to work something out, we have been waiting for this for 6 months. But it was 5 months ago that John Koskinen, who is their Y2K guru, came before our committee in the House and said, we do not need any legislation on Y2K at all.

They subsequently backed off that, but they have offered nothing in the way of punitive damage caps. They have offered nothing in the way of proportion liability that makes any sense today. They have offered nothing in the way that gives anybody any kind of protection that we want. If they have some suggestions, we are happy to hear from them.

We know what their, quote, bipartisan substitute was that was brought up on the House floor during the debate. It got one Republican vote. That is how bipartisan it was. We got 28 for our legislation. Now, we are willing to compromise with the Senate, and we are willing to work with the President, but we have to have something on the table, and at this point they have remained silent. As the chief author of the legislation, we have had zero contact from the White House on this, despite numerous entreaties that we engage in a dialogue.

American industry wants this problem resolved. The worst thing that can happen is to pass the legislation they put before the House earlier that does absolutely nothing and to have tens of billions of dollars, perhaps a trillion dollars, as the Gardener Group estimated, from these companies going into attorneys' fees, litigation, or punitive damages instead of going to putting these profits into the production of new products so they can compete in the global marketplace, and instead of hiring and training new workers so we can remain atop the world economy on these IT issues. And that is what this is about.

We certainly, certainly entreat our colleagues to engage in a dialogue with us, but it has to be a real dialogue. And nothing I have heard from the other side today and, more importantly, nothing we have heard from the White House indicates any willingness at this point to come to the table at all on these issues.

We have a House version that is a pretty strong and a pretty good bill, and I do not just say that because I authored it, I say it because 230 Members of this body supported it and lined up behind it. We have a much, much weaker Senate version. And we are, I think, willing, in a very short period of time, within a very limited window of time, to engage in discussions with the administration and interested Members to bring about a solution to this problem. But we are not going to let the administration string this thing out for months and let this roll, which, if we left it up to them, is exactly what would happen.

We have to force the issue. If a veto is the end result, it will be regrettable. It will not have achieved the goals we had coming in, and we will do anything we can to work this out. But it takes two to talk, and to date the White House has been silent.

So I think we need to move ahead and appoint the conferees. I think we need to move with the Senate. If the President wants to engage in a dialogue, now is the time. This legislation has got to be out and working and in operation before we go to the July 4 recess, and if the outcome is a veto, so be it.

I just hope that the administration will engage. We can put legislation on his desk that will have the vast majority, if not veto-proof numbers from both Houses, and we can show the President that the American people as well as the titans of industry want this legislation and need it, and that they will come around and work with us.

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds.

I want to say to my good friend from Virginia (Mr. DAVIS), let us keep hope alive. Let us not assume that the White House has shut down negotiations or the process. That is not the case at all.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I am concerned, as I hear the tenor of this discussion, that we might, in fact, not have the kind of substantive conference that I think is going to be required.

I do not agree with the White House on everything, far from it, but I have contacted senior members in the White House repeatedly to find out what their views are, why they hold those views. I have also contacted key players in the technology community. As my colleagues might expect, because my district is Silicon Valley, I have talked often to general counsels and CEOs on this issue, and I know that there is plenty of room to craft a bill that resolves issues for high technology and that will get a signature from the President.

But it is going to take some time and work to do that, and to say that we need to pass the Senate bill before the July 4 recess, and if there is a veto, well, so be it, that does not solve the problem. What we need is a law to be enacted. And we can do that, but it has taken 6 months for this conference to begin. The maximum allowable time for a conference is 20 days. I do not think we would need 20 days, but we are going to need more than an hour to find common ground.

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

Ms. LOFGREN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, the gentlewoman referred to the letter that was sent to the Republican leadership, and yet she indicates that we need to take some time to resolve this. This letter urges us to conclude the process by the July 4 recess.

Ms. LOFGREN. Reclaiming my time, Mr. Speaker, I think it is quite possible to do that. But if instead of doing a conference and coming up with a piece of legislation that can get support from both sides of the aisle and can get a signature from the White House, which I know we could do, if instead of that effort in a productive conference we instead just jam the Senate bill through both bodies up to the White House for the veto that he has already said awaits it, then we will have done something before July 4, but it will not have been anything very productive for the companies that require a resolution and remediation of this problem.

I hope, and I believe my colleague the gentleman from Virginia (Mr. GOODLATTE), who I have worked very closely with on many technology issues, I believe him when he says he wants to accept the motion to instruct. I am just concerned that some of the rhetoric can lead me to a contrary conclusion; that we are not really, all of us, going to work together in the way we need to and that we could do.

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds to respond to the gentlewoman by saying that the President has not indicated that he would veto this legislation. Some of his advisers have indicated that they will recommend to the President that he veto it.

I think that is very poor advice, given the urgency that we address this problem immediately, given the fact that we have two good bills to work with between the House and the Senate and that we will come up with a very good solution that we would urge the President to sign.

Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Speaker, let me just ask, what is wrong with appointing conferees today? I think we can all agree that until we get the conferees in place, we cannot negotiate with anybody. So we appoint the conferees today, and I hope we will get a unanimous vote on that, and then we can argue it in conference, and, hopefully, the administration will engage.

But I might add that the substitute put up by my friend, the gentlewoman from California (Ms. LOFGREN), was overwhelmingly rejected by this White House when it was put up before. The members of the Year 2000 Coalition, many of the members in her own district, did not support that legislation. And if that is the basis for a compromise, that is not a compromise at all.

Mr. GOODLATTE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I congratulate him for his fine efforts on this, and my friends on the other side of the aisle who have worked on this, and, of course, our lead sponsor, the gentleman from Virginia (Mr. DAVIS), who has been working long and hard on it.

Let us look at what it is we are trying to address. Y2K litigation reform is about one thing and one thing only, and it is about keeping our economy strong. We have to take a close look at where we have been on this Y2K litigation reform issue. I began working on it over a year ago. So what is it that has now happened? The House passed a very solid, bipartisan, comprehensive bill. And again, I underscore the fact that it was reported out of this House with bipartisan support.

The Senate passed a bill that is unquestionably weaker than the House bill. It is the Dodd-Wyden-McCain bill. It is not a Republican bill. And, in fact, it is really a bare bones bill when we get right down to it. Finally, we have we have what is known as the Kerry proposal, which industry groups unanimously agree is so weak that it would not help to alleviate the Y2K litigation concerns out there. In fact, it failed miserably in both the House and the Senate. And the main reason for that is that those individuals, those companies, those engineers, those technicians who are trying their doggonedest to find a solution to the Y2K problem are, in fact, not helped at all with any kind of relief if we were to go ahead with the Kerry proposal.

So I want very much to see the President sign an effective bipartisan Y2K litigation reform bill, even if it is not exactly what we did here in the House, which is the measure that I support most strongly. We are, in fact, on this side, looking forward with what I believe is really a spirit of compromise. I sincerely want to see us do that. In fact, I am not one of those who is a proponent of gross politicization of this issue. Why? Because we have a very serious potential problem out there, and uncertainty is very great.

So as we have actually said since day one, we want to address the Y2K concerns just as quickly as possible. And that gets to the point that was just discussed between my friends on this side of the aisle and the other. We have that letter that was just referred to by the gentleman from Virginia (Mr. GOODLATTE) where the Coalition talked about a July 4 date. We want to move quickly. In fact, one of the jokes was that we might come up with some kind of Y2K litigation reform by 2001. Obviously, that would be way too late. We have been working for 6 months on this measure. And with uncertainty out there, I think everyone can agree that it is our desire to move just as quickly as we possibly can.

This legislation has, in fact, been working its way through what has been a very open legislative process in both Houses over the last several months. The compromise that was reached in the Senate was the product of very, very long and hard bipartisan efforts that were launched. Again, it is not a Republican bill that passed over there. It is a bill that has people like our former colleagues, Mr. WYDEN and Mr. DODD, working with Mr. MCCAIN. So it is itself is a bipartisan measure.

In many ways, and this is the argument that we are making, the bill that did pass the Senate is what could really be considered a conference compromise. But what we have said is that there are some concerns that do need to be addressed, and so what we are doing here today is we are moving to go ahead with the conference. We want very much to do that.

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

Mr. DREIER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to commend the chairman of the Committee on Rules for what he said here, because his remarks have underscored what I think we are saying: compromise.

We have to move to another position. We can do it. A week or so would be adequate. And I am just putting that on the table. But the whole point is that the gentleman is right. A legislative process that ends in a veto would be a huge setback, and that is what I think the Coalition was trying to tell us in the letter.

Mr. DREIER. Mr. Speaker, reclaiming my time, I thank my friend for his contribution, and let me just say that I think a veto would be a veto of what really is a bipartisan compromise. And we have to recognize that what has emerged from the other body is not a Republican bill. And again, what emerged from this body was not a Republican bill, it was a bipartisan measure.

Trying to find that balance between something that is strong enough to ensure that those who are looking for a solution are in a position to address it and, at the same time, addresses the concerns of others is the wisest thing we could do. We need to move ahead with a streamlined, bipartisan compromise, and I think we have got it in the Senate with a couple of minor modifications.

So I wholeheartedly support this effort to go to conference.

□ 1300

Mr. CONYERS. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Michigan (Mr. CONYERS) has 15 minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 11 minutes remaining.

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

Mr. Speaker, I still commend the chairman of the Committee on Rules. I just wanted to caution him that a couple of things remain, and they may not be tiny. Joint liability, class action, and punitive action do not sound like small issues that can be resolved easily or quickly. That is why we want to move forward, and that is why we come to my colleague and support this motion.

We want conferees appointed. We want to begin our work. But it seems to me not totally accurate to say that the administration has not been involved in the process. They have not been silent. They have been working with us. The high-tech community says that they want us to work together to resolve the differences.

I want to conclude before July 4, but I would rather conclude with something we can take back to both bodies if it takes a little longer than that then to end up in a veto position. We do not want to serve up veto bait. I think the warnings of the administration's representatives have been pretty clear in that regard.

I hark back to this letter that has been re-interpreted here. ''A legislative process,'' this is the Year 2000 Coalition, ''that terminates in a veto would be viewed as a complete failure.'' I could not agree more. And I think we are all in agreement with that.

So let us get to it, gentlemen. Let us roll up our sleeves and let us start moving along.

Let me pose this question to the gentleman from Virginia (Mr. GOODLATTE). Are the issues of joint liability and class actions and punitive damages really on the table, or are these issues really not on the table and we are going to end up with the Senate bill minus Hollings? Because it seems to me that is the heart of how we move forward and make sure there is no impasse.

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

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

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding.

Everything is on the table before we go to conference. I will, on my own time in a moment, address the efforts that have been made to take into account the input that the administration claims to seek with regard to that.

Mr. CONYERS. Mr. Speaker, reclaiming my time, can the gentleman assure us that the conference will have a serious discussion on these three items? Because I know everything is on the table, but not everything is in dispute.

Mr. GOODLATTE. Mr. Speaker, if the gentleman would further yield, surely there are differences between both the House and the Senate on those two items. So, therefore, there will have to be some discussion with regard to the final disposition of the legislation.

Mr. CONYERS. Mr. Speaker, then will we be able to negotiate not only with ourselves but with the administration on these subject matters?

Mr. GOODLATTE. Mr. Speaker, it is my hope that we will have input from the administration.

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

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

Mr. Speaker, I am pleased to work with the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. LOFGREN) on this issue. I will say to them that I appreciate their concern about the administration's input but, quite frankly, their concern exceeds the concern of the administration.

Let me just point out a few things. First of all, I have had the honor of managing this bill both in the Committee on the Judiciary and on the floor of the House, and to this day I have not received one contact, one communication from the administration with regard to this legislation.

The gentleman from Virginia (Mr. DAVIS) is the principal sponsor of the legislation and he has never received one bit of input from the administration. I checked with my staff to see if perhaps the staff was contacted. Neither my legislative director nor the committee staff has been contacted by the administration to give their input on this legislation.

In fact, the only contact with the administration regarding their input came from the committee, because the committee contacted the administration and invited them to testify before the Committee on the Judiciary, and they declined our offer to have a representative of the administration come and testify before the committee and have input with the committee regarding this.

So while I know the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. LOFGREN) are sincere in their desire to have input from the administration, I certainly hope that the administration's statements regarding this legislation contain the sincerity to work out this problem and address Y2K in a manner that immediately puts to work the Nation on solving the problem rather than setting up a massive problem with litigation.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

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

Mr. DAVIS of Virginia. Mr. Speaker, let me ask my friends, the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. LOFGREN), we are talking about compromising, but from their perspective, not the administration's, are they willing to support the Senate bill, basically the outlines, the parameters of the Senate bill in terms of concept, particularly in mind with punitive damages caps, or is that too far for them?

Mr. CONYERS. Mr. Speaker, if the gentleman would yield, the problem is that framework that the President has said that he would veto.

Mr. DAVIS of Virginia. Mr. Speaker, if the gentleman would continue to yield, so my colleagues would not support it because the President would not support it?

Mr. CONYERS. Mr. Speaker, let me ask the gentleman, can we negotiate with the administration? Maybe they were talking to so many staff that they did not know that the staff of the gentleman was not there.

Mr. DAVIS of Virginia. Mr. Speaker, let me just say to the gentleman, they know how to reach me. They know my interest in this.

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, let me say that while the administration has not contacted us, they have put out into thin air their administration's Statement of Policy, which we have carefully reviewed. In fact, they put out two, one

prior to the House legislation and one prior to the Senate legislation. We have carefully studied these statements, and I can tell my colleague that the overwhelming majority of the principles outlined by the President are contained in either the House bill or the Senate bill or both.

And so, if the President is intent upon vetoing this legislation because of the few small remaining matters that are not addressed in either the House bill or the Senate bill, I think there is a great deal of disingenuous behavior on the part of the administration if that is the case.

Mr. DAVIS of Virginia. Mr. Speaker, would the gentleman yield for just a comment?

Mr. GOODLATTE. I yield to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Speaker, it seems to me that we could be helped by our friends on the other side if instead of representing the administration they would represent their constituents and urge the administration to work towards signing a bill instead of trying to give them cover and not voting for a bill unless they approve it. I think that is what our constituents are telling me, let us put forward that. And if the administration wants to come in, we are open to negotiate even at this late hour even though they declined to come to the hearings and testify and have declined to notify and talk to our offices.

Mr. GOODLATTE. Mr. Speaker, the gentleman makes a very good point. But let me point out the things that are in the Statement of Administration Policy that are contained in these bills.

The pre-litigation procedures contained in the legislation are compatible with the pre-litigation procedures outlined in the Statement of Policy. The pleading requirements are compatible. The class action, with the exception of the point regarding class action remedies, should be retained and State courts should continue to hear State class actions, in point of fact, States will continue to hear State class actions. It is only class actions that involve a Federal class that would be changed. The duty to mitigate damages that they set forth, that is contained in either the House or the Senate or both.

The contract interpretation provisions are the same in the House and the Senate or both. The joint and several liability they have expressed in their statement support for change from the traditional joint and several liability to proportionate liability. They expressed some concerns about the House version. Those are addressed in the Senate version. The economic loss issue is addressed in either the House or the Senate or both.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

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

Mr. DAVIS of Virginia. Mr. Speaker, let me just say I want desperately to work something out with the administration and that has been our goal from day one. But I am not going to surrender principles, and I am not going to surrender on issues the point that we are not passing any legislation at all that does any good to the people we are trying to help. I cannot do that in good conscience.

I would rather, under those circumstances, let my constituents know I did my best to help them and the President vetoed them than to come up with nothing. But we are willing to compromise our goal. Our goal and our hope is that we can work something out in this. But time is very, very short. We have been playing a delay game now for months. It cannot go on much longer. The conference will start. I hope they will address the conference, give their input, and we can work something out. But if not, we have got to move ahead.

Mr. GOODLATTE. Mr. Speaker, I yield to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I just want to make this point. I think sometimes we rush and abbreviate and then we end up paying for it down the road.

Looking back, I know it certainly was not the fault of the gentleman from Virginia (Mr. GOODLATTE) because he and I had a private discussion on this, but the draft of this legislation was not available for very long before the Committee on the Judiciary went into markup. There was one business day between Judiciary markup and being in the Committee on Rules.

So we rushed it through. We could have gotten I think better input had we taken more time. That is history now. We cannot undo it. But I think that if we take the time at this point, we will be able to resolve these issues.

As I said, we put together an alternative. It got 190 votes. But I am not wedded to that. I have got very favorable feedback from CEOs in Silicon Valley on that effort. But it is not perfect. And there are ways to make that better or to make the Senate bills better. But we need to think outside the box. We cannot just be controlled by the Senators' names on which bills. It is think outside the box. It is think in terms of the functionality of relief that is required, and we will get there.

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, I hope that we do have a substantive conference that considers the House bill, which I think is a very strong bill. I was pleased to work with the gentleman from Virginia to craft it and see that it got through the House with a strong bipartisan vote. The Senate bill, while it does not go as far as I would like to see the legislation go, is a bill that I certainly can work with Senator MCCAIN and other representatives of the Senate, and we certainly want to have that input from the administration.

The only issue that I have not mentioned yet with regard to the broad subjects of this bill is the cap on punitive damages. It is clear the administration does not like the House bill. The Senate version is considerably watered down from the House version. So between the House bill and the Senate bill there is a lot to work with to enable us to come up with a very, very good bill; and we welcome the administration's input as we work to come up with that.

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

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

Mr. Speaker, just a couple corrections. One is that the White House has communicated to every member on the committees and the leadership, indeed every Member in the House. So they have not heard back. If my colleagues have not communicated with them, I mean these letters are to initiate communication. So that the communication may have been one way, but it certainly is not the White House's responsibility after they have reached out.

Secondly, the Department of Justice sought to testify in the House Committee on the Judiciary and they were put in a very difficult position and were not able to do that.

So it is not the White House that has not been out of communication. But that is not the issue here today. What we are talking about is whether or not the questions of joint liability, class action, and punitive damages caps are really on the table.

I think I have heard from the Members on the other side of the aisle that they are. If they are, we are all set to take care of the real problems. And if we do that, we will be able to take care of a conference that will, I think, reflect confidently and positively on both Houses.

The main thing that we want to do is not end up in a situation where we have ignored one branch of Government that would force them into a veto situation. And that is the only reason I am mentioning them today in this debate.

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

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Virginia (Mr. MORAN) from the other side of the aisle to close the debate for us.

□ 1315

Mr. MORAN of Virginia. Mr. Speaker, I would hope that when we get into conference, that we support as much as possible the principal elements of the House bill, because the House bill makes common sense.

A special committee of the American Bar Association was put together to

look at the potential Y2K litigation. They concluded that the potential cost of litigation on Y2K could be more than asbestos, breast cancer implants, tobacco and Superfund combined. They concluded that the litigation cost associated with Y2K could be as much as $1 trillion.

Now, if the cost of fixing the problem is only a small fraction of that $1 trillion, do we not have a responsibility as representatives of the American people to try to fix the problem, to avoid injuries, damages, problems before they occur? We do not want to wait, do we, until January 1st of the year 2000 and then get into a long, extended legal battle in every part of our economy and our society? We have a responsibility to fix the problem.

When we talk about punitive damages, basically the lesson is, ''Go and sin no more.'' That is the lesson we want to tell people. But the fact is, this is a one-time occurrence. The same rules do not apply. We have got one serious situation and it arises by virtue of the fact we are in a technology revolution, things have changed, we have got to get over this change in dates. We can do it, we can do it responsibly, we can avoid spending $1 trillion to accomplish nothing, or we can do the people's will and prevent problems before they occur.

Let us do the right thing. I would hope we would get a conference report that would resemble the House bill as much as possible.

Mr. CONYERS. Mr. Speaker, I yield myself 45 seconds to ask my friend from Virginia if he supports the principle of compromise that we have argued, that all parties, not just the House and the Senate, but the White House, too, has to indulge in for us to accomplish our goal? This is where we are at now.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

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

Mr. MORAN of Virginia. I totally agree with that, but I think the gentleman also agrees, our job is not to pad the pockets of the trial lawyers but it is to prevent problems from occurring and to ensure that we represent what is in the best interests of the American economy and the American society. Sometimes there is a conflict between those two. But I agree with what the gentleman said, and I hope that we can be in agreement when the conference report comes back on the floor.

Mr. CONYERS. I tell the gentleman that that is absolutely not in contention now. I am just hoping that he can support the Conyers-Lofgren motion to instruct which is about the compromise around three major issues that are still out.

Mr. MORAN of Virginia. The answer is yes, I think we all will and we all should.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I just would note that the gentleman from Virginia mentioned the study done by the American Bar Association on the potential exposure of the American economy to litigation, and I think that is a serious issue. That is why we are all here. But I would note that, I think all of us received a copy of the letter sent by the American Bar Association to the President yesterday pointing out that the ABA opposes both the Senate bill and the House bill and this letter details the reasons why.

One of the issues that is in contention has to do with federalizing all the class actions relative to Y2K litigation. The Chief Justice of the United States Supreme Court opposes that, and I think he knows how Federal courts work and how our court system works. So these are serious issues. They need to be addressed, they need to be remediated, and they can be.

I have been in communication, as I have mentioned, with many, many of my constituents in Silicon Valley who are interested in this issue. Some of the issues in the Senate bill are meaningless to them, it is not important to them in terms of resolving things. Some of the issues are important. For example, joint and several liability is a very important issue and does need to be addressed.

I will say this, that the White House has moved from no change in joint and several liability to the possibility of change in joint and several liability, but I would also note that there are five or six different ways to deal with that issue, all of which would resolve the problem for high tech. And so it is that kind of approach we are going to need, thinking outside the box, and applying solutions to problems rather than embracing bills that have been drafted and are in play.

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

In conclusion, we have made it clear that, first of all, we want everyone to support the Conyers-Lofgren motion to instruct. Secondly, if we want a bill, then we will resolve these outstanding issues. Everyone has spoken in the spirit of compromise. The question that this motion poses is which road we will take. Are we going to engage in serious, sincere negotiation which will result in a bill in a week or so or an insincere process that will lead to the finger-pointing that will be inevitable with a veto?

I urge my colleagues to support the motion to instruct.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS).

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

Mr. CONYERS. 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 426, nays 0, not voting 8, as follows:

[Roll No. 253]

YEAS—426

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
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
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
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 (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee

Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
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
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
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)

NOT VOTING—8

Brown (CA)
Clement
DeLay
Ehrlich
Gilchrest
Kasich
Rogan
Towns

□ 1343

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. HYDE, SENSENBRENNER, GOODLATTE, CONYERS, and Ms. LOFGREN.

From the Committee on Commerce, for consideration of section 18 of the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, OXLEY, and DINGELL.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1658, CIVIL ASSET FORFEITURE REFORM ACT

Ms. PRYCE of Ohio. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 216 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 216

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. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the bill modified by the amendment recommended by the Committee on the Judiciary now printed in the bill. Each section of that amendment in the nature of a substitute shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by Representative Hyde or his designee, may amend portions of the bill not yet read for amendment, and shall be considered as read. No further amendment to the amendment in the nature of a substitute made in order as original text shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and 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 amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1345

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

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 216 is a modified, open rule providing for the consideration of H.R. 1658, the Civil Asset Forfeiture Reform Act.

The Committee on the Judiciary reported the bill by a bipartisan vote of 27-to-3, which demonstrates the broad support this legislation has garnered across the ideological spectrum.

The list of organizations that have endorsed H.R. 1658 ranges from the Eagle Forum, Americans for Tax Reform, and the NRA, to the National Association of Criminal Defense Lawyers, the American Bar Association, and the ACLU.

Despite this broad support, there are some who feel that this legislation may go too far, and the rule accommodates these concerns by providing ample opportunity to debate and amend the bill.

Under the rule, 1 hour of general debate will be equally divided among the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill and, for the purpose of amendment, the rule makes in order the amendment in the nature of a substitute modified by the amendment recommended by the Committee on the Judiciary, which is now printed in the bill.

First, it will be in order to consider an amendment printed in the Committee on Rules report, which may be offered by the gentleman from Illinois (Mr. HYDE) or his designee.

The Hyde amendment clarifies that the bill applies only to civil asset forfeiture, not criminal asset forfeiture. Few dispute that it is proper for the government to seize the yachts, planes and mansions of convicted drug dealers who finance their possessions with illegal drug money. Therefore, the bill does not alter the law with regard to criminal asset forfeiture.

What H.R. 1658 seeks to address are the abuses of civil asset forfeiture law, where the government can seize the

property of a person who may never be accused of any crime or wrongdoing. The Hyde amendment makes the focus of this bill unmistakably clear.

After consideration of the amendment of the gentleman from Illinois (Mr. HYDE), the rule allows the House to debate and vote on any amendment, as long as it has been preprinted in the CONGRESSIONAL RECORD and complies with the Rules of the House.

To ensure the orderly and timely consideration of H.R. 1658, the Chair is given the option of postponing votes and reducing voting time to 5 minutes on postponed questions, as long as the first vote in the series is a 15-minute vote.

Finally, the rule provides the minority with the option of offering a motion to recommit with or without instructions.

Mr. Speaker, American citizens hold dear the protections they are afforded under our Constitution. Sometimes, we take these rights for granted, but we are quick to identify violations of the principles that serve as a foundation of our system of justice and government.

Our current civil asset forfeiture laws, at their core, deny basic due process, and the American people have reason to be both offended and concerned by the abuse of individual rights which happens sometimes under these laws.

Today, the government may seize the assets of any individual if there is probable cause to believe that these assets have been part of some illegal activity. Strange as it may sound, the legal tenet behind this process is that it is the property that is being accused, not the person. That means that even if there is no related criminal charge or extra conviction against the individual, the government may confiscate his or her property. And the current law gives little consideration to whether the forfeiture of the property results in a mere inconvenience to the owner, or jeopardizes the owner's business or very livelihood.

All that is required of the government is a demonstration of probable cause, an unreasonably low standard of proof, given the fundamental property rights at stake. Then the burden shifts to the property owner, who may have done nothing wrong and may have absolutely no knowledge of any crime to prove that his property is not subject to forfeiture.

To reclaim his property, the owner must overcome a number of obstacles that turn the principles of presumed innocence on its head.

To contest a seizure of property, the owner must come up with $5,000 or a 10 percent cost bond, whichever is less. This serves little purpose other than to discourage individuals from seeking justice, and may even preclude low-income folks or those who have been made poor by the seizure of their assets altogether.

Then, if the owner can come up with the money and afford to hire a lawyer, he has the burden of proving, by a preponderance of the evidence, that his property is ''innocent.'' And again, under current law, if the owner succeeds in reclaiming his property, the government owes him nothing for his trouble; no apology, no interest, no compensation, nothing whatsoever.

H.R. 1658 would put into check the possibility of government to unintentionally trample over the rights of innocent citizens in its rightful pursuit of the criminal element in our society.

Again, this bill does nothing to prevent the confiscation of assets owned by convicted criminals. It applies only to civil asset forfeiture in an effort to restore due process for law-abiding citizens who are not accused of doing any wrongdoing.

The bill includes eight reforms to restore fairness to the law.

Under H.R. 1658, if a property owner challenges a seizure, the burden would be placed on the government to prove by clear and convincing evidence that the property is ''guilty'' and is subject to forfeiture. In cases where the confiscation of property imposes substantial hardship on a citizen, judges would have the flexibility to release the property before final disposition of the case. Judges also would be able to appoint counsel for indigent citizens in civil forfeiture proceedings to ensure that the poorest in society are protected from the government's exercise of power. In addition, property owners would no longer have to file a bond, and they could sue if their property is damaged while in the government's possession.

The bill also provides for interest payments to a property owner who is successful in winning his money back.

Other reforms would increase the time period during which a citizen may challenge civil forfeiture and provide a uniform defense for innocent owners who knew nothing of the illegal use of their property or did all that they could reasonably do to prevent it.

Mr. Speaker, these are reasonable reforms that bring the scales of justice closer to balance and to protect the rights of Americans. For those who disagree, the rule provides an opportunity to debate the finer points of the law and amend the legislation, if it is the will of this House.

I look forward to today's debate, and I hope my colleagues will give serious consideration to the fundamental issues of fairness that this legislation embodies. I urge the swift passage of the rule so that the House may proceed with the bill's consideration.

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

Ms. SLAUGHTER. Mr. Speaker, I thank my good friend, the gentlewoman from Ohio (Ms. PRYCE) for yielding me the customary time, and I yield myself such time as I may consume.

Mr. Speaker, while I generally support this rule, I do not support the requirement that amendments to this bill must be preprinted in the CONGRESSIONAL RECORD. We offered an amendment in the Committee on Rules to delete this provision from the bill, but it was defeated.

I am concerned that there seems to be an increasing pattern on the part of my friends on the Committee on Rules majority to report rules which allow only those amendments which are preprinted. This may be helpful to the committee of jurisdiction in preparing for the floor, but it can be troublesome to the rest of the House Members who are then limited in their opportunities to contribute their ideas to the overall debate. A truly open rules process does not limit the offering of amendments in this way.

The Civil Asset Forfeiture Reform Act, H.R. 1658, gives people whose property has been seized by the Federal Government because of alleged connection to criminal activity improved chances to recover that property.

To some degree, we are today attempting to amend the law of unintended consequences, a law of nature which usually applies in situations where apparent only through the luxury of hindsight.

Civil asset forfeiture in its current form was created to fight the war on drugs. Law enforcement officials have reported that civil asset forfeiture is one of law enforcement's most effective tools and have expressed concern that H.R. 1658 would impair the ability of law enforcement to deprive criminals of the proceeds of their illegal activities, and I hope that an amendment will pass today that will satisfy the concerns of law enforcement.

However, in recent years, many have complained that the government's authority to seize property has been used excessively and has resulted in abuse suffered by innocent property owners.

Civil assets forfeiture differs from criminal assets forfeiture in that criminal forfeitures are part of a criminal proceeding against a defendant, and the verdict of forfeiture is rendered by a court or jury only if a defendant is found guilty of the underlying crime.

In contrast, civil asset forfeiture focuses on property connected to an alleged crime. The government targets the property, and because the property itself is the defendant, the guilt or innocence of the property owner is said to be irrelevant.

This bill requires the government to prove by clear and convincing evidence that the property confiscated was subject to forfeiture because of illegal misuse. Under current law, the burden of proof lies with the person whose property was seized, and the government has only to show probable cause that the property is subject to forfeiture.

Under the bill, an owner would not be required to forfeit property at the time of the illegal conduct if the person did not know of the conduct giving rise to forfeiture; or, if the property owner did all that he reasonably could to keep the property from being used illegally. The bill requires the Federal Government to give 60 days written notice when confiscating private property.

Under the bill, a person would also be entitled to the immediate release of seized property if continued possession by the government would cause substantial hardship, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless.

Moreover, the bill provides financial damages to be paid for the destruction, injury or loss of goods or merchandise while forfeited property is in the government's possession.

As was pointed out during the hearing in the Committee on Rules hearing, this bill is sponsored by the members of the Committee on the Judiciary on both sides of the aisle who often represent divergent points of view. The fact that they are in concert regarding this measure favorably commends it to the House.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arkansas (Mr. HUTCHINSON), a member of the Committee on the Judiciary.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I want to express my support for this rule which allows consideration of the base bill, but also a substitute bill that has been offered by myself, the gentleman from New York (Mr. WEINER) and the gentleman from New York (Mr. SWEENEY). This substitute that is being offered is drawn from the provisions of a bill that passed out of the Committee on the Judiciary last year that was supported by both the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary, and the gentleman from Michigan (Mr. CONYERS), the ranking member of that committee, and the Justice Department.

□ 1400

It was a compromise proposal that accomplished significant reform, but also did not do damage to the legitimate interests of law enforcement. So that is the essence of the substitute that will be considered under this rule.

I want to take this opportunity to extend my appreciation to the gentleman from Illinois (Chairman HYDE) for his leadership on this critical issue. Certainly in our society we know there is need for reform, so he has led the fight on that. This substitute I believe improves on the effort that he is trying to accomplish in a way that is consistent and balances the interests of law enforcement.

Some of the things provided in the substitute include very similar provisions to the base bill in terms of protecting our citizens. It includes eliminating the cost bond, it includes reimbursing claimants for damage the government might do to an innocent person's property. Most importantly, it shifts the burden of proof to the government in an asset forfeiture case, and it also provides paying of interest on assets that are returned.

So there are many similarities and significant reform, accomplished both in the substitute and the base bill. But there are some significant differences as well.

The first one and probably the most significant is the burden of proof. The substitute that is offered continues to ensure that the government bears the burden of proving that the property has been used in illegal activity, but maintains the same standard of proof as in all civil cases, which is a preponderance of the evidence.

Let us examine the distinction, here. If the standard of proof is clear and convincing, then there will be cases in which the government can show by the weight of the evidence that the money was used in criminal activity, but yet the criminal will be able to maintain those assets. I believe that is fundamentally wrong.

The greatest problem with the high standard of proof, clear and convincing standard, is whenever there is that sophisticated international money laundering on behalf of the south American drug cartels. Such schemes invariably involve shadowy transactions through bank secrecy jurisdictions conducted by shell corporations claiming to be in the travel, import-export, or money remitting businesses.

Most of these cases are dependent upon circumstantial evidence, so it would be difficult to prosecute to obtain those assets with such a standard that is unusual in ordinary civil cases.

The American people certainly want fairness in their forfeiture laws, but they do not want to grant extraordinary protections to the financial henchmen of the drug lord. So that is the distinction.

Another one is in reference to appointment of counsel. The Department of Justice undertakes 30,000 seizures a year, most of them in drug and alien smuggling cases. The base bill authorized the appointment of counsel in all of those cases, at taxpayers' expense. For anyone who asserts an interest in the seized property, the potential for abuse is clearly there.

The substitute continues to allow for the appointment of counsel, but with greater safeguards to eliminate that abuse.

There are other distinctions in there. The innocent owner defense is somewhat different in the substitute language. The base bill provides that when there is an innocent owner, and there are de facto innocent owners who are bona fide purchasers, and those also who receive the property through probate. We see that as a problem. The substitute maintains that innocent owner defense but ensures that the provision will not be used by criminals to shield their property through sham transactions.

For example, the probate provision would allow a drug dealer to amass a large fortune, and then to transfer that by his will to his criminal cohorts or his mistress, and upon his death, if he has died in a shootout or an arrest, then it would transfer without being able to to be seized, even though it is clearly the result of drug trafficking. So that is fundamentally wrong, and the substitute would correct that problem.

There are a number of other distinctions, Mr. Speaker, in the base bill and the substitute that is being offered, but we believe that the rule is fair that allows this. It would allow a fair debate on this.

I will point out that law enforcement has expressed concern in the base bill, from the Drug Enforcement Administration to the International Association of Chiefs of Police. So I would ask my colleagues to support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman from New York for yielding time to me.

Mr. Speaker, I rise to indicate that on our side we support the rule, a modified open rule, and urge its support by all the Members. We want to try to proceed to general debate and the amendments, and hope that this measure may terminate and be concluded in final passage by this evening.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, let me reiterate that the criteria does nothing to undermine laws that allow for the confiscation of property in the case of a convicted criminal. Instead, the bill focuses on the potential abuse under civil forfeiture laws when a property owner may not be accused of any crime or wrongdoing.

The reforms in the bill protect the rights of innocent citizens to basic due process. The bill has the support of numerous organizations who span the ideological spectrum, but if my colleagues do not share the views of this broad coalition, they are free to offer amendments under this fair rule.

Every Member of the House should support this rule, which provides for a

full and fair debate on civil asset forfeiture reform in the interest of restoring fairness to our system of justice. I urge a yes vote on the rule.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HYDE. 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 material in the RECORD on H.R. 1658.

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

There was no objection.

CIVIL ASSET FORFEITURE REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 216 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. 1658.

□ 1406

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. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

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

Mr. Chairman, about 6 years ago I was reading a newspaper and I read an op ed article in the Chicago Tribune explaining a process that goes on in our country, and I must tell the Members, I could not believe it. I thought that over 200 years we had ironed out what due process meant, what equal protection under the law meant. But I found out that there are corners in our legal proceedings into which light needs to be shed. One of them concerns civil asset forfeiture.

There are two kinds of forfeiture, criminal asset forfeiture and civil asset forfeiture. What is the difference? The difference is in criminal asset forfeiture you must be indicted and convicted. Once that happens, the government then may seize your property if your property was used, however indirectly, in facilitating the crime for which you have been convicted.

You are a criminal, you are convicted, and they seize your property. I have no problem with that. I think that is useful in deterring drug deals and extortionists and terrorists. I have no problem with criminal asset forfeiture.

But the other type is civil asset forfeiture. That is a horse of a different color. In civil asset forfeiture, the government, the police, the gendarmes, can seize your property upon the weakest, most flimsy, diaphenous charge, probable cause. Probable cause will let you execute a search warrant or maybe frisk somebody, but no, they use probable cause as the basis to seize your property. I do not just mean your roller skates, they can take your business, they can take your home, they can take your farm, they can take your airplane. They take anything and everything premised on the weakest of criminal charges, probable cause.

What is also unbelievable is that unless you take action in court, you cannot get your property back. They do not have to convict you, they do not have to even charge you with a crime, but they have your property because they allege probable cause.

How do you get your business back, your home back? You go to court, you hire a lawyer, you post a bond, and then you have to prove within 10 days, you have 10 days to do all this, you have to prove that your property was not involved in a crime. In other words, you prove a negative.

I do not know how you do that. I have been a lawyer since 1950, and I do not know how you prove that something did not happen. But nonetheless, that is the burden now. Under our jurisprudence, the burden of proof should be with the government. If you are guilty of anything, then prove it. The standard is beyond a reasonable doubt in a criminal case.

So what we are asking is to turn justice right side up, to switch the burden of proof from the poor victim, who has been deprived of his property and not convicted of anything, to the government, who has seized this property.

Now, may I suggest there are some incentives for some police organizations not to do this, because they share in the proceeds of the seized property. It is like the speed trap along the rural highway where the sheriff waits for us, takes us to a magistrate, and his salary is paid out of the fines he levies against us. We do not have a very great chance at equal justice.

That is the situation here. Civil asset forfeiture as allowed in our country today is a throwback to the old Soviet Union, where justice is the justice of the government and the citizen did not have a chance.

So I suggest we remedy this, and that is what we are trying to do.

The bill before us makes eight changes. First, the burden of proof goes to the government, where it belongs.

Secondly, the standard is clear and convincing. The reason it is not a mere, simple preponderance is that this is quasi-criminal. They are punishing you when they have taken charge of your assets and of your property.

The next thing it does, it permits the judge to release the property pending the disposition in case a hardship exists and you are out of business or you have no place to live.

The third thing is the court can, in an appropriate case, appoint counsel. That is important if you are broke, if they have taken your property. You need help, you cannot afford a lawyer. The reason some organizations resist appointing counsel is because if you cannot get a lawyer, you cannot file a claim, so the forfeiture stands. You have a disincentive, you are discouraged from filing a claim because you cannot pay for a lawyer.

We also eliminate the bond, and I am happy to see that the gentleman from Arkansas (Mr. HUTCHINSON) eliminates the bond, too.

Our bill provides an innocent owner defense which is uniform across the country. If you own something and somebody else performed a crime in it or with it, and you are perfectly innocent and that can be established, that is a defense. You can sue the government under my bill if they destroy your property, and you can get interest if they have held your cash, and you can have 30 days to file your claim, not 10 or 20.

Lastly, let me just say this. This bill puts civil liberties and due process back in our criminal justice system. I am so delighted at the sponsors of this bill, both Democrats and Republicans, liberals and conservatives.

I am also delighted at the organizations that have endorsed it: The American Bar Association, the National Rifle Association, the National Association of Criminal Defense Lawyers, the American Civil Liberties Union, Americans for Tax Reform, the National Association of Realtors, the Credit Union National Association, the American Bankers Association, National Association of Home Builders, and on and on; the U.S. Chamber of Commerce. There is the widest possible spectrum of support for this reformation of our civil asset forfeiture laws.

I beg Members to listen carefully and join me in this essential reform.

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

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

Mr. Chairman, to the Members of the House of Representatives, I would like Members to understand that there is wide, wide support not only in the committee but among organizations for reforming civil asset forfeiture.

□ 1415

When we bring together the gentleman from Illinois (Mr. HYDE), chairman of Committee on the Judiciary, myself, the ranking member, the distinguished gentleman from Massachusetts (Mr. FRANK), and the gentleman from California (Mr. FARR), then we have a combination that covers, I think, the entire political philosophical spectrum of the Congress.

When we bring also the American Civil Liberties Union, the Criminal Defense Lawyers, the United States Chamber of Commerce, the Cato Institute, and the National Rifle Association, we have a combination of organizations that I think they come together every 10 years on a legislative agreement.

But it is wide, it is deserved, it is merited only because we have now found a process that is so abominable that it must be corrected, and we are very proud to have this wide array of philosophical views joining behind the Civil Asset Forfeiture Act, H.R. 1658.

Would my colleagues believe that, under current law, the government can confiscate an individual's private property on a mere showing of probable cause and then, even though the person may never have been convicted of a crime, require the person to file an action in Federal court to prove that the property is not subject to forfeiture in order to get the property back?

Well, that is the state of the law. There is no question that forfeiture laws, as Congress has intended to serve legitimate law enforcement purposes, and in the greater instances, they do, but they are currently susceptible to abuse and abuse that this measure proposes to correct.

There is also a problem for racial minorities. For example, a 10-month Pittsburgh Press investigation of drug law seizure and forfeiture included an examination of court records on 121 sole suspected drug courier stops, where money was seized and no drugs were discovered.

The Pittsburgh Press found that African-American, Latino, and Asian persons accounted for 77 percent of these arrests. So this bill before us today, the Civil Asset Forfeiture Act, seeks to change this and to make Federal civil forfeiture laws more equitable in a number of ways.

First of all, we change the burden of proof. Very few places in our law other than this, if any, require that the person coming in carry the burden of proof. Well, not so in forfeiture law. So if a property owner challenges a seizure, we want the government to prove by clear and convincing evidence that the property is subject to forfeiture. There cannot be any problems with that.

Now it is just the reverse. The government comes in, and the person seized has to prove that the property should not have been seized. This provision that we correct places the burden of proof where it historically belongs under United States jurisprudence within the government agency that performed the seizure. It protects individuals from the difficult task of proving a negative, in other words, that their property was not subject to forfeiture, which may be pretty hard to prove.

Secondly, I think it is important that the bill provide for the appointment of legal counsel if the person challenging the forfeiture is indigent or cannot otherwise afford proper legal counsel. What this provision does is simply recognize that legal representation is appropriate, indeed necessary, to defend against this type of deprivation of property.

Now, in determining whether or not to appoint counsel, the court must consider whether the claim appears to be made in good faith. Because if it is, they should get counsel. If it is not, they should not be provided counsel.

Third, the bill permits a court to provisionally return the seized property to the owner before the final adjudication is complete if the claimant can prove and demonstrate substantial hardship. Now this could occur, for example, if the forfeiture crippled the functioning of a business, which oftentimes is the case, prevented an individual from working, or left an individual homeless in the case of where homes are seized. Individuals lives and livelihoods should not be in peril during the course of a legal challenge to a seizure.

The next thing we do that I think commends the bill to the Members of the House of Representatives is that we create a uniform innocent owner defense against forfeiture to prevent people from losing their property because of the wrongdoing of others.

The presumption of innocence is fundamental to the American criminal justice system and should be in the case of civil asset forfeiture. This basic tenet, however, is seriously compromised whenever assets are confiscated, as they are now often seized under these forfeiture statutes without proof of wrongdoing by the owner.

The next thing that we do that I think should attract the attention and support of the Members is that we permit individuals who prevail in their forfeiture challenges to be able to sue the government if their property was destroyed or damaged, what could be more fair than that, while it was in government custody. It makes little sense to grant the right to reclaim the property only to find that it has lost all or half of its value.

The next item that is in this bill that I commend to the Members' attention is the requirement that the government pay successful claimant postjudgment interest as well as prejudgment interest on currency. This provision prevents the government from gaining a windfall on improperly seized property and puts the property owner in the position he or she would have been if the property had not been seized in the first instance.

The next thing that we do is eliminate the current requirement that a claimant must file a bond before challenging a forfeiture. This lifts a financial hurdle to filing a forfeiture challenge.

Finally, we expand the time to file a forfeiture challenge by 10 days from 20 to 30 days, giving additional persons time to learn about their rights and file a claim. We believe that this measure is long overdue in coming.

We have had a very thorough and fair hearing in the Committee on the Judiciary. Everybody is pleased about it. But I should warn my colleagues that a substitute may be offered that would expand the categories of crime, that would worsen the measure that is before us, expanding categories of crime subject to a civil forfeit, and includes a seize now, fish for evidence later provision that allows the government to hold the property with no evidence, and then use their powerful Federal civil discovery tools to seek more evidence to try to build their case.

So I would like to put our colleagues on notice that there is a substitute that would completely reverse the benefits of this bill. I urge Members, both Democratic and Republican, to join us in the bill that has the widest support both in and out of the House.

Mr. Chairman, I include the following document, entitled ''The Need for H.R. 1658: Recent Cases of Civil Asset Forfeiture Abuses of Innocent, Legitimate Businesspeople and Entities'' as follows:

THE NEED FOR H.R. 1658

RECENT CASES OF CIVIL ASSET FORFEITURE ABUSES OF INNOCENT, LEGITIMATE BUSINESSPEOPLE AND ENTITIES

Houston, Texas: Red Carpet Motel—Raise Your Prices or Else!

February 17, 1998, the U.S. Attorney's Office in Houston seized a Red Carpet Motel in a high-crime area of the city. The government's action was based on a negligence theory—that the motel owners, GWJ Enterprises Inc. and Hop Enterprises Inc., had somehow ''tacitly approved'' alleged drug activity in the motel's rooms by some of its overnight guests.

There were no allegations that the hotel owners participated in any crimes. Indeed, motel personnel called the police to the establishment dozens of times to report suspected drug-related activity. U.S. Attorney James DeAtley readily bragged to the press that he envisioned using current civil asset forfeiture laws in the same fashion against similar types of legitimate commercial enterprises, such as apartment complexes.

The government claimed the hotel deserved to be seized and forfeited because it had ''failed'' to implement all of the ''security measures'' dictated by law enforcement officials. This failure to agree with law enforcement about what security measures were affordable and wise from a legitimate

business-operating standpoint was deemed to be the ''tacit approval'' of illegality cited by the prosecutors, subjecting the motel to forfeiture action.

One of the government's ''recommendations'' refused by the motel owners was to raise room rates. A Houston Chronicle editorial pointed to the absurdity and danger of this government forfeiture theory against legitimate business: ''Perhaps another time, the advice will be to close up shop altogether.'' The editorial went on to make these additional, excellent points:

''The prosecution's action in this case is contrary not only to the reasonable exercise of government, but it contradicts government-supported enticements to businesses that locate in areas where high crime rates have thwarted development. Good people should not have to fear property seizure because they operate business in high-crime areas. Nor should they forfeit their property because they have failed to do the work of law enforcement. . . . *This case demonstrates clearly the need for lawmakers to make a close-re-examination of federal drug forfeiture laws.*'' . . . (emphasis added)

After more bad publicity all over Texas, in July 1998, the government finally released the motel back to the owners and dropped its forfeiture proceedings. It exacted a face-saving, written ''agreement'' with the motel owners. The agreement, however, in fact only put into words the security measures and goals the owners had already undertaken and those which it had always strived to meet.

The motel owners had lost their business establishment to the government's seizure for several months, suffered a significant loss of good business reputation, and were forced to spend substantial amounts of time and money on hiring an attorney and defending against the government's forfeiture action, which should never have been undertaken in the first place.

[Source: Houston Chronicle, Mar. 12, 1998 editorial and 1998 articles Dallas Morning News, 1998 articles (unreported case)]

San Jose, California: Aquarius Systems, Inc—Your Buyer, Your Assets!

October 28, 1998, a federal judge in San Jose, California finally granted summary judgment against the government in a civil forfeiture action, ruling that the government must return to Los Angeles-based Aquarius Systems, Inc. (aka CAF Technologies Inc.) the $296,000 it had seized from it 6 years ago. Aquarius and 4 other computer chip dealer companies had been accused of marketing stolen chips. Federal agents, who participated in this ''sting'' operation, then seized $1.6 million of the companies' chip-buying, operating money.

Unknown to Aquarius Systems, Inc., the buyer used by the company had been operating for his own profit, by purchasing chips for $50.00 each while reporting to his supervisors at the company a unit cost of $296.00 (which at the time was a reasonable price). (The buyer ultimately served a short sentence of conspiracy to buy stolen property.)

In his ruling ordering the government to return to Aquarius $296,000 of its seized operating money, U.S. District Court Judge Jeremy Fogel blamed the government for dragging its feet on due process, by tying up the company's operating assets for so many years. Ruled the Court: ''It is incumbent upon the government to institute civil forfeiture proceedings expeditiously.'' The judge then denied the government's motion for summary judgment against the company, and granted the company's motion for summary judgment against the government. The Court held that Aquarius Systems knew nothing about what its buyer was doing. As the judge noted, the company was unusual in its ability to stave off ruin from the government's seizure and forfeiture action, and in its ability ''to fight [it] for six years.''

[Source: The (California) Recorder, Nov. 17, 1998 article (unreported case)]

Chicago, Illinois: Family-Owned and Operated Congress Pizzeria—Restaurant+Money+3 Handguns=Forfeiture?

September 3, 1997, Anthony Lombardo, owner and proprietor of the family business, Congress Pizzeria of Chicago, was finally returned over $500,000 in currency improperly seized from his restaurant in early 1993. It took him over four years, and much expensive litigation, all the way to the federal court of appeals for the Seventh Circuit, before former U.S. Attorney and Chief Judge Bauer and his colleagues on the Court ordered the government to return Mr. Lombardo's money.

Based on the ''confidential informant'' testimony of Josue Torres, the Chicago Police Department conducted a search of Congress Pizzeria. Torres, a crack addict, had been employed as a truck driver for the restaurant up until a few months before he told his story to the police. He told the police that he regularly fenced stolen property at various places in Chicago in order to feed his crack cocaine habit, and that Congress Pizzeria was one of the places in which he did so.

On this, a warrant was issued to authorize police to search the pizzeria and to seize a camera, a snowblower, a television, and three VCRs, which are items the informant said he had sold to the sons at the restaurant. None of these items were found. During the search, however, the police did ''find'' and seize three unregistered guns, and $506,076 in U.S. currency.

The money was in a make-shift safe in the family-owned restaurant—a forty-four gallon barrel located inside either a boarded-up elevator or a dumb-water shaft (the record was somewhat unclear). It was wrapped in plastic bags and consisted of mostly small bills—such as might be expected from transactions by a pizzeria.

The owner's son, Frank Lombardo, was present at the time of the search. He was arrested and charged with possessing unregistered firearms (the guns at the restaurant). At the state court proceeding, the guns case was thrown out, because ''it was not apparent that the guns were contraband per se'' and ''the guns were seized prior to the establishment of probable cause to seize them.'' No other state or federal criminal case was every investigated or charged against the Lombardos or their pizzeria.

The federal government nonetheless moved to seize and forfeit the $500,000 ''found'' in the pizzeria, under current civil asset forfeiture drug laws. The government's theory of why this money was forfeitable as ''drug money'' was this: The owner's son, Frank Lombardo, was said to have been ''extremely distraught'' and ''visibly shaken when he was told that the money was being seized'' from his family's restaurant; and, said the government, he had ''offered no explanation for the cash horde.'' (Later, Frank went to the police station to explain that the money belonged to his father, the owner of the pizzeria, who was then in Florida.)

Drug-sniffing dogs were also brought to the police station (not in the pizzeria), to check out the money for the presence of drugs. A narcotics canine named Rambo was instructed to ''fetch dope'' and he grabbed on bundle of money from the table and ripped the packaging apart. To the amazement of the court of appeals, this behavior apparently indicated to the officers the presence of drugs on the money.

At best, as the Court noted, the dog only identified narcotics on one bundle of the seized currency even though the officers seized 31,392 separate bills in multiple bundles. And, even the government admitted that no one can place much stock in the results of dog sniffs because at least ⅓ of all the currency circulating in the United States, and perhaps as much as 90–96%, is known to be contaminated with cocaine. (Indeed, as the court of appeals noted, even Attorney General Reno's purse was found by a dog sniff to contain such contaminated currency.)

On this non-evidence of any nexus between the money and drugs, the government kept the money of Mr. Lombardo and his family Pizzeria for 4 years—until the 7th Circuit finally ruled that it must be returned, in late 1998. The Court held that the government had in fact failed to establish even the cursory burden that it is supposed to shoulder under current law—the establishment of ''probable cause'' to seize property in the first place.

None of the supposed ''suspicious factors'' cited by the government had ''any bearing on the probable cause determination. The existence of any sum of money, standing alone, is not enough to establish probable cause to believe the money is forfeitable.'' Nor, for the reasons discussed above, was the police-station, drug-sniffing dog episode enough for probable cause. And, ''putting to one side the fact that the state court suppressed the guns as evidence against Frank Lombardo, [there is] no reason to believe that the presence of handguns should necessarily implicate narcotics activity or that their presence need be seen as anything other than protection in a small business setting.''

In conclusion, the Court wrote: ''We believe the government's conduct in forfeiture cases leaves much to be desired. We are certainly not the first court to be 'enormously troubled by the government's increasing and virtually unchecked use of the civil forfeiture statutes and the disregard for due process that is buried in those statutes.'''' (Quoting *US* v. *All Assets of Statewide Auto Parts, Inc.*, 971 F.2d 896, 905 (2d Cir. 1992))

[Source: *U.S.* v. *$506,231 in U.S. Currency*, 125 F. 3d 442 (7th Cir. 1997) (Bauer, J.).]

North Dakota and Daytona Beach, Florida: Customs versus Bob's Space Racers—Who's Amusement?

In 1997, on a routine business trip, a large number of circus employees of the Bob's Space Racers Company, of Daytona Beach, Florida, were traveling to Canada. Bob's Space Racers, a privately held company, is one of the leading providers of amusement park games. The company also provides entertainment at traveling circuses.

As normal, the employees had been provided with their salary and traveling expenses for the project in cash. Thus, each of the 14 employees had several hundred dollars in his or her pockets when the group attempted to cross the border into Canada from North Dakota.

Customs agents at the North Dakota border seized all their money on the theory that, when the Customs agents aggregated all the money carried by each of the 14 employees, the total came to just over $10,000—the amount of money triggering the regulations about ''declaring'' and filing Customs' ''cash reporting'' forms (Form 4790).

Customs had no basis for ''aggregating'' the money of the employees. And there was no reason to believe the employees were part of any conspiracy to smuggle money out of the country without filing the appropriate Customs forms. Indeed, the company informed Customs that the money was legitimate traveling expenses.

Into 1998, at least, the company was still trying to get Customs to remit the employee travel expenses seized.

[Source: National Association of Criminal Defense Lawyers (NACDL) Asset Forfeiture Abuse Task Force Co-Chair David B. Smith, Alexandria, Virginia (unreported case)]

Haleyville, Alabama: Doctor, Beware Your Banker?

In 1996, after many years and much costly litigation, Dr. Richard Lowe of the small northwest Alabama town of Haleyville, was finally returned his wrongfully seized life savings of almost $3 million, when the 11th Circuit Court of Federal Appeals ordered the government to return it.

Dr. Lowe, MD, is something of a throwback. He's a country doctor in small-town America, who still charged $5.00 for an office visit in 1997. He drives a used car and lives in a very modest home.

When he was a small child in the Depression, he lost $4.52 in savings when the local bank failed in his home town in rural Alabama. His parents lost all of their savings when that bank collapsed. Because of that experience, he has always hoarded cash. He'd empty his pockets at night into shoe boxes in a closet at home. Over the years, he had accumulated several boxes of cash in the back of a closet in his home.

In 1988, he consolidated his savings in the First Bank of Roanoke, Alabama—in order to set up a charitable account for a small private K–12 school in his hometown that was about to fail. He transferred all of his life savings into the consolidated account. At the time the government first wrongfully seized his account, in June 1991, Dr. Lowe had given the school over $900,000, had saved it from collapse, and was still contributing to it.

In the fall of 1990, his wife was urging him to do something about the boxes of money in the closet. The Doctor said OK, you count it and we'll put it in the school's account. It came to $316,911 in denominations of ones, fives, tens and twenties. Some of the bills were as much as 20 years old. Dr. Lowe took the money to the bank and gave it to the bank president, who was a longtime friend and former neighbor of Dr. Lowe's.

This is the first cash that had ever been placed in the bank account. All the other money had been transferred by check from other banks when CD's matured.

The bank president knew the Doctor was obsessive about anonymity; he did not want to be known as a ''rich doctor.'' So, instead of depositing the money to the account, the bank president just put the money in the bank vault. He gave the Doctor a receipt for the deposit, but he chose to simply put the money in the bank's vault. Then, with some of the money over the next 6 weeks, the bank president went to neighboring banks in the vicinity of Roanoke, and bought $6,000, $7,000, and $8,000 cashier's checks, and then credited it to Dr. Lowe's account.

When some of the other banks thought it was peculiar that the Roanoke bank president was doing this, they made a report to authorities. When FBI agents came to interview the bank president, he told them exactly what he had done and why. He told them that it was his idea and not Dr. Lowe's. And he told them that as he understood the reporting laws, he had done nothing wrong.

Still, the FBI and U.S. Attorney decided to seize Dr. Lowe's account. They did not just seize the $316,000 in cash deposits. They seized his entire account—his entire life savings of some $2.5 million, at the time.

The bank president and his son, who was vice president, were both indicted. The bank president later made a deal with the government to plead guilty to structuring/reporting violations, in exchange for the government's dismissal of charges against his son. And, a full two years after the seizure and attempted forfeiture of the Doctor's accounts, during which time all of his money was held by the government, the government decided to indict Dr. Lowe as well, for the alleged reporting transgressions of his banker.

It is, however, not violation of law, and certainly no crime, for a bank to send cash to another domestic financial institution. That is not within the definition of illegal ''structuring.'' In short, there was no offense here, by even the banker, let alone the totally innocent, ignorant bank customer, Dr. Lowe.

Prosecutors kept pursuing their case against the Doctor anyway. With just one more week to go before his trial was to start, the prosecutors balked at taking their shoddy case to a jury. The government, to save face, offered the Doctor a ''pretrial diversion'' rather than simply dismissing the case, as they should have done. Under the diversion, the Doctor had to agree to stay out of trouble for one year and the case would be dismissed. Of course, the Doctor had no trouble staying out of trouble, as he had never done anything wrong to begin with, or in his entire life.

Still, even then, the U.S. Attorney General's office in Birmingham refused to drop its civil asset forfeiture action against Dr. Lowe's life savings account—clinging to the fact that, under current law, the burden remained on the Doctor to prove his money innocent!

While prosecutors now understood there was no ''structuring'' violation by anyone, as they had initially asserted they changed their theory to this Alice in Wonderland claim: Dr. Lowe's account was forfeitable under civil asset forfeiture laws because the bank had failed to file with the government the required regulatory reporting form, a Cash Transaction Report (CRT), upon receipt of Dr. Lowe's $300,000 in currency. At best, this was a violation by the bank, not the customer. Yet, the government deemed this enough to proceed in a civil forfeiture action against the Doctor's life savings—to force him to meet his burden of proof under current law, or else lose his property permanently.

The federal district court judge did rule that there was nothing wrong with the underlying account until the $300,000 cash deposit. And thus, he held that these monies should be returned to the Doctor. This was 3 years after the government's initial seizure—for 3 years, Dr. Lowe was denied access to any of his life savings.

The federal district court judge erred in ruling for the government on the $300,000 in currency, ''finding'' without any evidence that the Doctor ''must have exhorted'' the bank president (his words) not to file the technical CRT with the government, even though the government itself had never even noticed that a CRT had not been filed when it started its action against Dr. Lowe, the bank president and his son.

Dr. Lowe somehow had the wherewithal to continue his long fight against the government's wrongful taking of his money, and appealed to the 11th Circuit Court of Appeals. Finally, in late 1996, the court of appeals vindicated Dr. Lowe. It reversed the lower court's erroneous ruling, holding that, even under current, distorted civil asset forfeiture law, the Doctor had shown by evidence clear beyond a preponderance that he knew nothing of the banker's actions.

Meanwhile, though, he was without access to any of his seized life savings for 3 years, and without access to $300,000 of his accounts (which he had donated to the private school) for 6 years. He faced a wrongful indictment and threat of criminal trial. And he endured the financial, physical and emotional devastation of lengthy, costly litigation against a U.S. Attorneys Office blindly pursuing his assets, no matter the shoddy nature of its case.

Perhaps the government thought it could simply sear ''the old man'' out? The impact of this experience on him was so severe that Dr. Lowe had to be hospitalized at least once for stress and high blood pressure. Very few victims of such governmental abuse would have been able to keep fighting to win, as did the extraordinary Dr. Lowe.

[Source: Hearing before the U.S. House Judiciary Committee, on H.R. 1835 (105th Congress), June 11, 1997 (Testimony of National Association of Criminal Defense Lawyers (NACDL) Asset Forfeiture Abuse Task Force Co-Chair E.E. Edwards III, Nashville, Tennessee) (unpublished case)]

Kent, Washington: Maya's Restaurant—The Sins of the Brother?

In 1993, in the Seattle suburb of Kent, Washington, police officers stormed Maya's Mexican food restaurant in the middle of business hours, ordering customers out of the establishment, and telling the patrons that the restaurant was being forfeited because ''the owners were drug dealers.'' Local newspapers prominently publicized that Maya's restaurant had been closed and seized by the government for ''drug dealing.''

Exequiel Soltero is the president and sole stockholder in Soltero Corp., the small business owner of the restaurant. The actual allegation was that his brother had sold a few grams of cocaine in the men's restroom of the restaurant at some point.

Exequiel Soltero and the Soltero Corporation Inc. were completely innocent of any wrongdoing and had no knowledge whatsover of the brother's suspected drug sale inside the restaurant. According to the informant relied upon by the law enforcement officers, the brother had told him that he was part owner of the restaurant. This was not true. It was nothing but puffery from the brother. The officers never made any attempt to check it out. If they had, they would have easily learned that Exequiel Soltero was the sole owner of the Soltero Corp., Inc., and Maya's.

There was no notice or any opportunity for Mr. Soltero to be heard before the well-publicized, business-ruining raid and seizure of his restaurant. Fortunately, Mr. Soltero was able to hire a lawyer to contest the government's seizure and forfeiture action, but not until his restaurant had already been raided and his business had suffered an onslaught of negative media attention about being seized for ''drug dealing.'' Further his restaurant was shut down for 5 days before his lawyer was able to get it re-opened.

Finally, when Mr. Soltero volunteered to take, and passed, a polygraph test conducted by a police polygraph examiner, the case was dismissed. However the reckless raid, seizure and forfeiture quest by the authorities cost

him thousands of dollars in lost profits for the several days his restaurant was shut down, as well as significant, lingering damages to his good business reputation. And he suffered the loss of substantial legal fees fighting the seizure of his business.

[Source: National Association of Criminal Defense Lawyers (NACDL) Asset Forfeiture Abuse Task Force Co-Chair Richard Troberman, Seattle, Washington (unreported case)]

NOTES ON RECENT CASES AND HYDE/CONYERS ASSET FORFEITURE REFORM ACT, H.R. 1658

Each of the above cases demonstrates the importance of the Hyde/Conyers Asset Forfeiture Reform Act. Several features of the legislation would deter governmental abuse of innocent Americans and legitimate business under the civil asset forfeiture laws.

Placing the burden of proof where it belongs, on the government—to prove its takings of private property are justified, by a clear and convincing standard of evidence—should curb reckless seizures and forfeiture actions like those described above. Now, the government can seize and pursue forfeiture against private property without any regard to its evidence, or lack thereof, without any burden of proof. The burden is borne by the citizen or business, to prove the negative, that the property seized is in fact innocent.

The clarification of a uniform innocent owner defense will also protect businesses and other property owners and stakeholders from wrongful seizures and forfeiture actions, based now on nothing more than a ''negligence'' theory of civil asset forfeiture liability. The uniform innocent owner provision will protect all innocent owners, no matter which particular federal civil asset forfeiture provision is invoked against their property.

The Hyde/Conyers Asset Forfeiture Reform Act will also place a time-clock on forfeiture actions by the government, akin to the Speedy Trial Act, which protects persons accused of crime. This will prevent the type of post-seizure, foot-dragging in civil forfeiture cases like those above, in which the government can simply wear down and bankrupt innocent individuals and businesses, who cannot withstand the loss of operating assets and lengthy litigation against the government.

The court-appointed counsel provision will ensure a fair fight against the government's forfeiture actions—even for those with less financial resources than the individuals and businesses described above. This is especially important to those the government can otherwise render indigent, and unable to afford counsel, simply by seizing all of their assets.

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

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. BRYANT) assumed the chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

CIVIL ASSET FORFEITURE REFORM ACT

The Committee resumed its sitting.

Mr. HYDE. Mr. Chairman, may I inquire of the Chair how much time I have remaining.

The CHAIRMAN. The gentleman from Illinois (Mr. HYDE) has 22½ minutes remaining.

Mr. HYDE. Mr. Chairman, I am pleased to yield 6 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman from Illinois (Mr. HYDE) for yielding this time to me. It is with great respect that I rise in opposition to the underlying bill and urge my colleagues to support the Hutchinson substitute.

The gentleman from Illinois (Mr. HYDE) and I have been together on many issues, and actually we are not that far apart on this one. The Hyde-Conyers bill, in many ways, has the same provisions that the Hutchinson substitute has, but I think the substitute makes some very important improvements to the bill.

I do not think there is any question that this bill is good. The Hyde-Conyers bill needs to be passed into the law, at least some form of it does. It is time that we have the reform in the area of asset forfeiture that that bill speaks directly to.

It is very important in this country, I think, that we begin to address the due process involved in property rights. Those are very important issues, and I am proud to be a part of this. I just think that the bill, as it is written, while well constructed and well thought out and certainly well intended, needs some fine tuning, if you will, some changes to it, I think, to strike a more reasonable balance.

Before, things were out of balance one way, and I want to be careful, as I urge the adoption of the Hutchinson substitute, that we do not take it too far out of balance the other way.

There are a number of law enforcement, some 19 major law enforcement groups that support the Hutchinson substitute, among those, the Drug Enforcement Administration, the DEA, the Fraternal Order of Police, the National Troopers Association, the National Sheriff's Association, the National Association of Chiefs of Police, and many others.

The reason they support this is because, as we all agree here today, we need to be able to seize the ill-gotten gains of criminals, seize that property, and use that, convert that over and use that to fight more crime. I think that is very important. We agree on that.

Now, I would like to see this go a little further on the other end, and I have asked that report language be put into this bill that there be a little bit more accountability on the use of these funds.

I know in my area back in Western Tennessee, this is a very important issue right now, is what happens to these funds once they get into the hands of law enforcement. I would like to see some very broad community-based, through a government agency, through the mayor, the county mayor, city mayor, oversight of these funds, with all due respect to the necessity sometimes in police work that they have flexibility and secrecy in using some of these funds. But at least there will be some accountability on the end of where it is used to fight crime as it is supposed to be done.

But in the Hutchinson substitute, we have brought the Hyde-Conyers bill, I think, back to a better balance. Rather than requiring that law enforcement prove by a clear and convincing bit of evidence that this money was ill-gotten and as a result of crime, we use the normal, the customary standard in civil cases, which is what this is, and that is a preponderance of the evidence. I am sure we have people that agree with that.

We also talk about furnishing some lawyers to people for free. Now, in the civil context, that is not typically done in any case. There are hardship cases where it is rarely done, and certainly that would apply here given the circumstances of the particular forfeiture, the amount of money involved, the needs of the people. That can be done. But on a routine required basis that the underlying bill would require, I do not think we need that.

□ 1430

I think that would be very, very expensive and probably result in much more litigation than we really need.

Also, the hardship provision is addressed in the Hutchinson amendment, and it refines that language. Certainly there are circumstances where I think the court should have the authority if it creates a hardship and the property can be protected, that that ought to happen; that the person ought to have that property returned pending the trial. But in many cases it has been shown that evidence, money, or whatever might be seized disappears, along with people sometimes. So if we can assure that there is adequate protection there to ensure that this will be there when the trial comes up, that the property will still be there and the property owner will still be there, then certainly if that is a hardship situation, that can be addressed.

So I would respectfully disagree with my colleague from Michigan (Mr. CONYERS) that we are miles apart on this. I think we are very close on many of the issues, and if we can just work through a couple more of these issues and agree to these, which, again, I think the Hyde-Conyers bill is good but can be made better, then I think we would be better served.

Let me clear up one thing, too, that the gentleman from Michigan (Mr. CONYERS) said in terms of the percentages being high of people being caught with money but no drugs. The way the system works in this is when there are couriers, they do not have them both at the same time. They either have the money or they have the drugs, but they do not have them both. They carry the money to point X to get the drugs to bring back to point Y. So we either find drugs on the person or money on the person, depending which way they are going.

So it is not unusual in that context for there to be a seizure of money without finding any drugs on the person, because we are usually dealing with a mule, a courier, somebody whose job it is to go to a drug source city and bring the drugs back and pay for it as they go down. So that is not anything out of the ordinary.

I think this is a very good cause we are working for. I think we are all trying to achieve the same results, and I just simply ask that we go back to the normal standards that we have in a civil case, preponderance of evidence, no appointed counsel, and work closer on the hardship situations to ensure that the money, the evidence, and the defendant will be there at trial.

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

The problem with the assertions of the gentleman from Tennessee (Mr. BRYANT) that a drug courier is either carrying money or drugs is quite correct. But the problem is, unless they are drug couriers, we could end up with a person with large amounts of money on them that they have to then prove where and how they got the money, which is a little bit out of line. And if they are carrying drugs, that is patently illegal, too, so they will be arrested.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), a law enforcement prosecutor of many years and a valued member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of Hyde-Conyers bill and in opposition to the substitute proffered by the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from New York (Mr. WEINER).

Mr. Chairman, a few days from now the sun will finally set on the Independent Counsel Act that has come to embody for many Americans all the evils of prosecutorial excess. But the problems illustrated by the Independent Counsel Act are not unique to special prosecutors, nor are they confined to cases involving Presidents and high civil officials.

The potential for abuse and excess is inherent in a system of justice which delegates such enormous power and discretion to every prosecutor. Now, most prosecutors exercise these awesome responsibilities with decency and restraint. But, unfortunately, there are a few who do not, and they bring the entire system of justice into disrepute, and they encourage, by their actions, public cynicism and, unfortunately, erode respect for the rule of law.

Now, the Hyde-Conyers bill recognizes that asset forfeiture is an extraordinarily powerful tool in the hands of a prosecutor, a tool that is so potent, and under current law so easy to apply, that it is also highly prone to abuse. And, in fact, there is a growing litany of cases documenting that abuse occurs. This bill recognizes that the time has come to impose reasonable, and let me underscore reasonable, restraints on this power so as to maintain public confidence in the fundamental fairness and integrity of our criminal justice system that is so essential in a democracy.

And let us be clear. This bill would not hamper the ability of law enforcement to go after the bad folks, the drug kingpins and racketeers who are the proper targets of forfeiture laws. What it would do is to prevent law enforcement officials from abusing these laws to the detriment of ordinary innocent citizens. It would ensure that when prosecutors wrongfully seize, wrongfully seize the property of owners who are innocent of any crime, the owners have the ability to recover their property and make themselves whole.

And make no mistake, we are not talking about a few marginal cases. Some 80 percent of the people whose property is seized are never even charged with a crime. Think of that, Mr. Chairman, 80 percent of those whose property is seized are never even charged with a crime.

Now, let me put forth some examples; like the traveler whose property was seized at the Detroit airport because he was carrying a large amount of cash and simply happened to fit a profile of a drug courier. No arrest, no conviction; or the 33 tenants in a New York apartment building who were evicted by the government because the building had previously been home to a drug ring, which none of the tenants were connected with and had no knowledge of, yet they were evicted; or the hotel owner in Houston whose hotel was seized by Federal agents after patrons were accused of drug trafficking; or how about the 72-year-old woman in Washington, D.C., right here in the Nation's Capital, whose home and personal effects were seized by the FBI because her nephew, her nephew, who was staying in the house overnight, was suspected of selling drugs from the porch. Suspected of selling drugs from her porch. A 72-year-old woman.

The irony is that all of these people would have been entitled to some due process if they had been charged with a crime. If they had been charged criminally, they would have had a shot. But under the civil forfeiture laws, the government can seize the property of innocent owners without even triggering basic minimal due process requirements. That is not, I daresay, what most of us think about when we think of the American system of justice.

Supreme Court Justice Clarence Thomas has likened this situation to, and I am quoting now, ''a roulette wheel employed to raise revenue from innocent but hapless owners whose property is unforeseeably misused,'' rather than a tool for ensuring that justice is done.

In 1997, the Court of Appeals for the 7th Circuit confessed itself to be enormously troubled by the government's increasing and virtually unchecked use of the civil forfeiture statutes and the disregard for due process that is buried in those statutes.

We cannot allow, I submit, such a situation to continue, Mr. Chairman, and I urge my colleagues to support Hyde-Conyers and defeat the substitute.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, I thank the gentleman for yielding me this time, and I, too, rise in support of the Hyde-Conyers Civil Asset Forfeiture Reform Act of 1999, and I would ask the Members listening to the debate to focus their attention on the title and see if it lives up to its billing: Reform Act. What are we trying to do; and is it an act in need of reform; and do the measures envisioned in this bill create some reform.

I would point the Members' attention to the burden of proof. There is a dramatic change in this bill from existing law, and I believe it justifies the title of reform and is very much a necessary measure in terms of reforming the law.

Imagine this: An individual has a piece of property, an innocent owner. At least they want to claim that status. And that individual winds up facing their government after a seizure has occurred through a mere probable cause analysis, and they now have to prove by a preponderance of evidence that they are innocent and that the forfeiture should never have occurred. I think that is appalling. I do not believe in America any citizen should have to go into a court and fight the government and prove that they are innocent in terms of their connection to their property. While it may not be depriving them of a liberty interest, it certainly is depriving them of a property interest.

This bill, quite rightly, corrects that measure, and it does reform the burden of proof because it places upon the government the duty to prove that the assets seized should be taken and denied to the rightful owner by a clear and convincing evidence standard.

The substitute changes the burden, which I think is an acknowledgment that the basic law is very much off base. It is a matter of what standard we would like to place upon the government before people are denied their property. In my opinion, the standard should be more rather than less; that when we are facing the government, they should have a strong burden before they can take our property forever from us. And the clear and convincing evidence standard in civil law, I think, is the appropriate remedy, and the preponderance of evidence standard that the substitute bill has is an inappropriate remedy.

The innocent owner defense. Most of us cannot imagine a situation where we find ourselves before a Federal court, losing our property because of someone else's misdeeds, but it happens every day in this country. As my friend from Massachusetts (Mr. DELAHUNT) indicated, 80 percent of the people affected by this law are never prosecuted. What if an individual owned an asset or were a joint titled owner of a car, and somebody in the family or some friend chooses to engage in criminal activity with that individual's vehicle without their knowledge or without their permission. Under the current law that individual has to go and prove they are innocent before they lose their property.

We have talked about changing the burden. Before an individual's property could be taken under what the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) have done, they have to make a compelling case that that individual was involved, that that individual had knowledge. And what this law does, Mr. Chairman, is it brings uniformity across the board in civil asset forfeiture statutes under the Federal law, bringing uniformity to the innocent owner defense. In civil forfeiture cases involving illegal gambling activities, there is no such innocent owner defense, and I think that is appalling.

So the good thing about this bill, in my opinion, is it brings uniformity and it establishes a standard that makes a lot of common sense; that the government has to prove at the time of the instance in question that an individual did not know of the conduct giving rise to the forfeiture, because if someone does not know of the conduct and was not involved, they should not lose their property because someone intends to violate the law or does violate the law, because that individual has done nothing wrong.

Upon learning of the conduct, if a person does all that is reasonably expected under the circumstances to terminate such use of the property, the law should not allow the taking of a person's property because they acted in a responsible manner.

This bill brings uniformity to the law. It is a haphazard catch-as-you-can series of statutes, and now is the time to correct that as we go into the next century.

□ 1445

An appointment of counsel. This bill I believe remedies a very big problem. A lot of people are subject to losing their assets under this law, and when it comes time to have their day in court and they are an indigent person or without the means to have counsel, for whatever reasons, they are facing the Government alone. That is no place to be when their property is taken from them by the Government.

It is true we normally do not appoint counsels in civil matters because civil matters are usually between two citizens litigating over some property interest. This is different, Mr. Chairman. This is a person fighting the Government for their property. I believe it is only right and fitting that we appoint counsel under those circumstances.

I ask my colleagues to support this measure.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to my friend, the gentleman from New York (Mr. WEINER.)

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

Mr. Chairman, I rise in support of the Hutchinson amendment and with deep reservations about the base bill, the Hyde-Conyers bill.

There is a great deal, frankly, that we agree about in this debate. My good friend from Massachusetts read a litany of concerns about the present civil forfeiture dynamic. It is broken. It is broken. I believe that the Hyde effort is one that is laudable and goes a long way towards trying to fix the problem. But there also seems to be emerging in this House a fundamental debate about whether or not we should have civil forfeiture at all. And I would argue that we should, and I would argue that it has been a tool that has been very helpful.

I would argue that law enforcement agencies all around this country have rallied to the cause of trying to preserve civil asset forfeiture because it is vitally necessary to continue the downward trend in crime that we have seen. That is why sheriff's associations around the country have supported the Hutchinson–Weiner-Sweeney substitute. That is why the City of New York and Los Angeles and other places have all supported the idea of making it important that the Government prove its case but just have a reasonable standard.

Now, since we have heard so many horror stories about what is wrong with civil forfeiture, I think it is important that we understand that there are many times where it is used in ways that I think we all agree it is important, like a crack house in the Middle District of Tennessee that over and over again was the subject of criminal activity. The owner of the house was not the person who was doing the criminal activity, but it was allowed to go on there. The children, the spouse, people in the community were selling drugs out of that home. Finally that problem, which was right next to a church, was solved by using this civil asset forfeiture.

There are frequently times that the criminal statutes do not allow us to fully sink our teeth into what some of these problems are. I believe that the main difference between the Hyde-Conyers bill and the Hutchinson–Weiner-Sweeney substitute are the burden of proof that we set. We do not make it a burden of proof that is so difficult that localities who are now making this argument will never be able to use civil asset forfeiture laws again.

We make it a reasonable test. The Government still has to prove its case. They cannot seize their property and keep it wantonly. They are going to have a tough test. We are going to have provisions in the amendment that provide for counsel. But we also make sure that these forfeiture laws remain intact so we can continue to confiscate contraband, drugs, obscene matters, explosives, counterfeit money and seize the instrumentalities of crime, crack houses, handguns, and cash.

We have to recognize that there are times that there is not the direct connection between the person and the criminal activity and the fact that we know with some certitude that that is an instrument of crime.

The Hutchinson–Weiner amendment will allow us to get at the crime problem while dealing with many of the abuses that the gentleman from Illinois (Mr. HYDE) has correctly pointed out.

Mr. HYDE. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I thank the distinguished gentleman from Illinois (Mr. HYDE) the chairman of the Committee on the Judiciary not only for his work in bringing this important piece of legislation to the floor today but over the course of many years for his championing the rights of our citizens both on the law enforcement side of the equation as well as on the civilian side.

The chairman of the Committee on the Judiciary has been a tireless champion in support of our Constitution, all of our Constitution, in this regard.

Mr. Chairman, when we look at asset forfeiture, we have to be struck by the fact that what was originally intended to be an extraordinary remedy to be used in only those most serious of criminal cases has become a commonplace tool of law enforcement. Unfortunately, Mr. Chairman, not only has it

become a common tool of law enforcement, but in many jurisdictions, not all, but in far too many it has become the monetary tail wagging the law enforcement dog.

Mr. Chairman, as more and more offenses over the last several years have been added to the predicates on which asset forfeiture seizures and forfeitures can take place, it becomes more and more incumbent on us to take a very close look, a comprehensive look, at exactly where we stand in America with regard to this awesome power the Government has.

It is our responsibility, which we are exercising today under the leadership of the chairman of the Committee on the Judiciary, to bring back into focus this power the Government has that we all believe Government needs to have but to bring it back into proper focus. And that means balancing the important needs of law enforcement to strike at the criminal element where it really hurts, and that is in their pocketbook, but not with a blunderbuss, not to the extent that we also rope into that power the civil rights, the individual rights, the constitutional rights of law-abiding citizens.

Many who are opposed for example, Mr. Chairman, say that the sky will fall if we dare reform asset forfeiture laws. That is not the case. I say that, Mr. Chairman, from the standpoint of both having been a United States Attorney and having exercised in the Northern District of Georgia the tremendous power of asset seizure and forfeiture, but also from the civilian side of the bar.

Let us be perfectly clear, Mr. Chairman. H.R. 1658 does not and will not eviscerate asset forfeiture power. It reforms it. It does not kill it. We need also only to look, Mr. Chairman, to the experiences in recent years of some States which have grappled with the issue of reforming their own asset forfeiture laws to make them more mindful and reflective of individuals' rights to see that despite the naysayers and the Chicken Little sometimes running around saying the sky is going to fall if we dare reform this particular process, that in fact it has not.

I would cite to our colleagues the case of California, which just a few years ago addressed the issue of asset forfeiture reform, changed the process, changed the burdens. Many in law enforcement in California were very concerned that, in fact, those changes to the laws where they shifted the burden and brought a little bit more balance to the process would eviscerate the ability of California law enforcement authorities and prosecutors to truly go after and seize legitimate criminal assets of the criminal element.

In fact, Mr. Chairman, as over the last few years, that reform system in California has worked its way through the system, people have become used to it, the system has brought itself back into balance. Even the prosecutors, one of whom I spoke with just yesterday here in Washington who is currently still with the Attorney General's Office in California, says there has in fact been no precipitous drop-off, as a matter of fact, overall no drop-off in the ability and the amounts of seizures and forfeitures that have, in fact, taken place.

When we look also, for example, Mr. Chairman, at the specifics of this legislation, as the distinguished gentleman from South Carolina (Mr. GRAHAM) just got through talking about, if we look at what this legislation, that is H.R. 1658, does, it is fairness, it is the embodiment of fairness and constitutional due process.

It places the burden where it ought to be, on the Government, to prove by clear and convincing evidence, which is a standard burden that is placed on the Government, in many cases on private parties, in many cases on States in many civil cases, to prove by substantial evidence that the property has in fact been used for the furtherance of criminal activity. It really is hard, Mr. Chairman, to imagine why anybody would object to that.

As a matter of fact, the power of the Government, when they focus on the problem of asset forfeiture honestly in this way, they will recognize that this simply may create just a slight burden, a temporary burden, on law enforcement, but it will force them to pay closer attention to what they are doing.

The gentleman from South Carolina (Mr. GRAHAM) also properly noted several other specific aspects of this legislation that I believe lend itself to strong support for H.R. 1658 and against the substitute proposal, which does not reform the system in any meaningful way.

Mr. Chairman, some who are opposed to civil asset forfeiture reform would have us believe the sky will fall if we dare reform these laws. As someone who has served on both sides of the bar, first as a federal prosecutor, and later as a private attorney, I can tell you this is simply not the case. But don't take my word for it. Let's get to specifics. What exactly does our legislation do? And, what doesn't it do?

First, let's be perfectly clear, H.R. 1658 does not and will not eviscerate asset forfeiture power; it reforms, but it does not kill.

Secondly, it addresses basic procedures, not underlying authority. For example, H.R. 1658 requires the government to prove by clear and convincing evidence that the property being seized has been used in criminal conduct. This goes back to a very basic principle: innocent until proven guilty. We should all be able to agree on that. Otherwise, we end up with justice according to the Queen in Alice in Wonderland, "[s]entence first—verdict afterwards."

Thirdly, our legislation would allow judges to release seized property, pending final adjudication, in order to prevent the property holder from suffering substantial hardship. This would allow judges, for example, to exercise their discretion to prevent a person who has not been convicted for any crime from losing their job because the police have seized the car they use to travel to work.

Again, no sensible person can argue that our legal system will collapse if we trust judges to make this simple judgement call.

Additionally, our legislation eliminates the requirement that an owner file a 10 percent cost bond in order to defend against the seizure of their property. Remember, under current law, if the government simply thinks you're guilty, it can take your property; and then, in addition, require you to post a bond simply for the privilege of walking into a courtroom and arguing your innocence. To make matters worse, the very fact that your assets have been seized, may very well make it impossible for you to post the bond. This kind of treatment is simply not acceptable in a country that purports to balance individual and property rights against necessary law enforcement powers.

Finally, our reform legislation provides the owners of seized property with a reasonable time period within which to contest the seizure in court. Strict and very limited time limits in current law frequently slam the doors of justice shut before the target of a seizure even has a fair opportunity to pass through them into court.

Those who oppose these common sense changes say the government cannot fight crime unless asset forfeiture laws remain dramatically tilted in its favor. However, as the 65,000 member Law Enforcement Alliance of America—which supports our legislation—knows, effective law enforcement depends ultimately on citizens having confidence in its fairness and honesty. Our current asset forfeiture laws undermine this confidence by treating some citizens unfairly, and sending others a message that our legal system is arbitrary, capricious, and motivated by profit rather than principle.

Unfortunately, the substitute being offered today does not address the fundamental problems inherent in the current system. It does not level the playing field, and it does not improve the access to our legal system by innocent citizens whose property has been seized. The substitute resembles rejected legislation from the last Congress; a proposal that was opposed by groups as diverse as the National Rifle Association and the National Association of Criminal Defense Lawyers.

Few, if any in this House, oppose law enforcement having the necessary and appropriate tools with which to fight crime; I certainly don't. One of these appropriate tools is asset forfeiture; but it must be fair and reasonable asset forfeiture; and it must not be allowed to be abused as some jurisdictions now do.

In fact, our legislation preserves assets forfeiture, placing only very reasonable limits on its use; it restores the balance intended in the original legislation. This was done just a few years ago in California; where, despite naysayers predicting the collapse of asset forfeitures, state prosecutors and law enforcement in fact adjusted to the new requirements and continued to seize and forfeit assets.

A vote for the Civil Asset Forfeiture Act is a vote for returning to our law the basic principle that each of us is innocent until proven guilty. Remember, this Act in no way restricts the ability of law enforcement to seize the assets of someone who has been convicted of a crime under criminal asset forfeiture laws. It applies only to civil asset forfeiture provisions, which are used to seize property based not on a guilty verdict or plea—that is, proof beyond a reasonable doubt—but on a much, much lower standard.

Simply put, a vote for the substitute amendment is a vote to presume that an individual citizen is a criminal, and that the government can take their car, cash, or home simply because it harbors reasonable suspicious doubt. This is wrong. We all know it is wrong. Let's take this opportunity to change it.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Massachusetts for yielding me the time.

Mr. Chairman, I come to this debate with a slightly different perspective, some that the Members may have coming from local government and being in the local government arena when the civil asset forfeiture law was, in fact, passed by this body.

I have worked with a number of law enforcement agencies. I have worked with communities, particularly when many of our inner city communities, many of our rural communities suburban communities were under siege with the bad behavior, the bad actors of drug running, drug activity.

I know neighborhoods in my community where crack took over in some of the older neighborhoods. Many times we would find senior citizens still living amongst houses that had been abandoned or the owner had left, or it was a rental property and the crack dealers or crack possessors, the crack sellers would take over.

So some years ago, as this legislation was passed, it became a godsend for our local law enforcement, our sheriffs, our police departments, our constables to protect our neighborhoods. And at the same time, I remember, as a member of city council, those well-needed funds used appropriately added extra resources for clean parks and new equipment for our children.

So I would like to at least acknowledge that we have had good uses, good intentions of this legislation. And I would hope that our law enforcement community would recognize, prosecutors included, that we are supportive of their efforts to still be able to use these tools to effectively fight crime.

We do not want the crack dealers, cocaine dealers, any kind of dealers setting up and getting rich over these criminal activities. We do not want to see the elderly dispossessed from their neighborhoods. We do not want to see young families not able to allow their children to be out playing because these activities have been going on. We do not want the fraudulent activities of money laundering to result in the wealth of individuals while others are suffering.

At the same time, I support the strategies of the Hyde-Conyers amendment because I think there have been a number of abuses that, keeping with the Constitution and property rights, we frankly should address. We should not be frightened to balance the needs of law enforcement along with the needs of citizens to protect their property rights.

In particular, I think it is worth noting, as my colleague noted, there is some 80 percent of those who have had their property civilly taken because they are related to or they are thought to be associated with and have been found to be criminally associated with and have never been prosecuted. For that reason, I think we have a problem. This is a huge number, 80 percent.

Who could that be? Spouses, sisters, brothers, relatives of any kind? Who could that be who have lost their property because they have been associated with someone who has done the wrong thing?

I believe that this is a good balance to take law enforcement needs and consideration into account along with those who have suffered and lost property. I would hope that we would have an opportunity, however, Mr. Chairman, to look at some other aspects of concern that I have.

I had a number of amendments. The substitute includes one of them. But I think, regardless of what happens to the substitute, we should have further discussion as to whether or not the clear and convincing evidence standard is the right balance for law enforcement versus the preponderance of evidence.

I think we should also discuss, Mr. Chairman, the issue as to the district court of a claimant reviewing the district court of a claimant for substantial hardship to render decision on that hardship issue within 10 days. I am concerned that we would have a problem there.

Mr. Chairman, I have another one on 10 days with respect to notice and another one with the Attorney General with respect to 30 days to a motion regarding the claimant's cause.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think the gentlewoman has raised some very significant issues worthy of study. And I pledge that, should this legislation pass and reach conference, that her concerns will be fully considered and debated and, hopefully, we can do something about them.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I appreciate the fact that we will be engaged in this issue, because it is a balance between property rights and law enforcement.

The one point that I would like to end on, I certainly would like innocent individuals to know early who has their property if it has been seized and I would like to make sure that we bring that time frame down under the 60-day time frame.

Mr. Chairman, I am in support of this bill which calls for civil assets forfeiture reform. Your leadership on this issue is to be commended. This is a good bipartisan bill which now shifts the burden of proof to the government to prove by clear and convincing evidence when seizing property and permits the appointment of counsel for indigent claimants while protecting innocent owners. I believe however in conference we might consider the burden of the government being a preponderance of the evidence.

Unlike criminal forfeiture, civil forfeiture requires no due process before a property owner is required to surrender their property.

Studies suggest that minorities are acutely affected by civil asset forfeitures. As we are well aware by now, racial profiling by the police has alarmingly increased the number of cases of minorities involved in traffic stops, airport searches and drug arrests. These cases afford the government, sometimes justifiably, with the opportunity to seize property. Since 1985, the Justice Department's asset forfeiture fund increased from $27 million to $338 million.

Since a deprivation of liberty is not implicated in a civil forfeiture, the government is not bound by the constitutional safeguards of criminal prosecution. The government needs only show probable cause that the property is subject to forfeiture. The burden shifts to property owner to prove that the property is not subject to forfeiture.

The property owner may exhaust his or her financial assets in attorney's fees to fight for the return of property. If the financial burden of attorney's fees is not crushing enough, the owner has to post a bond worth 10 percent of the value of the property, before contesting the forfeiture. Indigent owners are not entitled to legal counsel.

Interestingly enough, persons charged in criminal cases are entitled to a hearing in court and the assistance of counsel. The government need not charge a property owner with a crime when seizing property under civil laws. The result is that an innocent person, or a person not charged with a crime, has fewer rights than the accused criminal. This anomaly must end.

Reform of civil asset forfeiture laws is long overdue. I have several amendments regarding a sooner notice for property owners whose property as seized—I also hope we can present this in conference. My constituents' property rights must be protected.

I urge you to support this bill to ensure that innocent owners are provided some measure of due process before their property is seized.

□ 1500

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the substitute seems to me to be based on one premise which I reject, that is, that having the government take your property but calling it civil somehow is different than if the government takes your property and says it is criminal. In either case, you lost the property. In either case, you are stigmatized. In either case, the reason for the loss of the property is that you are considered to have done something wrong.

We have already conceded a great deal, it seems to me, in saying that the government, which must prove beyond a reasonable doubt to fine you criminally, need only meet the lesser standard of clear and convincing evidence to fine you civilly. But to go below that to the preponderance of the evidence is to engage the fiction, indulge the fiction that losing your home because someone did something wrong there, a member of your family, is somehow not as serious a penalty as being fined $10,000. We acknowledge the value of what you are losing through this procedure could far exceed what you might be hit with a criminal fine. Indeed, there is no proportionality here, so that you might lose much more through this civil procedure than through the criminal procedure. If, in fact, your property is taken, it is probably going to be known, so that the obloquy is there, so the question then is, does the legal fiction of calling this a civil asset forfeiture when it looks, smells, talks, acts and operates like a criminal penalty justify making it easier for the government to take it away from you, because that is what we are talking about.

The government takes something away from you because you did something wrong. Or because somebody else did something wrong and you did not try hard enough to stop it, in the judgment of the government. Why should the government have a lower standard of proof in that situation than in another situation where the penalty might be less? While imprisonment obviously is more, criminal fines could be less than the amount of the civil forfeiture, but we make it easier for the government to do the one than the other for no good reason.

I must say it has been my experience when I meet with people in this regard that when they ask to have this explained, they are incredulous that the government does this.

I also want to say, I am a great supporter of law enforcement. In the substitute that the gentleman from Michigan put forward to the juvenile justice bill, there was a bill that I had cosponsored with some of my Massachusetts colleagues to renew the COPS program and to allow law enforcement to continue to pay cops who were originally federally paid. I want to provide more money for law enforcement, but I want to do that through the rational process of appropriations. The notion that we should give law enforcement differential incentives by saying that if they enforce this law they are direct financial beneficiaries but not if they enforce that law seems to me a terrible idea. We should not put our police officers on a bounty system. We ought to fund them better than we now fund them but through the regular process.

I congratulate the gentleman from Illinois for the hard work he has done in bringing this forward. He has already, I think, been judicious in his compromises, and there is no reason to indulge the continuing legal fiction that suffering the penalty of the loss of your property through a civil asset forfeiture is somehow less damaging to you than losing it through a criminal conviction. In every real way, the impact is the same on the individual, and thus by dealing with a clear and convincing standard, we have already lowered the bar for government. To lower it further as this substitute requires is to lower too low the protections that a citizen ought to enjoy vis-a-vis the government.

I hope that we will proceed to considering defeating the substitute and passing the legislation as proposed by the gentleman from Illinois.

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

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

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

Clearly we are all supportive of reform. I think that that has been clear from the debate today. I want to respond to the gentleman from Massachusetts concerning the difference in standard of proof. If a student is sued to collect on a defaulted government loan, the government must prove it by a preponderance of the evidence. But if you go against a drug dealer, it has to be a much higher standard of proof, and I think that is unfair. If the government goes after a doctor or a hospital for overcharging on Medicare, you have a lower standard of proof than if you are going after a drug dealer. I think that is fundamentally unfair. And so I think there is a rational reason for keeping the standard of proof the same.

There have been some complaints about the uses of the forfeiture money. Neither the base bill nor the substitute addresses whether it goes through the appropriation process. That is not addressed in these bills. But we have to acknowledge there have been some very beneficial uses, victims assistance programs, safety equipment for law enforcement officers, helping our local law enforcement communities. This would be severely undermined if we cannot go after the drug dealer's assets.

In East St. Louis, Illinois, $350,000 was used of federally forfeited money for a water park that assisted a community. And then in regards to the appointment of counsel, I think there are certain instances in which that would be appropriate, but you have to have adequate safeguards.

If you have a car transporting drugs from New York to Florida, there is an arrest made and there is $60,000 in there, you could have potentially four different people, from the person in New York to the recipient in Florida, to the individuals in the vehicle that would be claiming that money. Would they all be entitled to have appointed counsel? How much is this going to cost the taxpayers? And so I think that we are for reform.

The gentleman from Illinois has done such an extraordinary job with the gentleman from Michigan and others. We are together on this. But I do believe that the substitute offers some improvements that will continue this as a useful tool for law enforcement. And so I think that we need to consider that as we move forward into the debate.

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

The CHAIRMAN. The gentleman from Illinois is recognized for 4½ minutes.

Mr. HYDE. Mr. Chairman, I want to thank my friends on both sides of the aisle for the enlightening debate on this issue and I would like to respond briefly to my friend from Arkansas. He keeps saying going after a drug dealer. When did he become a drug dealer? You have filed a probable cause. You have not convicted him of anything. But you have confiscated his property, you have put him out of business, you have put him out of house and home. You persist in calling him a drug dealer, but he has not been convicted of anything. He is innocent until proven guilty, unless we follow the perverse logic of our civil asset forfeiture laws.

Now, we want to give some poor guy who has been wiped out by the government on probable cause a lawyer. You say, ''Okay, we'll give you a lawyer, but let the government cross-examine him first, extensively, about anything and everything.'' My God, then he does not need a lawyer. You have held him up to the light and shaken him. You have cross-examined him. Is that the hurdle he has to mount and surmount to get a lawyer? That is really not so.

The preponderance of evidence is fine in a civil suit and the highest standard is beyond all reasonable doubt. We suggest a middle standard, clear and convincing. Why? Because it is not a civil suit. It is a quasi-criminal suit and it is punishment. The Supreme Court has

said when they confiscate your property, that is punishment. And so you ought to meet a little higher standard than preponderance and that is the standard of clear and convincing.

The gentleman's bill, his substitute, expands incrementally, exponentially the field of civil asset forfeiture. That may be a good idea, but not in this bill. This is a reform of the process. This is not a bill to broaden the concept of civil asset forfeiture. I am interested in it. If he wants to prepare a bill and file it, I will give him very good hearings and quick hearings. But this bill is to reform the process and ought not to be diluted or diverted into issues over which we have had no hearings.

Now, all I want to do is give the average citizen who is not a sheriff, who does not have a relative in the city council, I want to give him due process of law. That means the government, King Louis XIV, does not confiscate your property on probable cause. That is all. You prove, Mr. Government, that you ought to have that property, that some crime has been committed and it is connected to the defendant and that is fine. I am all for it. I will open the door for you. But on an affidavit of probable cause to inflict drastic punishment on somebody and make them prove they are not guilty is not, in my humble opinion, the American way.

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

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute consisting of the bill, modified by the amendments printed in the bill, shall be considered by sections as an original bill for the purpose of amendment and, pursuant to the rule, each section is considered read.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in House Report 106–193 if offered by the gentleman from Illinois (Mr. HYDE) or his designee. That amendment shall be considered read and may amend portions of the bill not yet read for amendment.

No further amendment to the amendment in the nature of a substitute is in order except those printed in the appropriate portion of the CONGRESSIONAL RECORD. Those amendments shall 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.

It is now in order to consider the amendment printed in House Report 106–193.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE:

Page 11, strike line 3 and all that follows through line 3 on page 12 and redesignate sections 4, 5, and 6 as sections 3, 4, and 5, respectively.

Page 12, line 17, strike ''forfeiture'' and insert ''forfeiture under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense''.

Page 13, beginning in line 20 strike ''under any Act of Congress'' and insert ''under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense''.

Page 13, line 25, strike ''pre-judgment interest'' and insert ''for pre-judgment interest in a proceeding under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense''.

Page 14, line 17, strike ''any intangible benefits'' and insert ''any intangible benefits in a proceeding under any provision of Federal law (than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense''.

Mr. HYDE. Mr. Chairman, it was always the intent to modify the procedures for Federal civil asset forfeitures. This is a purely technical amendment which clarifies in the few cases where the bill may be unclear that we are talking about civil asset forfeiture and not criminal asset forfeiture. I move its adoption.

Mr. FRANK of Massachusetts. Mr. Chairman, I agree with the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate section 1.

The text of section 1 is as follows:

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 ''Civil Asset Forfeiture Reform Act''.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENT NO. 25 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HUTCHINSON

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

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

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

Amendment No. 25 in the nature of a substitute offered by Mr. HUTCHINSON:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Civil Asset Forfeiture Reform Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Creation of general rules relating to civil forfeiture proceedings.
Sec. 3. Compensation for damage to seized property.
Sec. 4. Prejudgment and postjudgment interest.
Sec. 5. Applicability.

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting the following new section after section 982:

''§ 983. Civil forfeiture procedures

''(a) ADMINISTRATIVE FORFEITURES.—(1)(A) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must send written notice of the seizure under section 607(a) of the Tariff Act of 1930 (19 U.S.C. 1607(a)), such notice together with information on the applicable procedures shall be sent not later than 60 days after the seizure to each party known to the seizing agency at the time of the seizure to have an ownership or possessory interest, including a lienholder's interest, in the seized article. If a party's identity or interest is not determined until after the seizure but is determined before a declaration of forfeiture is entered, such written notice and information shall be sent to such interested party not later than 60 days after the seizing agency's determination of the identity of the party or the party's interest.

''(B) If the Government does not provide notice of a seizure of property in accordance with subparagraph (A), it shall return the property pending the giving of such notice.

''(2) The Government may apply to a Federal magistrate judge (as defined in the Federal Rules of Criminal Procedure) in any district where venue for a forfeiture action would lie under section 1355(b) of title 28 for an extension of time in which to comply with paragraph (1)(A). Such an extension shall be granted based on a showing of good cause.

''(3) A person with an ownership or possessory interest in the seized article who failed to file a claim within the time period prescribed in subsection (b) may, on motion made not later than 2 years after the date of final publication of notice of seizure of the property, move to set aside a declaration of forfeiture entered pursuant to section 609 of the Tariff Act of 1930 (19 U.S.C. 1609). Such motion shall be granted if—

''(A) the Government failed to take reasonable steps to provide the claimant with notice of the forfeiture; and

''(B) the person otherwise had no actual notice of the seizure within sufficient time to enable the person to file a timely claim under subsection (b).

''(4) If the court grants a motion made under paragraph (3), it shall set aside the declaration of forfeiture as to the moving party's interest pending forfeiture proceedings in accordance with section 602 et seq. of the Tariff Act of 1930 (19 U.S.C. 1602 et seq.), which proceedings shall be instituted within 60 days of the entry of the order granting the motion.

''(5) If, at the time a motion under this subsection is granted, the forfeited property has been disposed of by the Government in

accordance with law, the Government shall institute forfeiture proceedings under paragraph (4). The property which will be the subject of the forfeiture proceedings instituted under paragraph (4) shall be a sum of money equal to the value of the forfeited property at the time it was disposed of plus interest.

''(6) The institution of forfeiture proceedings under paragraph (4) shall not be barred by the expiration of the statute of limitations under section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) if the original publication of notice was completed before the expiration of such limitations period.

''(7) A motion made under this subsection shall be the exclusive means of obtaining judicial review of a declaration of forfeiture entered by a seizing agency.

''(b) FILING A CLAIM.—(1) Any person claiming such seized property may file a claim with the appropriate official after the seizure.

''(2) A claim under paragraph (1) may not be filed later than 30 days after—

''(A) the date of final publication of notice of seizure; or

''(B) in the case of a person receiving written notice, the date that such notice is received.

''(3) The claim shall set forth the nature and extent of the claimant's interest in the property.

''(4) Any person may bring a direct claim under subsection (b) without posting bond with respect to the property which is the subject of the claim.

''(c) FILING A COMPLAINT.—(1) In cases where property has been seized or restrained by the Government and a claim has been filed, the Attorney General shall file a complaint for forfeiture in the appropriate court in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims not later than 90 days after the claim was filed, or return the property pending the filing of a complaint. By mutual agreement between the Government and the claimants, the 90-day filing requirement may be waived.

''(2) The Government may apply to a Federal magistrate judge (as defined in the Federal Rules of Criminal Procedure) in any district where venue for a forfeiture action would lie under section 1355(b) of title 28 for an extension of time in which to comply with paragraph (1). Such an extension shall be granted based on a showing of good cause.

''(3) Upon the filing of a civil complaint, the claimant shall file a claim and answer in accordance with the Supplemental Rules for Certain Admiralty and Maritime Claims.

''(d) APPOINTMENT OF COUNSEL.—(1) If the person filing a claim is financially unable to obtain representation by counsel and requests that counsel be appointed, the court may appoint counsel to represent that person with respect to the claim. In determining whether to appoint counsel to represent the person filing the claim, the court shall take into account—

''(A) the nature and value of the property subject to forfeiture, including the hardship to the claimant from the loss of the property seized, compared to the expense of appointing counsel;

''(B) the claimant's standing to contest the forfeiture; and

''(C) whether the claim appears to be made in good faith or to be frivolous.

''(2) The court shall set the compensation for that representation, which shall be the equivalent to that provided for court-appointed representation under section 3006A of this title, and to pay such cost, there are authorized to be appropriated such sums as are necessary as an addition to the funds otherwise appropriated for the appointment of counsel under such section.

''(3) The determination of whether to appoint counsel under this subsection shall be made following a hearing at which the Government shall have an opportunity to present evidence and examine the claimant. The testimony of the claimant at such hearing shall not be admitted in any other proceeding except in accordance with the rules which govern the admissibility of testimony adduced in a hearing on a motion to suppress evidence. Nothing in this paragraph shall be construed to prohibit the admission of any evidence that may be obtained in the course of civil discovery in the forfeiture proceeding or through any other lawful investigative means.

''(e) BURDEN OF PROOF.—In all suits or actions brought for the civil forfeiture of any property, the burden of proof at trial is on the United States to establish, by a preponderance of the evidence, that the property is subject to forfeiture. If the Government proves that the property is subject to forfeiture, the claimant shall have the burden of establishing any affirmative defense by a preponderance of the evidence.

''(f) INNOCENT OWNERS.—(1) An innocent owner's interest in property shall not be forfeited in any civil forfeiture action.

''(2) With respect to a property interest in existence at the time the illegal conduct giving rise to the forfeiture took place, the term 'innocent owner' means an owner who—

''(A) did not know of the conduct giving rise to the forfeiture; or

''(B) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

''(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term 'innocent owner' means a person who, at the time that person acquired the interest in the property, was a bona fide purchaser for value and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture.

''(B) Except as provided in paragraph (4), where the property subject to forfeiture is real property, and the claimant uses the property as his or her primary residence and is the spouse or minor child of the person who committed the offense giving rise to the forfeiture, an otherwise valid innocent owner claim shall not be denied on the ground that the claimant acquired the interest in the property—

''(i) in the case of a spouse, through dissolution of marriage or by operation of law, or

''(ii) in the case of a minor child, as an inheritance upon the death of a parent,

and not through a purchase. However, the claimant must establish, in accordance with subparagraph (A), that at the time of the acquisition of the property interest, the claimant was reasonably without cause to believe that the property was subject to forfeiture, and was an owner of the property, as defined in paragraph (6).

''(4) Notwithstanding any provision of this section, no person may assert an ownership interest under this section—

''(A) in contraband or other property that it is illegal to possess; or

''(B) in the illegal proceeds of a criminal act unless such person was a bona fide purchaser for value who was reasonably without cause to believe that the property was subject to forfeiture.

''(5) For the purposes of paragraph (2) of this subsection a person does all that reasonably can be expected if the person takes all steps that a reasonable person would take in the circumstances to prevent or terminate the illegal use of the person's property. There is a rebuttable presumption that a property owner took all the steps that a reasonable person would take if the property owner—

''(A) gave timely notice to an appropriate law enforcement agency of information that led to the claimant to know the conduct giving rise to a forfeiture would occur or has occurred; and

''(B) in a timely fashion, revoked permission for those engaging in such conduct to use the property or took reasonable steps in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

The person is not required to take extraordinary steps that the person reasonably believes would be likely to subject the person to physical danger.

''(6) As used in this subsection—

''(A) the term 'civil forfeiture statute' means any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

''(B) the term 'owner' means a person with an ownership interest in the specific property sought to be forfeited, including a lien, mortgage, recorded security device, or valid assignment of an ownership interest. Such term does not include—

''(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

''(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

''(iii) a nominee who exercises no dominion or control over the property;

''(C) a person shall be considered to have known that the person's property was being used or was likely to be used in the commission of an illegal act if the person was willfully blind.

''(7) If the court determines, in accordance with this subsection, that an innocent owner had a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court shall enter an appropriate order—

''(A) severing the property;

''(B) transferring the property to the Government with a provision that the Government compensate the innocent owner to the extent of his or her ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

''(C) permitting the innocent owner to retain the property subject to a lien in favor of the Government, to the extent of the forfeitable interest in the property, that will permit the Government to realize its forfeitable interest if the property is transferred to another person.

To effectuate the purposes of this subsection, a joint tenancy or tenancy by the entireties shall be converted to a tenancy in common by order of the court, irrespective of state law.

''(8) An innocent owner defense under this subsection is an affirmative defense.

''(g) MOTION TO SUPPRESS SEIZED EVIDENCE.—At any time after a claim and answer are filed in a judicial forfeiture proceeding, a claimant with standing to contest

the seizure of the property may move to suppress the fruits of the seizure in accordance with the normal rules regarding the suppression of illegally seized evidence. If the claimant prevails on such motion, the fruits of the seizure shall not be admitted into evidence as to that claimant at the forfeiture trial. However, a finding that evidence should be suppressed shall not bar the forfeiture of the property based on evidence obtained independently before or after the seizure.

''(h) USE OF HEARSAY AT PRE-TRIAL HEARINGS.—At any pre-trial hearing under this section in which the governing standard is probable cause, the court may accept and consider hearsay otherwise inadmissible under the Federal Rules of Evidence.

''(i) STIPULATIONS.—Notwithstanding the claimant's offer to stipulate to the forfeitability of the property, the Government shall be entitled to present evidence to the finder of fact on that issue before the claimant presents any evidence in support of any affirmative defense.

''(j) PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE.—The court, before or after the filing of a forfeiture complaint and on the application of the Government, may—

''(1) enter any restraining order or injunction in the manner set forth in section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e));

''(2) require the execution of satisfactory performance bonds;

''(3) create receiverships;

''(4) appoint conservators, custodians, appraisers, accountants or trustees; or

''(5) take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this section.

''(k) EXCESSIVE FINES.—(1) At the conclusion of the trial and following the entry of a verdict of forfeiture, or upon the entry of summary judgment for the Government as to the forfeitability of the property, the claimant may petition the court to determine whether the excessive fines clause of the Eighth Amendment applies, and if so, whether forfeiture is excessive. The claimant shall have the burden of establishing that a forfeiture is excessive by a preponderance of the evidence at a hearing conducted in the manner provided in Rule 43(e), Federal Rules of Civil Procedure, by the Court without a jury. If the court determines that the forfeiture is excessive, it shall adjust the forfeiture to the extent necessary to avoid the Constitutional violation.

''(2) The claimant may not object to the forfeiture on Eighth Amendment grounds other than as set forth in paragraph (1), except that a claimant may, at any time, file a motion for summary judgment asserting that even if the property is subject to forfeiture, the forfeiture would be excessive. The court shall rule on such motion for summary judgment only after the Government has had an opportunity—

''(A) to conduct full discovery on the Eighth Amendment issue; and

''(B) to place such evidence as may be relevant to the excessive fines determination before the court in affidavits or at an evidentiary hearing.

''(l) PRE-DISCOVERY STANDARD.—In a judicial proceeding on the forfeiture of property, the Government shall not be required to establish the forfeitability of the property before the completion of discovery pursuant to the Federal Rules of Civil Procedure, particularly Rule 56(f) as may be ordered by the court or if no discovery is ordered before trial.

''(m) APPLICABILITY.—The procedures set forth in this section apply to any civil forfeiture action brought under any provision of this title, the Controlled Substances Act, or the Immigration and Naturalization Act.''.

(b) RELEASE OF PROPERTY.—Chapter 46 of title 18, United States Code, is amended to add the following section after section 984:

''§ 985. Release of property to avoid hardship

''(a) A person who has filed a claim under section 983 is entitled to release pursuant to subsection (b) of seized property pending trial if—

''(1) the claimant has a possessory interest in the property sufficient to establish standing to contest forfeiture and has filed a nonfrivolous claim on the merits of the forfeiture action;

''(2) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

''(3) the continued possession by the United States Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the claimant from working, leaving the claimant homeless, or preventing the functioning of a business;

''(4) the claimant's hardship outweighs the risk that the property will be destroyed, damaged, lost, concealed, diminished in value or transferred if it is returned to the claimant during the pendency of the proceeding; and

''(5) none of the conditions set forth in subsection (c) applies;

''(b)(1) The claimant may make a request for the release of property under this subsection at any time after the claim is filed. If, at the time the request is made, the seizing agency has not yet referred the claim to a United States Attorney pursuant to section 608 of the Tariff Act of 1930 (19 U.S.C. 1608), the request may be filed with the seizing agency; otherwise the request must be filed with the United States Attorney to whom the claim was referred. In either case, the request must set forth the basis on which the requirements of subsection (a)(1) are met.

''(2) If the seizing agency, or the United States Attorney, as the case may be, denies the request or fails to act on the request within 20 days, the claimant may file the request as a motion for the return of seized property in the district court for the district represented by the United States Attorney to whom the claim was referred, or if the claim has not yet been referred, in the district court that issued the seizure warrant for the property, or if no warrant was issued, in any district court that would have jurisdiction to consider a motion for the return of seized property under Rule 41(e), Federal Rules of Criminal Procedure. The motion must set forth the basis on which the requirements of subsection (a) have been met and the steps the claimant has taken to secure the release of the property from the appropriate official.

''(3) The district court must act on a motion made pursuant to this subsection within 30 days or as soon thereafter as practicable, and must grant the motion if the claimant establishes that the requirements of subsection (a) have been met. If the court grants the motion, the court must enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including permitting the inspection, photographing and inventory of the property, and the court may take action in accordance with Rule E of the Supplemental Rules for Certain Admiralty and Maritime Cases. The Government is authorized to place a lien against the property or to file a lis pendens to ensure that it is not transferred to another person.

''(4) If property returned to the claimant under this section is lost, stolen, or diminished in value, any insurance proceeds shall be paid to the United States and such proceeds shall be subject to forfeiture in place of the property originally seized.

''(c) This section shall not apply if the seized property—

''(1) is contraband, currency or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a business which has been seized,

''(2) is evidence of a violation of the law,

''(3) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

''(4) is likely to be used to commit additional criminal acts if returned to the claimant.''

''(d) Once a motion for the release of property under this section is filed, the person filing the motion may request that the motion be transferred to another district where venue for the forfeiture action would lie under section 1355(b) of title 28 pursuant to the change of venue provisions in section 1404 of title 28.''.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 46 of title 18, United States Code, is amended—

(1) by inserting after the item relating to section 982 the following:

''983. Civil forfeiture procedures''; and

(2) by inserting after the item relating to section 984 the following:

''985. Release of property to avoid hardship''.

(f) CIVIL FORFEITURE OF PROCEEDS.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C) by inserting before the period the following: ''or any offense constituting 'specified unlawful activity' as defined in section 1956(c)(7) of this title or a conspiracy to commit such offense''; and

(2) by striking subparagraph (E).

(d) UNIFORM DEFINITION OF PROCEEDS.—Section 981(a) of title 18, United States Code, as amended by subsection (c), is amended—

(A) in paragraph (1), by striking ''gross receipts'' and ''gross proceeds'' wherever those terms appear and inserting ''proceeds''; and

(B) by adding the following after paragraph (1):

''(2) For purposes of paragraph (1), the term 'proceeds' means property of any kind obtained, directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the commission of the offense. In a case involving the forfeiture of proceeds of a fraud or false claim under paragraph (1)(C) involving billing for goods or services part of which are legitimate and part of which are not legitimate, the court shall allow the claimant a deduction from the forfeiture for the amount obtained in exchange for the legitimate goods or services. In a case involving goods or services provided by a health care provider, such goods or services are not 'legitimate' if they were unnecessary.

''(3) For purposes of the provisions of subparagraphs (B) through (H) of paragraph (1) which provide for the forfeiture of proceeds of an offense or property traceable thereto, where the proceeds have been commingled

with or invested in real or personal property, only the portion of such property derived from the proceeds shall be regarded as property traceable to the forfeitable proceeds. Where the proceeds of the offense have been invested in real or personal property that has appreciated in value, whether the relationship of the property to the proceeds is too attenuated to support the forfeiture of such property shall be determined in accordance with the excessive fines clause of the Eighth Amendment.''

SEC. 3. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

(a) TORT CLAIMS ACT.—Section 2680(c) of title 28, United States Code, is amended—

(1) by striking ''law-enforcement'' and inserting ''law enforcement''; and

(2) by inserting before the period the following: '', except that the provisions of this chapter and section 1346(b) of this title do apply to any claim based on the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if the property was seized for the purpose of forfeiture under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense but the interest of the claimant is not forfeited.

(b) DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

(A) is presented to the Attorney General more than 1 year after it occurs; or

(B) is presented by an officer or employee of the United States Government and arose within the scope of employment.

SEC. 4. PREJUDGMENT AND POSTJUDGMENT INTEREST.

Section 2465 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Upon''; and

(2) adding at the end the following:

''(b) INTEREST.—

''(1) POST-JUDGMENT.—Upon entry of judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, the United States shall be liable for post-judgment interest as set forth in section 1961 of this title.

''(2) PRE-JUDGMENT.—The United States shall not be liable for prejudgment interest in a proceeding under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, except that in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, the United States shall disgorge to the claimant any funds representing—

''(A) interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

''(B) for any period during which no interest is actually paid, an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate described in section 1961.

''(3) LIMITATION ON OTHER PAYMENTS.—The United States shall not be required to disgorge the value of any intangible benefits nor make any other payments to the claimant not specifically authorized by this subsection.''.

SEC. 5. APPLICABILITY.

Unless otherwise specified in this Act, the amendments made by this Act apply with respect to claims, suits, and actions filed on or after the date of the enactment of this Act.

Mr. HUTCHINSON. Mr. Chairman, it was Ronald Reagan who understood how to fight and win the war on drugs. It was President Reagan who knew that you had to seize the drug dealers' cars, boats, airplanes and cash that were used to carry on the drug business in order to hit them where it hurts.

Asset forfeiture has proven without any doubt to be an effective weapon in the war on drugs. This is not the time to disarm our soldiers and to demoralize our police on the front line and it is certainly not the right time to send the signal to the drug dealers that we are weakening our resolve.

For that reason, I, along with the gentleman from New York (Mr. WEINER) and the gentleman from New York (Mr. SWEENEY) have offered a substitute to H.R. 1658 which would accomplish the reform that the gentleman from Illinois has worked so valiantly for but at the same time our substitute will not cripple our drug enforcement agents who put their lives on the line every day.

I agree that no innocent citizen should have to prove his or her innocence to the government in order to protect their property from government seizure. It should not be probable cause as the gentleman from Illinois pointed out. This substitute includes the identical provisions in the base bill on shifting the burden of proof to the government, eliminating the necessity of a cost bond, providing a means to recovery for citizens who have their property damaged, and it pays interest on assets returned. We can all be for protection of our citizens and for reform while also going after the drug dealers. And so there are some corrections in the substitute that provides balance to this legislation.

For example, the drug trafficker who unloads shiploads of cocaine upon our Nation's youth should not be afforded more protection than a student who defaults on his loan. The government has to prove the case by a preponderance against the student, but there is a higher standard when going after the assets of drug dealers by clear and convincing evidence.

□ 1515

Now, as pointed out, that we do not know they are a drug dealer. Eighty percent of the cases there is an arrest or a charge against the individual. But in some instances we will have assets are abandoned by people who are clearly engaging in drug trafficking, but they will go across the border. We will have someone who is not prosecutable because we do not have good extradition laws, and so we can still seize their assets under those circumstances. This makes sense, and the substitute corrects the problem.

Now, if there was a medal of honor to be given to someone in the war on drugs, it would be to Tom Constantine, the DEA Administrator. Listen to what he has to say:

> Drug trafficking is not a crime of passion, but one of greed. The DEA and the law enforcement community know that to dissolve a drug trafficking organization we must eliminate the financial base and profit. The enactment of H.R. 1658 would severely limit DEA's ability to use its effective law enforcement tool.

He goes on to say that the broad brush of H.R. 1658 would destroy or severely limit the ability of law enforcement to attack drug traffickers and other criminal elements.

This is the DEA Administrator.

I think we have to be consistent here in this Congress. How does disarming law enforcement fit into the war on drugs? We push other countries to adopt laws that allow seizure of assets; we push them to do that, and then we back off from our own commitment to take drug dealers' assets. We form a Speaker's Task Force for a Drug-free America. We want to de-certify Mexico. We get upset about the lack of commitment from other countries. Then we throw up our hands and say that we want to overreact and back off from our support of law enforcement.

We need to ask ourselves how can we weaken the forfeiture laws to such an extent that we discourage law enforcement. We are telling them that we do not have the resolve. We are telling the DEA that we are not going to help them. We cannot demoralize the courageous law enforcement men and women who are trying to save the lives of our teenagers and the next generation.

The bill of the gentleman from Illinois (Mr. HYDE) does extraordinary good to what we are trying to accomplish in making sure citizens are protected, but the reasonable Hutchinson–Weiner-Sweeney amendment makes it a balance so that we do not hamper the legitimate efforts of law enforcement.

So I would ask my colleagues to support this substitute that is offered that would bring reason to the appointment of attorneys, that would make sure that it is not simply retroactive in application, it does not affect pending cases, as the base bill does. Our bill would say it would apply after the date

of enactment. It is much a more commonsense approach to the enactment of a bill. Whenever it comes to the hardship cases, we make it clear that there is a difference between the cash and those things that are used for drug crimes during the pendency of an action versus otherwise, and so I ask my colleagues to support this reasonable substitute.

Mr. WEINER. Mr. Chairman, I rise in support of the Hutchinson amendment.

Mr. Chairman, the gentleman from Arkansas (Mr. HUTCHINSON) has outlined for us in great detail how we are simply seeking to make the civil asset forfeiture law, make it a little bit more fair and to make it so it can be used by law enforcement authorities. But there has been some argument here about whether or not we should have civil asset forfeiture at all, and I would like to spend a moment or two just reviewing some of the circumstances that perhaps my colleagues have not considered where civil asset forfeiture is the only way to really get at the root of crime, and it is the reason why we have had such great results against crime in many localities around the country.

First of all, criminal forfeiture, which is something that my colleague from Massachusetts has argued in support of, and frankly I believe we all believe that criminal forfeiture where it is written into the law is the most important tool that should be used against a criminal is useless if the criminal is either dead or fugitive from the law. If someone leaves the scene of a crime, if we are in pursuit of them and they leave behind a sack of money and drugs, under the argument that has been made here we would not be able to seize that unless, of course, we are able to reach a much higher standard than presently exists.

Secondly, criminal forfeiture is limited to the property of the defendant, and just as I said earlier, there are very frequently times, especially in the locality that I am from in New York City where we have homes, where we have apartments, where we have houses that are used for illegal activity and sometimes even used for illegal activity with the knowledge of the occupant. But since the occupant or the owner is not the person that does that criminal activity, civil asset forfeiture is frequently the only way that we can get it. If an airplane that is used for drug smuggling, for example, belongs to the wife of the defendant or belongs to a corporation or to his partner, this is a way that we can get at that article of crime.

Also, civil forfeiture is the only way to seize drug money that is carried by a courier when there is no way to know exactly which drug dealer it belongs to. Eighty-five percent of such civil forfeiture cases are uncontested. Without civil forfeiture this money would have to be released to the courier.

Again civil forfeiture is the only way to shut down a crack house or a property. Civil forfeiture is needed when we do not, we are not, when we are seizing something under federal law when the crime has happened under State law.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

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

Mr. FRANK of Massachusetts. He said, and I thank the gentleman for yielding; he said that some of the 85 percent of them were uncontested. Is the gentleman telling us that one could not meet the standard of clear and convincing in an uncontested case?

Mr. WEINER. If I can reclaim my time, what I am arguing to the gentleman from Massachusetts is that there are some people who have looked on and listened to the debate and said why is it that we should have civil forfeiture statutes at all? Why is it necessary that they exist in the law?

The gentleman from Illinois, the distinguished chairman, raised a very interesting question about whether it is indeed an un-American thing to do, and what I am trying to do is lay out the ways in the real world law enforcement authorities all across this country who from A to Z have lined up in favor of the Hutchinson–Weiner-Sweeney amendment are using it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield again?

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

Mr. FRANK of Massachusetts. I understand, but the amendment is to a bill which leaves civil forfeiture in place, and the gentleman just cited as an argument for the amendment, presumably, that many, many of these are uncontested.

Now the underlying bill says they just have to meet the clear and convincing standard, and I am arguing that in an uncontested case one does not have to be a crack lawyer to meet the standard of clear and convincing, so that is an irrelevancy on the question of the amendment versus the underlying bill.

Mr. WEINER. As I reclaim my time, I guess I understand from that question and that argument that the gentleman from Massachusetts supports civil forfeiture in those cases.

Mr. FRANK of Massachusetts. If the gentleman would yield, I congratulate the gentleman on getting me to acknowledge what has been my policy for years and what is the Chairman's policy. The gentleman is flailing away at a straw man. I do not see anything on here that totally abolishes civil forfeiture anywhere.

Mr. WEINER. In fact, I would say to the gentleman from Massachusetts, the straw man here is the argument that these abuses represent the true state of civil forfeiture law in this country. In fact, these things that I am listing are how indeed law enforcement authorities every day are using the civil forfeiture statute. The abuses that exist, and they do, they represent the straw man in this debate because indeed we all want to do away with the abuses.

The question becomes do we then say by doing away with these abuses do we obviate all civil forfeiture statutes? The gentleman from Illinois, the very distinguished chairman, argued on the well of this House that it was un-American in some way, and all I am trying to delineate for the American people and for the folks in this Chamber; the fundamental argument has emerged: Should we have civil forfeiture, and I believe we should.

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

As my colleagues know, we a have a lot of fevered debate around here by well-meaning people, and that is fine, that is what this place is all about. So I just want to say a few things about the amendment offered by my good friend, the gentleman from Arkansas (Mr. HUTCHINSON), the gentleman from New York (Mr. SWEENEY), and the gentleman from New York (Mr. WEINER). It is so unfair, it is unfair.

Mr. Chairman, I will tell my colleagues why it is unfair. The bill, the underlying bill, guarantees a property owner is considered an innocent owner and receives protection from forfeiture if he or she notifies the police of the unauthorized illegal use of his or her property by others and revokes their permission to use the property. That is the innocent owner defense. Is that fair? Well, I think it is, but it is not in their bill. They do not permit an innocent owner who has gone to the police and said, ''Some of my tenants are selling dope, and I have tried to evict them, and they threw a knife at me.'' Well, he loses his building because they do not have an innocent owner defense in their substitute.

Now, they do not protect innocent heirs. Somebody inherits something, and 10 years ago it was used in a crime, he does not know about it, totally innocent; he loses his property. I know the police like that; they like those assets. I understand that. The substitute does not require the government to establish the forfeitability of the property before completion of discovery. As the gentleman from Michigan (Mr. CONYERS) said, seize now and prove later. That is a wonderful idea; that is very fair.

The substitute dramatically expands the field of civil asset forfeiture; no hearings on that at all. It weakens almost all of our reforms. The burden of proof belongs with the government when they are punishing someone, and this is punishment. It has been held to be punishment, quasi criminal, and therefore their standard ought to be, ought to be, clear and convincing.

Now, Mr. Constantine had an interesting quote there, and I have nothing but admiration for people who are fighting the drug battle, but I did not hear a peep out of those people while all of these abuses were going on, while people had their property confiscated on probable cause. I would think more of their essential fairness had they brought this to our attention and not some newspaper man.

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

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

Mr. WEINER. Mr. Chairman, first of all just a point of correction on a couple of points.

We do indeed have an innocent owner defense in the Sweeney-Hutchinson–Weiner substitute, and as to the point that there were not hearings on the bill, this virtually identical bill passed by 26 to 1 last year in the Committee on the Judiciary of this House.

Mr. HYDE. Mr. Chairman, I did not hear the gentleman.

Mr. WEINER. Our substitute passed 26 to 1 last year in the Committee on the Judiciary of this House.

Mr. HYDE. Last year I tried to compromise with the Justice Department. I bent over backwards trying to accommodate everybody, and the more their bill grew and was distorted into areas where I did not want it to go, I lost support, and finally I had a nice shell of nothing. So I decided to get pure and go back to the original bill, and that is what we are doing.

Mr. WEINER. I just want a clarification on the notion that there was no hearings because indeed there were.

Mr. HYDE. There were no hearings on the burden of proof and things like that, and the gentleman from New York was not here.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The gentlewoman's amendment can be considered during a later section in the bill.

Mrs. MEEK of Florida. That is true, but I amended both of them. I amended this particular bill as well as the later bill.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Mr. Chairman, if there were to be unanimous consent for it to be offered now since it might not get too far along, would that be in order, to ask for unanimous consent that the gentlewoman be allowed to offer it now?

The CHAIRMAN. Does the gentlewoman from Florida have an amendment to this amendment?

Mrs. MEEK of Florida. Yes, I do.

The CHAIRMAN. Would she present it to the Clerk?

Mrs. MEEK of Florida. Yes, it has been presented, and it is preprinted in the CONGRESSIONAL RECORD.

□ 1530

AMENDMENT OFFERED BY MRS. MEEK OF FLORIDA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HUTCHINSON

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. MEEK of Florida to the amendment in the nature of a substitute offered by Mr. HUTCHINSON:

At the end add the following:

SEC. 5. FORFEITURE FOR ALIEN SMUGGLING.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(1)(1) Any conveyance, including any vessel, vehicle, or aircraft which has been used or is being used in commission of a violation of section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)); and

''(2) Any property, real or personal that—

''(A) constitutes, is derived from, or is traceable to the proceeds obtained, directly or indirectly, from the commission of a violation of section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)); or

''(B) is used to facilitate, or is intended to be used to facilitate, the commission of a violation of such section.''

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

The CHAIRMAN. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Mrs. MEEK of Florida. Mr. Chairman, my amendment addresses the pernicious practice of alien smuggling which is so often experienced in my area of south Florida. It is a huge problem there, especially those who bring passengers in from Haiti and Cuba to south Florida, frequently on unsafe and rickety boats, and many times under dangerous conditions, and many times with the loss of life.

For example, in March of this year, Mr. Chairman, an alien smuggler's boat sank off the coast of West Palm Beach, Florida, and depending upon whether or not the Coast Guard or press reports of this horrendous tragedy, whether those reports are correct, there were some 15 to 40 Haitian passengers who drowned because of that illegal smuggling act of bringing these poor and disadvantaged people from Haiti.

These heartless and inhumane alien smugglers are really parasites. They are making huge sums of money from these poor people who are fleeing from very bad conditions in their own countries. They seek to come to this country by any means because of their desperate condition, and they become easy prey for the smugglers, and they want to come to the United States.

We must provide law enforcement with some available remedies to assure that the smugglers cannot continue to exploit vulnerable communities such as the Haitians and the Cubans. Unfortunately, the existing civil asset forfeiture provisions for alien smuggling, they are far more limited than those available to address drug offenses, and there is a considerable need here for stronger, stricter regulations on these alien smugglers.

Current law authorizes the forfeiture of vehicles, vessels, and aircraft used to commit alien smuggling offenses. This has proven to be a very good law enforcement tool that the INS uses more than 12,000 times a year. But the law itself has some very glaring loopholes. We know that there are other types of property other than vessels and vehicles and aircraft that will facilitate the kind of illegal stuff that the smugglers are doing. But this type of property right now is not subject to civil asset forfeiture.

To give just one example of that, alien smugglers use electronic gear to monitor law enforcement activity directed against alien smuggling. The smugglers also use very large and well-equipped warehouses where vehicles, vessels and even human beings, many times, are stashed to avoid detection by the Coast Guard or the Border Patrol. Yet these other types of property currently are not subject to civil asset forfeiture.

Suffice it to say, Mr. Chairman, that there is an arena where current laws do not cover what is going on with these people who are dealing in human cargo. So my amendment seeks to correct these deficiencies by expanding the scope of permissible civil asset forfeiture in alien smuggling.

Law enforcement should have the ability to reach any property that is owned by the smugglers. Right now they do not. There is no logical reason why they cannot.

I thank the distinguished chairman, and I thank the people who are offering this substitute amendment, Mr. Chairman, for expressing their willingness to address this major problem that I have brought up between now and conference.

Mr. Chairman, based upon their statements and upon my understanding of what they have said, that they will address this later, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

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

Mr. Chairman, I rise in support of the substitute presently before us, and I urge my colleagues to support it as well. It is a carefully drawn proposal with the input of the Department of

Justice and the law enforcement community. It, too, has an innocent owner defense. It also works to make certain that the defense will not be used by any criminals to shield their property.

The underlying Hyde bill is opposed by the DEA, the International Association of Chiefs of Police, by the New York State Police, the New York attorneys general, the New York State District Attorneys Association, the National Sheriffs Association, the Fraternal Order of Police, the national drug enforcement officers, among just a few in our law enforcement community. These are the frontline forces in our fight against illicit drugs and crime. We should heed their sound advice and be wary of anything that can make their already difficult job any harder.

Our superintendent of the New York State Police, an outstanding and dedicated police officer, and who once served in my district, put this whole debate in proper perspective when he wrote me on June 18 stating, and I quote, we are aware of no instance since the inception of the Federal equitable forfeiture sharing program of any case involving this agency whereby a hardship was endured by any innocent owner, close quote.

Let us not throw out the baby with the bath water while we try to reform asset forfeiture. Accordingly, I urge a vote for the Hutchinson-Weiner-Sweeney substitute. I think it is a well-crafted and well-thought-out compromise that was developed last year with the input of those who have been fighting the scourge of drugs and crime each and every day all across our Nation.

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

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
New York, NY, June 23, 1999.

Hon. BENJAMIN A. GILMAN,
U.S. House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN GILMAN: I take this opportunity to express New York State's concern with regard to H.R. 1658 which is imminently scheduled to come before the full House of Representatives for vote. Passage of H.R. 1658 will seriously impair law enforcement's ability to seize assets of criminal enterprises. As such, when Congressman Hyde offers H.R. 1658 to address criminal asset forfeitures, I strongly urge members to support the substitute amendment being offered by Congressman Sweeney, Weiner and Hutchinson.

One of the most potent weapons in our efforts to combat illegal drugs and other organized criminal activity has been comprehensive Federal forfeiture statutes that strip criminal enterprises of their accumulated wealth and distribute it to state and local law enforcement agencies. The forfeited assets are then utilized by law enforcement agencies to augment their capacity to combat a broad array of criminal activity.

New York has been the major recipient of these shared forfeited assets. Indeed, since inception of this program in 1985, New York State law enforcement agencies have received over $380 million in forfeited assets, more than three times the amount of any other state. The New York State Police, alone, have received in excess of $100 million, enabling the agency to build a new $25 million Forensic Investigation Center funded entirely by forfeited assets returned to New York State. State and local police and prosecutors throughout the State received over $28 million in federally forfeited criminal proceeds in 1998 alone.

Unfortunately, this very laudable and effective program is threatened by H.R. 1658 as introduced by Congressman Hyde which, in my view, has the potential of decimating the forfeited asset sharing program in New York and across the nation.

Under the legitimate guise of protecting the rights of ''innocent'' owners, the bill unfortunately goes far beyond what is reasonably necessary to accomplish that goal and restructures the Federal forfeiture law in a manner that tips the scale sharply in favor of the criminal. The unrealistically high burdens of proof the Hyde language places upon police officers and the government, its provisions that eliminate cost bonds, permit transfer of assets to relatives, and permit the utilization of seized assets for legal fees will, I believe, hasten the demise of an outstanding program, and result in millions of dollars of tainted criminal assets being retained by organized criminal enterprises. It is, therefore, no surprise that H.R. 1658 is strongly opposed by virtually every law enforcement organization in the country, as sell as the United States Department of Justice.

Fortunately, to the extent that minor corrective measures are needed with regard to Federal forfeiture, there are realistic alternatives to H.R. 1658 which deserve your consideration and support. The substitute amendment being offered by Congressmen Sweeney, Hutchinson, and Weiner, strengthens the procedures that protect truly innocent owners, while preserving the inherent integrity of the forfeiture laws.

I respectfully request that you vote against H.R. 1658, unless the Sweeney/Weiner/Hutchinson amendment passes.

Please contact me if I can provide further information. Thank you for your assistance.

Sincerely,

KATHERINE N. LAPP.

NEW YORK STATE POLICE,
STATE CAMPUS,
Albany, NY, June 18, 1999.

Hon. BENJAMIN A. GILMAN,
Member of Congress, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

Re: H.R. 1658.

DEAR CONGRESSMAN GILMAN: As you know, I have expressed our strong opposition to the above-referenced measure. As a result of follow-up discussions by counsel from our respective offices, I would like to reiterate one particular point that has surfaced in relationship to this bill.

We are aware of no instance, since the inception of the federal equitable forfeiture sharing program, of any case involving this agency whereby a hardship was endured by a truly innocent owner.

It is not the intention of this agency, nor, in my opinion, the intention of law enforcement in general, to deprive truly innocent owners of property due to the illegal use of the property by criminals.

I would have no difficulty supporting a measure that protects legitimate innocent owners such as bona-fide purchasers or parents who have no involvement of knowledge of the criminal activity. I do believe however, that the above-referenced measure goes too far in permitting the divestiture of property to others in order to avoid forfeiture.

Thank you for your assistance.

Sincerely,

JAMES W. MCMAHON,
Superintendent.

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

Mr. Chairman, I want to speak on the amendment. I say that because not all of the conversation we have had was on the amendment. My colleague from New York brilliantly argued against a nonexistent proposition, at least existent in the current context; namely, that we should do away with civil asset forfeiture. There was an agreement that we should have it.

The questions are several. One, should the standard that the government has to meet to take someone's property because that person has either committed a crime or not prevented a crime, should the standard be the lowest possible, preponderance of the evidence, or should it be the intermediate standard of clear and convincing?

We are in an ironic situation now, and we will be even after the bill is passed, as I hope it will be, because I do not think it should be changed from that; it is now harder to prove that one is guilty of the crime than to take away one's property, even though the property may be more. In fact, we have this situation: One may be punished here substantially by the loss of one's property not for committing a crime, but for failing to prevent a crime from being committed. One forfeits one's innocent-owner defense if one has not taken steps to prevent the crime from being committed.

Now, the government need only prove, according to the amendment to the amendment, by a preponderance of the evidence that one failed to prevent the crime from being committed, and it can take one's property. That seems to me to be quite astonishing, that there is a lower standard for punishing someone for simply not stopping someone else from committing a crime than from committing the crime. It seems to me one is more culpable if one commits the crime, but it is easier to go after someone in the other circumstance.

Again, I want to stress, the notion that there is some division between losing one's property in a civil forfeiture and losing it in a criminal proceeding exists in very few minds and in no reality. There is no difference between having one's property taken.

The debate here is clear and convincing versus preponderance. The gentleman from New York said, in 85 percent of the cases, they are uncontested. Well, I submit that in 85 percent of the

cases, if they are uncontested, establishing this to occur under a clear and convincing standard would not be that hard. One cannot lose, it seems to me, an uncontested case simply because the standard of truth is too high. We could probably meet beyond a reasonable doubt. We could probably meet absolute certainty, but we could certainly meet clear and convincing. So in those cases which are uncontested, the amendment is, of course, irrelevant. In those cases which are uncontested, there is no dispute, and one could easily win.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. WEINER. Mr. Chairman, we seem to have a problem about the premise. The gentleman seems to believe that the premise of civil asset forfeiture is always to be punitive, to penalize someone. In fact, the way it is most often used, as I described in the examples, is if there is a crack house in the middle of a block that is by being there, that is by its very existence, because someone fails to take action, what the Fed, in cooperation with the city and State authorities, are seeking to do, is take that crack house out of circulation.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, the gentleman is off the point, and I am not going to let him get off the point in my time.

The question was, should they have to meet the standard of clear and convincing or beyond reasonable doubt. I was quoting the gentleman where he said, in 85 percent of the cases they are uncontested. And my point, which I thought would be uncontested, is that an uncontested case, it is not that hard to meet the standard of clear and convincing, so the gentleman's crack houses would, in fact, be closed down.

But the notion that it is not punitive I would have to reject. It is always punitive for the government to come and take away one's property. The notion that there is this nonpunitive confiscation is what is at the heart of this. The notion that one is found by the government to have done something terrible, and, as a result of that, one is going to lose one's property, and one is, therefore, not punished does not make any sense.

There are a couple of other arguments I want to make. One, the gentleman said that he dislikes this because it covers pending cases. If the gentleman agrees that the current system is unfair, as they say they have, why do we not want to cover pending cases? Is the government entitled to a remaining quota of unfairness? How can one agree that the current system is wrong and needs changing and then say, oh, but all of the poor guys who got caught in this current one, we do not help them. I would think that is a rather contradictory argument.

The final point is the business about a lawyer. Again, we ought to stress, opponents of the bill, supporters of the amendment keep talking about the drug dealer. We are not here talking about drug dealers. We are talking about people who have been accused either of being drug dealers or of not stopping other people from being drug dealers. And the question is not how do we punish acknowledged drug dealers, the question is, by what procedure does the government determine whether or not one is a drug dealer or someone who aided a drug dealer. That is why the underlying bill is so much better than the amendment.

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

Mr. Chairman, I rise in strong support of the Hutchinson–Weiner-Sweeney substitute. This substitute will provide meaningful reform to asset forfeiture without removing the teeth from the most valuable tool in what seems to be a losing war against drugs.

I have been here most of the afternoon listening to the debate, and I recognize that well-meaning people on both sides of this issue, including our chairman, the gentleman from Massachusetts (Mr. FRANK), and the gentleman from Michigan (Mr. CONYERS), have attempted to define and seek what is the balance between protecting the private property rights of innocent individuals, and also, at the same time, give law enforcement the tools they need to combat criminal enterprises.

What we seek in offering this substitute is to define and find those fine points, because we recognize that we are losing ground on the war on drugs, and now, I believe, unfortunately, H.R. 1658 will take us a step backwards when we really should be moving forward, Mr. Chairman.

H.R. 1658, while it protects the rights of law-abiding property owners, and that is its intention, and that is in part what it does do, it also protects lawbreaking property owners as well. Is this what we want in the crosshairs in the middle of the battle on drugs? I do not think so.

Mr. Chairman, H.R. 1658 rewards criminals by allowing them to challenge every forfeiture action, regardless of merit, and provides a free lawyer to do so, inundating the already overburdened Federal court system with frivolous claims. I have heard the Chairman argue that these folks are not criminals because they have not been proven guilty, but as the gentleman from New York (Mr. WEINER) pointed out, in 85 percent of the cases, claims are not made. The Supreme Court has ruled on 11 different forfeiture cases upholding virtually in every one that the constitutional rights of individuals that have broad claims have not been violated.

We seek balance here. Can we not strike a balance between free enterprise and criminal enterprise? I think we can, and I think this substitute achieves that.

The Hutchinson–Weiner-Sweeney substitute is a rational alternative providing rational reform and uniform standards without crippling and tying the hands of law enforcement in the war against drugs.

Now, moving from the rational to the excessive, the most outrageous aspect, in my view, of H.R. 1658 is a provision that allows heirs to inherit drug fortunes. We have a hard enough time as it is in this country allowing legitimate estates to pass to legitimate heirs without making it easier for criminals to literally take the money and run, and that is what we attempt to close here in this substitute.

The loophole in H.R. 1658 would allow drug kingpins and other criminals who have amassed illegal fortunes to pass their wealth to their heirs, not just wives and children, but also friends, mistresses and business associates.

Mr. Chairman, this substitute protects legitimate, innocent owners such as bona fide purchasers, or parents who have no involvement in or knowledge of criminal activity, without undercutting the ability of law enforcement to forfeit property from drug dealers, terrorists, alien smugglers and other criminals.

At a time when the street price of heroin has dropped dramatically and the supply has increased, we must not weaken law enforcement's ability to fight drugs. I rise, therefore, in strong support of this substitute because it brings about balanced reforms to civil asset forfeiture without compromising law enforcement's ability to seize the assets of drug dealers and racketeers. When the heroin market rivals the stock market, why would we want to scale back the efforts of our police?

□ 1545

Law enforcement officers risk their lives every day to keep our neighborhoods safe. They patrol the dark ally, raid the drug dens and meth labs, and they patrol the borders in the dark of night. Many men and women do these things every day, risking their lives to make our neighborhoods safer.

I am not prepared to undercut the good work of law enforcement, Mr. Chairman. That is why I support this substitute, and strongly urge my colleagues to do the same.

If Members seek safer streets, support this substitute. If they believe that we ought to be tougher on criminals than on innocent people, support the Hutchinson–Weiner-Sweeney substitute. If Members support the good work of law enforcement, they should support this substitute. If they seek to do the right thing for America, support this substitute.

Mr. Chairman, I urge my colleagues to do that.

AMENDMENT NO. 15 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PAUL AS A SUBSTITUTE FOR AMENDMENT NO. 25 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HUTCHINSON

Mr. PAUL. Mr. Chairman, I offer an amendment in the nature of a substitute as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment No. 15 in the nature of a substitute offered by Mr. PAUL as a substitute for amendment No. 25 in the nature of a substitute offered by Mr. HUTCHINSON:

Strike all after the enacting clause and insert the following:

SECTION 1. FORFEITURE CONDITION.

No property may be forfeited under any civil asset forfeiture law unless the property's owner has first been convicted of the criminal offense that makes the property subject to forfeiture. The term ''civil forfeiture law'' refers to any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

Mr. PAUL. Mr. Chairman, I rise to offer a substitute amendment for the Hutchinson amendment. My understanding is that the Hyde amendment would improve current situations very much when it comes to seizure and forfeiture, and I strongly endorse the motivation of the gentleman from Illinois (Mr. HYDE) in his bill. I have a suggestion in my amendment to make this somewhat better.

But I rise in strong opposition to the Hutchinson amendment, because not only do I believe that the Hutchinson amendment would undo everything that the gentleman from Illinois (Mr. HYDE) is trying to do, but I sincerely believe that the Hutchinson amendment would make current law worse. I think it is very important that we make a decision here on whether or not we want to continue the effort to build an armed police force out of Washington, D.C.

The trends have been very negative over the last 20 or 30 years. It has to do a lot with the exuberance we show with our drug laws. I know they are all well-intended, but since 1976, when I recall the first criminal law that we passed here, they always pass nearly unanimously. Everyone is for law and order. But I think this is a perfect example of unintended consequences, the problems that we are dealing with today, because it is not the guilty that suffer. So often it is the innocent who suffer.

I guess if Members are for a powerful national police and they want to be casual about the civil liberties of innocent people, I imagine they could go along and ruin this bill by passing the Hutchinson amendment.

I think it is very important to consider another alternative. Mine addresses this, because in spite of how the gentleman from Illinois (Mr. HYDE) addresses this, which is in a very positive way, I really would like to go one step further. My bill, my substitute amendment, says this: ''No property may be forfeited under any Federal civil asset forfeiture law unless the property owner has first been convicted of the criminal offense that makes the property subject to forfeiture.''

Is that too much to ask in America, that we do not take people's property if they are not even convicted of a crime? That seems to be a rather modest request. That is the way it used to be. We used to never even deal with laws like this at the national level. It is only recently that we decided we had to take away the State's right and obligation to enforce criminal law.

I think it is time we thought about going in another direction. That is why I am very, very pleased with this bill on the floor today in moving in this direction. I do not think we should have a nationalized police force. I think that we should be very cautious in everything that we do as we promote law.

This bill of the gentleman from Illinois (Mr. HYDE) could be strengthened with my amendment by saying that no forfeiture should occur, but the Hutchinson amendment makes it just the preponderance of evidence that they can take property. This is not right. This is not what America is all about. We are supposed to be innocent until proven guilty, but property is being taken from the American people with no charge of crime.

They lose their property and they never get it back. They cannot afford to fight the courts, and there is a lot of frustration in this country today over this. This is why this bill is on this floor today. I am delighted it is here on this floor.

I ask people to vote for my amendment, which would even make this a better bill, but certainly I think it would be wise not to vote for the Hutchinson amendment to make it much worse. I certainly think that on final passage, we certainly should support the Hyde bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the spirit of the gentleman from Texas. I think it goes further than it ought to. I do not think we ought to restrict this only to cases where there was a criminal conviction, but the gentleman does highlight once again the importance of fundamental reform.

There is one aspect of the issue that I wanted to go into further. That is, in the substitute offered by the gentleman from Arkansas and the two gentlemen from New York, one of the things that seems to me most egregious was this notion that yes, we will appoint you a lawyer, but before we will appoint you a lawyer our lawyer gets to question you. It really is quite an extraordinary notion.

The current situation is one in which people, in some cases who have been convicted of nothing whatsoever, and who may, remember, only be accused, and again, let us be clear about this because of the innocent owner issue, they may be accused not of doing anything wrong, but of not sufficiently working to stop someone else. The someone else may be a very dangerous person.

So one of the things we need to calibrate here is that if other armed people, dangerous people, bad people are doing something wrong and someone knows about it, and maybe they are using their property, you have to calibrate how much risk you have to take to stop it. You may be accused of not having done enough because you may have tried to do something anonymously, and you may not have wanted to acknowledge that.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Arkansas.

Mr. HUTCHINSON. Mr. Chairman, I just wanted to ask the gentleman from Massachusetts, in reference to the statement that you can question a claimant who seeks an appointment of attorney, there is a provision in the substitute that says the testimony of the claimant at such a hearing shall not be admitted in any other proceeding except in accordance with the rules which govern the testimony.

So it is excluded, it would appear to me. That was the intent.

Mr. FRANK of Massachusetts. I understand that. The gentleman is correct. One can only further terrify this unsophisticated and impoverished individual whose property you have taken, and you cannot use that in certain circumstances.

Again, I want to go back to where I was. We are talking about someone here who is not even accused of a crime. We are talking about someone who is accused of not having been sufficiently enterprising in stopping someone else who may have been a very dangerous person or persons from committing a crime.

The person who failed to be enough of an aggressive stopper has property taken. And because that property is taken, and this individual now has to prove that he or she is innocent to get the property back, the person who is accused of not having been vigorous enough in stopping a crime has his or her property taken. He or she then has to prove that they were innocent and that they really did try to stop it to get the property back. And they cannot afford a lawyer, and probably because the property which they maybe would have used to pay a lawyer has been seized and is held by the government, to get the property back, first of all they have to prove that the property that was seized is worth enough compared to what a lawyer might cost. That seems to me outrageous.

Secondly, they can then be questioned by the people who seized their property. So they set up this extraordinarily intimidating situation and say, do not worry, we took your property because we did not think you worked hard enough to stop somebody dangerous from doing something bad, and we know you cannot afford a lawyer. Maybe we will appoint you a lawyer, but first, the people who took your property are going to question you about things. But do not worry, they will not use it against you.

That is a statement that is less likely to be believed, and we can in fact chill people out of the effective exercise of their rights.

Mr. HUTCHINSON. If the gentleman will yield further, Mr. Chairman, the gentleman made the statement that this person would not be under indictment. A person under indictment could also be subject to a seizure of assets and there could be a hearing. This person very well would be under criminal indictment.

Mr. FRANK of Massachusetts. I would say two things to the gentleman. First of all, I invite him to read the RECORD. I have poor diction, but I never said indictment. I never used that. I don't know where it came from. That is not what I said.

I am talking about someone who would not even be indictable because under the gentleman's innocent owner defense, he is talking about someone, again, and we are making the law for everybody, we are talking about people who are not even accused of a crime. They are accused of, and my friend, the gentleman from New York, cited these people, they own a piece of property that was being used by someone else for a crime, and the people using it might not be the nicest people in the world. They might be people who are a little intimidating. You could lose your property if you were not sufficiently vigorous in trying to stop them.

What if you tried to stop them through an anonymous phone call because you did not want to have your name used, and they did not know you made the anonymous phone call? You would then have this difficult situation.

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

Mr. Chairman, I rise in support of the substitute amendment offered by my colleague, the gentleman from Arkansas (Mr. HUTCHINSON).

Let me say first that I have the deepest respect and admiration for the author of the underlying bill, the gentleman from Illinois (Chairman HYDE). During my 4 years on the Committee on the Judiciary, I saw firsthand his absolute integrity and effective leadership, and as I have said hundreds of times before, nobody in this body represents more integrity or greater character than our beloved gentleman from Illinois (Chairman HYDE).

However, that does not mean he is always right. As chair of the House Law Enforcement Caucus, I have serious concerns about the effect that the Civil Asset Forfeiture Reform Act would have on the law enforcement community's antidrug efforts.

As Hennepin County Sheriff Pat McGowan, Hennapin County in Minnesota, in my district, Sheriff Pat McGowan told me recently, this legislation would absolutely gut the most important tool of law enforcement in the war against drugs. Make no mistake about it, this forfeiture law as it currently exists is the most important tool of law enforcement in fighting the war on drugs on the supply side.

The clear and convincing standard would deprive law enforcement officers of a crucial deterrent, as was explained to me by Sheriff McGowan and others, while the substantial hardship exemption in the underlying bill would let drug dealers hide their assets before trial and allow them to continue dealing drugs pending trial.

Also, frivolous claims would be encouraged by this legislation, and would further damage enforcement of drug laws. According to many law enforcement officers with whom I have spoken about this legislation, the so-called buy money to enforce drug laws would essentially dry up, because much if not most of the buy money comes from forfeiture of these assets.

I think Congress needs to listen to the men and women of the Fraternal Order of Police who put their lives on the line every day in fighting the drug war. We need to help the police and not hurt them by adopting the preponderance of the evidence standard of proof in the Hutchinson amendment, which is eminently reasonable, and eliminating some of the other extreme restrictions on law enforcement in the underlying bill.

As a former Criminal Justice Act attorney, Mr. Speaker, a former adjunct professor of civil rights and liberties, certainly, like every Member of this body, I support individual rights under our Bill of Rights.

However, the current law has consistently been upheld as constitutional. Furthermore, Congress should not aid and abet drug dealers so they can profit from their illegal actions by weakening this important law.

Yes, there have been some abuses under current law. We all know that. But several unfortunate anecdotal experiences do not justify legislation that would turn back the clock in the war against drugs.

Let us be smarter than that. Let us support our police officers and other drug enforcement officers on the front lines every day in this battle. Support the Hutchinson amendment, that represents the original compromise. Let us not tie the hands of law enforcement. Let us not make their difficult and dangerous jobs even harder. Vote for the Hutchinson substitute.

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

Mr. RAMSTAD. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to express the fact that I heartily disagree with the statement that we are helping drug dealers. The gentleman is assuming a fact that is not in evidence.

□ 1600

The civil asset forfeiture involves no drug dealers. It involves people who are accused of something at the level of probable cause, and it is punishing them before they have been adjudicated guilty by confiscating their property. That is the Soviet Union's way of justice, not America, where one should be, even if one is accused of being a drug dealer, innocent until one is proven guilty. It is quasi criminal. It is punishment. The Supreme Court has said that, and that is why we need clear and convincing rather than preponderance.

Mr. RAMSTAD. Mr. Chairman, reclaiming whatever time might remain, the current law, I am sure the gentleman will agree, has been upheld consistently as constitutional and not violative of the First, Fourth, Fifth, Sixth, Eighth or Fourteenth Amendments, any of the amendments in the Bill of Rights that give us our precious civil rights and liberties.

Virtually every police officer with whom I have spoken, both in Minnesota and nationally, as well as FBI Director Freeh, have stressed the urgency of retaining present law here. That is what I mean by weakening law enforcement's efforts by tying their hands. Let us not do that. Let us accept the Hutchinson amendment.

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

Mr. Chairman, with regard to the last speaker, I would cite a recent case just in the last year by the Supreme Court, United States versus Bajakhaian, whatever in the heck that is pronounced, B-A-J-A-K-H-A-I-A-N. Its significance lies, not in its spelling, but in holding that there is a specific amendment to the Constitution, the Eighth Amendment, that indeed was the basis just last year in an opinion by Justice Clarence Thomas of the United States Supreme Court that struck down forfeiture on Eighth Amendment excessiveness grounds.

So there is very strong judicial authority for the proposal underlying H.R. 1658 as put forward by myself, the gentleman from Massachusetts (Mr. FRANK), the gentleman from Michigan (Mr. CONYERS), the gentleman from Illinois (Mr. HYDE), and others that, indeed, our civil forfeiture laws do need

to be reformed. Reform is what we are trying to do here. But let us again be very clear.

Yes, as the gentleman from Illinois (Mr. HYDE) has stated, if H.R. 1658 is passed by the House, passed by the Senate, and signed by the President, there will be some slight crimping in the style of law enforcement in terms of proceeding civilly against seized assets in order to forfeit them. But it will not in any way, shape, or form stop or take away the important tool that law enforcement has and needs.

H.R. 1658 reforms, it does not eviscerate, it does not kill, it does not repeal, and it will not result in the repeal, the killing, or the gutting of civil asset forfeiture as a tool for Federal prosecutors.

Of course, remember also, Mr. Chairman, that this does not reach State forfeitures. We are only talking about Federal civil asset forfeitures here.

This proposal, H.R. 1658 reforms it. It does not do away with it. If, however, somebody likes civil asset forfeiture reform, then they will love the Hutchinson amendment, because the Hutchinson amendment, in addition to not truly reforming civil asset forfeiture at its core, vastly, vastly, Mr. Chairman, expands the scope of civil asset forfeiture powers of this government.

Let me repeat that. The Hutchinson amendment vastly expands the scope, the jurisdiction, the reach of the Federal Government's current civil asset forfeiture power. The power, the scope currently that the Federal Government enjoys is already extensive. We are not arguing that today. It is extensive. It reaches many different provisions of title 18, which is the Criminal Code.

If, however, one makes even a cursory reading, Mr. Chairman, of the Hutchinson amendment, they will see very readily that it expands exponentially, as the Chairman said previously in his remarks, the scope, the power, the jurisdiction of the Federal Government to civilly seize and forfeit assets.

At pages 772 and 773 of the Federal Criminal Code and Rules, published by the West Group, one can see very clearly, I could hold this up, but the Chairman could not read it, because the writing, the printing of the United States Criminal Code is indeed very small. Yet, the list of the additional predicates or that is base offenses for which civil asset forfeiture rely cover almost two pages, almost two full columns of the United States Criminal Code listing line after line after line after line after line after line of additional offenses for which the government can use civil asset forfeiture powers.

Therefore, let me repeat this, the Hutchinson amendment, for anybody who wishes to reform, reign in, and refocus back to its original purpose, which was an extraordinary remedy for law enforcement, the civil asset forfeiture powers of the government, they must vote against the Hutchinson amendment, because the Hutchinson amendment vastly expands the asset forfeiture power of the government. There is no way getting around that. It is crystal clear on its face, and that is a defect in addition to the others that the Chairman and others have already pointed out reasons why this amendment proposed in the nature of a substitute to H.R. 1658 must be rejected in favor of the underlying bill, H.R. 1658, which does indeed reform, but does not take away the ability of our Federal prosecutors and law enforcement to seize truly those aspects of criminal endeavor, the assets that are truly used in furtherance of criminal activity.

I urge rejection of the proposed amendment in the nature of a substitute, and adoption of the underlying bill, H.R. 1658.

Mr. CANADY of Florida. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute which has been offered by the gentleman from Arkansas (Mr. HUTCHINSON). I want to begin by thanking the gentleman from Illinois (Mr. HYDE) for his outstanding leadership on this important issue. This is the sort of issue that the Committee on the Judiciary should be very much concerned about, and I am very pleased that the Chairman has made this issue a priority.

I also want to thank my constituent, Mr. David Pobjecky, who brought to my attention a case that highlights the need for the legislation of the gentleman from Illinois (Mr. HYDE) and the importance of not weakening the legislation that the gentleman from Illinois (Mr. HYDE) has brought to the floor.

Mr. Pobjecky, my constituent, is an attorney who has represented the Jones family of Glades County, Florida, whose property was seized by the Federal Government. It took that family 6 years to gain control of their property even though they were innocent of any wrongdoing.

In September of 1988, the United States Government seized 4,346 acres of the Jones family ranchland and filed a civil forfeiture action against the ranch based on a plane crash that occurred 2½ years earlier and on property a quarter of a mile from their ranch.

The government alleged that the property was intended to be used as a landing site for cocaine smugglers. The Jones family denied any knowledge, consent, or participation in the alleged wrongful acts.

The case went to trial 5 years later in October of 1993. In May of 1994, the U.S. District Court for the Southern District of Florida found for the owners of the ranch. The court ruled that the case presented by the claimants is so clear, and the response by the United States is sufficiently wanting, that the court has determined that the claimants are, indeed, innocent owners entitled to the remedy and return of their property.

Judge Hoeveler who wrote for the court noted that fundamental rights of ownership and the loss of those rights were the core of this case and concluded with this caution, ''in the understandable zeal to enforce the criminal laws, constant vigilance must be exercised to protect the rights of all, especially those who may be caught up in a net loosely thrown around those who are guilty.''

The same court subsequently awarded attorneys' fees and costs to the Jones family for their claim filed under the Equal Access to Justice Act. The court found that the United States did not have a reasonable basis in law or fact for bringing the case to trial and should have concluded that the owners of the ranch could establish an innocent owner defense.

The legislation we are considering today would have ensured that the Jones family would not have suffered this injustice at the hands of the government. The bill would change the standard of proof to be satisfied by the government from probable cause to clear and convincing evidence, as we have been discussing here. The bill would require the government to prove its case and would eliminate the requirement that a property owner prove his innocence.

The seizure of the Jones family ranch never would have been approved if the United States had been required to prove by clear and convincing evidence that the ranch was subject to forfeiture.

In 1994 when he finally decided for the Jones family, Judge Hoeveler said that it is questionable whether this forfeiture action ever really had a valid basis. That is the kind of cases that are being brought. Those are the kind of cases where people are having their property tied up for year after year after year, and it is not right.

Now, this bill would also allow a property owner who prevails in a forfeiture action to sue the government for any destruction or damage to his property. I go back to the Jones case. The Jones family was unable to maintain their land, more than 4,000 acres of their ranch from September of 1988 to May of 1994. This resulted in significant damage to the property, since ranchland needs to be constantly maintained.

Under current law, the Jones family can sue the United States for damage to their land. The bill before the House today would provide the Jones family with at least the possibility of recovering compensation for resulting damage to their property.

The case of the Jones family is only one example of innocent Americans

who have had to undergo lengthy and costly battles to regain their property. No one in the United States of America should have to go through a legal nightmare like this. No one in America should be treated this way by the government of the United States. No one in America should be subjected to such an arbitrary and destructive use of governmental power.

Now, I want to conclude by urging the rejection of the substitute offered by the gentleman from Arkansas (Mr. HUTCHINSON). I believe that the gentleman has a proposal here that falls short of solving the problem with current law and in some respects actually makes the problem worse. I understand he is operating under the best of intentions, but I think his proposal does fall short in those respects.

I would also urge the rejection of the amendment offered by the gentleman from Texas (Mr. PAUL). I believe that there is a proper place for civil asset forfeiture, and his amendment should be rejected, and the Hyde proposal should be adopted.

Mr. FRANK of Massachusetts. Mr. Chairman, having consulted with various parties, I ask unanimous consent that debate on this substitute and all amendments thereto end at 4:45 p.m., with the remaining time to be divided equally between the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Illinois (Mr. HYDE), chairman of the committee.

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

There was no objection.

The CHAIRMAN. Under the terms of the unanimous consent agreement, the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Illinois (Mr. HYDE) each will control 15 minutes. Debate will conclude at 4:45 p.m.

Mr. HUTCHINSON. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I thank the gentleman from Arkansas for yielding to me.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas (Mr. PAUL) in support of the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON) in opposition to H.R. 1658.

I think the good Lord knows that, any time we have the distinguished gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary, as an advocate in alliance with the distinguished gentleman from Massachusetts (Mr. FRANK), and the gentleman from Georgia (Mr. BARR), we have formidable proponents for any proposition. I reluctantly rise in opposition to their proposal, H.R. 1658.

I chair the Subcommittee on Criminal Justice, Drug Policy, and Human Resources dealing with illegal narcotics. I can only say that I have never been so inundated in the past number of months on any issue as much as in opposition to H.R. 1658 than by those in our law enforcement community. So I am reluctant to rise in opposition, but let me make a few comments.

Asset forfeiture is a very critical tool in law enforcement. It allows law enforcement to take the profit out of crime and pay restitution to victims of crime. Forfeiture is a critical element in the fight against drug trafficking, and it literally ensures that crime does not pay.

In the vast majority of cases, the asset forfeiture laws, as we have heard, have been very fairly applied and effectively applied for the benefit of both law enforcement and the public and our citizens. Forfeiture is an essential component on the war on drugs today. Weakening the laws or placing any unnecessary procedural hurdles in the paths of prosecutors could undercut these law enforcement efforts and could provide a windfall to criminal organizations that commit crime for profit.

These are not just my words. This is what is being said about this proposed legislation, H.R. 1658, to me by those in the law enforcement community.

□ 1615

They say that the burden of proof is too high; that H.R. 1658 forces the government to prove its case by clear and convincing evidence. The usual standard for civil enforcement actions involving property is the preponderance of evidence. Thus, 1658 makes the government's burden in drug cases higher than it does in cases involving bank fraud, health care fraud or procurement fraud, giving, in this instance, those who deal in drugs more protection than bankers, doctors and defense contractors.

Again, this is what is being said to me by the law enforcement community.

They also charge that this proposal could encourage the filing of thousands of frivolous claims by criminals, their families, their friends and associates. They also are telling me, again, that H.R. 1658 lets criminals abscond potentially with cash, vehicles and airplanes. The Hutchinson amendment, I might say, addresses each of these concerns that have been raised by the law enforcement community.

Also, they say that H.R. 1658 allows drug dealers to pass drug profits on to their heirs, and this provision is eliminated by the Hutchinson proposal. And, finally, they are telling me that this could provide a windfall to criminals that we should eliminate.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time. I think this is important because we continue to hear about the issue of the burden of proof being a preponderance of the evidence. Well, that is true in most civil litigation. But this is not purely civil litigation, and I think it is important that my colleagues and the American public understand that.

In asset forfeiture cases it has been clearly described by the United States Supreme Court as quasi-criminal in nature. This is a decision that was promulgated by the United States Supreme Court. And I daresay to equate the customary civil litigation that is transacted daily in our Federal courts with the kind of proceeding that we are discussing here today on the floor of the House, asset forfeiture, is absolutely incorrect. It is inaccurate. It is quasi-criminal in nature.

To suggest that a standard of proof of clear and convincing is a burden that cannot be met by prosecutors, I daresay, is not an argument that holds water. Because in the vast majority of these cases the seizure of the asset is done in conjunction with a criminal investigation, and hopefully, hopefully, that investigation will produce an indictment which will meet an even higher standard, proof beyond a reasonable doubt.

So I have to conclude that clear and convincing is an acceptable burden of proof in these cases.

Mr. MCCOLLUM. Mr. Chairman, I wish to make just a few points.

First, I want to salute Chairman HYDE's commitment to reforming asset forfeiture. He has long been guided by a principled commitment to civil liberties for all citizens and a genuine concern that our forfeiture laws not be abused. He has been a leader in pursuing needed reforms of our forfeiture laws, and I want to commend his efforts to bring this bill to the floor. I share Chairman HYDE's concerns. We may disagree on some of the specifics, but I support his goal and the core reforms contained in H.R. 1658.

Second, I want to note that H.R. 1658 is actually part of a larger trend to reform asset forfeiture that has been underway for most of this decade. Indeed, over the last 7 years the U.S. Supreme Court has handed down 11 asset forfeiture cases, that, taken together, have led to substantial reforms of our asset forfeiture laws and increased the due process protections afforded individuals. These cases, in turn, have led the Departments of Justice and Treasury to substantially revise their seizure and forfeiture policies.

Because of these shifts over the last 7 years, it is now the case that under current law, property owners have a right to a jury trial in civil forfeiture cases; real property may not be seized without prior notice and a hearing; and all forfeitures must be proportional to the gravity of the underlying criminal offense. In other words: the law has been evolving to reflect more and more the concerns of Mr. HYDE. Changes to the law have anticipated his criticism.

Mr. Chairman, now more than ever, asset forfeiture is a vital law enforcement tool. In my

home state of Florida it may well be the single most important weapon that Federal, State and local law enforcement use in their heroic efforts to combat the illegal drug trade.

And that, Mr. Chairman, continues to be my principal concern when we talk about reforming asset forfeiture: Will our ability to effectively combat the flood of illegal drugs into our country be unduly hampered by the proposed reforms?

Heroin and cocaine continue to pour into the United States from abroad, endangering the future of our children and spreading fear through countless neighborhoods and communities. Clandestine methamphetamine labs are now operating throughout the entire country, pumping out their poison that destroys people and pollutes our environment.

Today, on the streets of our country drug quantity is up, drug purity is at all-time highs and the price is down. We shouldn't be surprised then to learn that drug use among our children is skyrocketing. Indeed, there is a drug crisis engulfing our young people today. The numbers are simply shocking. From 1992–1997, drug use among youth aged 12 to 17 has more than doubled. It's up 120%! That's an increase of 27% in the last year alone. For kids aged 12 to 17, first-time heroin use has increased 875% from 1991 to 1996! From 1992 to 1996, marijuana use increased by 253 percent among eighth-graders, 151 percent among tenth-graders, and 84 percent among twelfth-graders. Overall, among kids aged 12 to 17, marijuana smoking has jumped 125% from 1991 to 1997!

Mr. Chairman, I believe this is unacceptable. We owe our children every effort to rid our streets and schools of drugs and the violence that accompany the drug trade. We must rededicate ourselves to a drug-free America.

And that means we must take care when we seek to reform our forfeiture laws that we do not render them ineffective.

Last Congress, I supported the compromise forfeiture bill that Mr. HYDE steered through the Judiciary Committee by a vote of 26 to 1. That bill contained the core reforms that are in H.R. 1658. It also won the support of the law enforcement community as a balanced set of reforms that left forfeiture a viable tool. I continue to support the provisions from that bill, and for that reason, I will be supporting the Hutchinson amendment which reflects the key provisions of that compromise bill. I believe that H.R. 1658, as amended by the Hutchinson amendment, reforms our forfeiture laws while leaving them still useful in our nation's counter-drug efforts.

Mr. PICKERING. Mr. Chairman, I rise in support of Mr. HUTCHINSON's substitute to H.R. 1658, the Asset Forfeiture Bill.

We all agree the fundamental principle of fairness should play a central role in asset forfeiture proceedings: the burden of proof should be on the government; the government should not hold property without probable cause; a property owner should have an early opportunity to challenge a seizure of assets and innocent owners should be protected.

These examples of fairness are already important features of current asset forfeiture law, and are advanced in the Hutchinson substitute without undermining the important role asset forfeiture law plays in modern law enforcement.

Today in my district, State and Local Law Enforcement officials confront sophisticated criminals and criminal enterprises in possession of illegal property, and in many circumstances, controlling vast ill-gotten resources. Asset forfeiture law allows State and Local law enforcement officials to separate these criminals and enterprises from their illegal resources, denying them the use of these resources to continue their criminal businesses or defend themselves from personal criminal charges. Any modification in asset forfeiture law should preserve this important effect of asset forfeiture on criminals.

While reform of asset forfeiture law to reduce the already infrequent, occasional unfair outcome for a particular individual is appropriate, criminals should not benefit from the modifications designed to improve and bolster the rights of innocent property owners and law abiding citizens.

The Hutchinson substitute produces this sensible reform without removing from our local law enforcement officials one of their most important and effective tools against criminals and their crack houses, drug money, drug vehicles and the myriad of other resources and property criminals possess.

It is important to remember the focus of asset forfeiture law is the illegal property. The illegal property itself, be it drug money or its proceeds in the form of cars, or planes or houses, is subject to forfeiture because it constitutes the bounty of a criminal enterprise, and thus is illegal. It is illegal in and of itself, like heroin itself, or cocaine, and thus similarly subject to forfeiture. Insofar as a person unconnected to the criminal enterprise has a legal property interest in the property, he or she may state their claim and reclaim their property.

Under current law, criminals and those with illegal interests in the property are distinguished from those with legal interests by procedures in the law which the Substitute preserves. Unlike the bill advanced by the respected Chairman of the Judiciary Committee, the substitute strengthens this distinction, protecting the innocent while disentitling the criminal. I urge passage of the Hutchinson substitute.

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

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

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. PAUL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Arkansas (Mr. HUTCHINSON).

The amendment in the nature of a substitute offered as a substitute for the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Arkansas (Mr. HUTCHINSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUTCHINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 268, not voting 11, as follows:

[Roll No. 254]

AYES—155

Allen
Andrews
Bachus
Baird
Ballenger
Barcia
Barrett (WI)
Barton
Bateman
Bilbray
Blagojevich
Blumenauer
Blunt
Boehlert
Bonior
Boswell
Boyd
Brady (TX)
Bryant
Buyer
Calvert
Capps
Cardin
Castle
Chambliss
Coburn
Collins
Condit
Cooksey
Cramer
Crowley
Cubin
Deal
Deutsch
Dickey
Dixon
Doggett
Dooley
Dunn
Edwards
Ehlers
Ehrlich
Etheridge
Fowler
Frelinghuysen
Gekas
Gilman
Gordon
Goss
Green (WI)
Greenwood
Gutierrez
Hayes
Herger
Hill (IN)
Hilleary
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Inslee
Isakson
John
Johnson (CT)
Jones (NC)
Jones (OH)
Kildee
Kind (WI)
Kleczka
Knollenberg
Kuykendall
Larson
Latham
Leach
Levin
Lowey
Luther
Maloney (CT)
Maloney (NY)
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McIntyre
McNulty
Mica
Miller (FL)
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Norwood
Nussle
Ose
Oxley
Pallone
Pascrell
Peterson (MN)
Pickering
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Reyes
Reynolds
Rogers
Ros-Lehtinen
Rothman
Roukema
Salmon
Sanchez
Saxton
Shaw
Shays
Sherman
Shows
Sisisky
Slaughter
Smith (WA)
Souder
Stabenow
Stearns
Stupak
Sweeney
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Turner
Visclosky
Vitter
Walden
Walsh
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weygand
Whitfield
Wolf
Wu
Young (FL)

NOES—268

Abercrombie
Ackerman
Aderholt
Archer
Armey
Baker
Baldacci
Baldwin
Barr
Barrett (NE)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Burton
Callahan
Camp
Campbell
Canady
Cannon
Capuano
Carson
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Combest
Conyers
Cook
Cox
Coyne
Crane
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (NJ)
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Goode
Goodlatte
Goodling
Graham

Granger
Green (TX)
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hill (MT)
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Hostettler
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy
Kilpatrick
King (NY)
Kingston
Klink
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McGovern
McIntosh
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller, Gary
Miller, George
Minge
Mink
Moakley
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Paul
Payne
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickett
Pitts
Pombo
Price (NC)
Radanovich
Rahall
Rangel
Riley
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Spence
Spratt
Stark
Stenholm
Strickland
Stump
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Thompson (MS)
Tiahrt
Tierney
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weller
Wexler
Wicker
Wilson
Woolsey
Wynn
Young (AK)

NOT VOTING—11

Berman
Brown (CA)
Costello
Gilchrest
Kasich
Largent
Lazio
McInnis
Mollohan
Packard
Wise

□ 1643

Ms. JACKSON-LEE of Texas, Ms. MCKINNEY, and Messrs. LAFALCE, NEY, ROGAN, KINGSTON, BURTON of Indiana, FORBES, HUNTER, and BARTLETT of Maryland changed their vote from ''aye'' to ''no.''

Ms. SLAUGHTER and Messrs. VITTER, BARCIA, BONIOR, EHLERS, WELDON of Pennsylvania, and MORAN of Kansas changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. HYDE. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

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

There was no objection.

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

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

Section 981 of title 18, United States Code, is amended—

(1) by inserting after subsection (i) the following:

''(j)(1)(A) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must give written notice to interested parties, such notice shall be given as soon as practicable and in no case more than 60 days after the later of the date of the seizure or the date the identity of the interested party is first known or discovered by the agency, except that the court may extend the period for filing a notice for good cause shown.

''(B) A person entitled to written notice in such proceeding to whom written notice is not given may on motion void the forfeiture with respect to that person's interest in the property, unless the agency shows—

''(i) good cause for the failure to give notice to that person; or

''(ii) that the person otherwise had actual notice of the seizure.

''(C) If the government does not provide notice of a seizure of property in accordance with subparagraph (A), it shall return the property and may not take any further action to effect the forfeiture of such property.

''(2)(A) Any person claiming property seized in a nonjudicial forfeiture proceeding may file a claim with the appropriate official after the seizure.

''(B) A claim under subparagraph (A) may not be filed later than 30 days after—

''(i) the date of final publication of notice of seizure; or

''(ii) in the case of a person entitled to written notice, the date that notice is received.

''(C) The claim shall state the claimant's interest in the property.

''(D) Not later than 90 days after a claim has been filed, the Attorney General shall file a complaint for forfeiture in the appropriate court or return the property, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

''(E) If the government does not file a complaint for forfeiture of property in accordance with subparagraph (D), it shall return the property and may not take any further action to effect the forfeiture of such property.

''(F) Any person may bring a claim under subparagraph (A) without posting bond with respect to the property which is the subject of the claim.

''(3)(A) In any case where the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property within 30 days of service of the Government's complaint or, where applicable, within 30 days of alternative publication notice.

''(B) A person asserting an interest in seized property in accordance with subparagraph (A) shall file an answer to the Government's complaint for forfeiture within 20 days of the filing of the claim.

''(4)(A) If the person filing a claim is financially unable to obtain representation by counsel, the court may appoint counsel to represent that person with respect to the claim.

''(B) In determining whether to appoint counsel to represent the person filing the claim, the court shall take into account such factors as—

''(i) the claimant's standing to contest the forfeiture; and

''(ii) whether the claim appears to be made in good faith or to be frivolous.

''(C) The court shall set the compensation for that representation, which shall be equivalent to that provided for court-appointed representation under section 3006A of this title, and to pay such cost there are authorized to be appropriated such sums as are necessary as an addition to the funds otherwise appropriated for the appointment of counsel under such section.

''(5) In all suits or actions brought under any civil forfeiture statute for the civil forfeiture of any property, the burden of proof is on the United States Government to establish, by clear and convincing evidence, that the property is subject to forfeiture.

''(6)(A) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute.

''(B) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term 'innocent owner' means an owner who—

''(i) did not know of the conduct giving rise to forfeiture; or

''(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

''(C) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term 'innocent owner' means a person who, at the time that person acquired the interest in the property, was—

''(i)(I) a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); or

''(II) a person who *acquired* an interest in property through probate *or inheritance*; and

''(ii) at the time of the purchase or *acquisition* reasonably without cause to believe that the property was subject to forfeiture.

''(D) Where the property subject to forfeiture is real property, and the claimant uses the property as the claimant's primary residence and is the spouse or minor child of the person who committed the offense giving rise to the forfeiture, an otherwise valid innocent owner claim shall not be denied on the ground that the claimant acquired the interest in the property—

''(i) in the case of a spouse, through dissolution of marriage or by operation of law, or

''(ii) in the case of a minor child, as an inheritance upon the death of a parent,

and not through a purchase. However, the claimant must establish, in accordance with subparagraph (C), that at the time of the acquisition of the property interest, the claimant was reasonably without cause to believe that the property was subject to forfeiture.

''(7) For the purposes of paragraph (6)—

''(A) ways in which a person may show that such person did all that reasonably can be expected may include demonstrating that such person, to the extent permitted by law—

''(i) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

''(ii) in a timely fashion revoked or attempted to revoke permission for those engaging in such conduct to use the property

or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property; and

''(B) in order to do all that can reasonably be expected, a person is not required to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

''(8) As used in this subsection:

''(1) The term 'civil forfeiture statute' means any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

''(2) The term 'owner' means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security device, or valid assignment of an ownership interest. Such term does not include—

''(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

''(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

''(iii) a nominee who exercises no dominion or control over the property.

''(k)(1) A claimant under subsection (j) is entitled to immediate release of seized property if—

''(A) the claimant has a possessory interest in the property;

''(B) the continued possession by the United States Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless; and

''(C) the claimant's likely hardship from the continued possession by the United States Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding.

''(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (1) are met.

''(3) If within 10 days after the date of the request the property has not been released, the claimant may file a motion or complaint in any district court that would have jurisdiction of forfeiture proceedings relating to the property setting forth—

''(A) the basis on which the requirements of paragraph (1) are met; and

''(B) the steps the claimant has taken to secure release of the property from the appropriate official.

''(4) If a motion or complaint is filed under paragraph (3), the district court shall order that the property be returned to the claimant, pending completion of proceedings by the United States Government to obtain forfeiture of the property, if the claimant shows that the requirements of paragraph (1) have been met. The court may place such conditions on release of the property as it finds are appropriate to preserve the availability of the property or its equivalent for forfeiture.

''(5) The district court shall render a decision on a motion or complaint filed under paragraph (3) no later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.''; and

(2) by redesignating existing subsection (j) as subsection (l).

SEC. 3. *AMENDMENT* TO THE CONTROLLED SUBSTANCES ACT.

Section 518 of the Controlled Substances Act (21 U.S.C. 888) is repealed.

SEC. 4. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

(a) TORT CLAIMS ACT.—Section 2680(c) of title 28, United States Code, is amended—

(1) by striking ''law-enforcement'' and inserting ''law enforcement''; and

(2) by inserting before the period the following: '', except that the provisions of this chapter and section 1346(b) of this title do apply to any claim based on the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if the property was seized for the purpose of forfeiture but the interest of the claimant is not forfeited''.

(b) DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

(A) is presented to the Attorney General more than 1 year after it occurs; or

(B) is presented by an officer or employee of the United States Government and arose within the scope of employment.

SEC. 5. PREJUDGMENT AND POSTJUDGMENT INTEREST.

Section 2465 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Upon''; and

(2) adding at the end the following:

''(b) INTEREST.—

''(1) POST-JUDGMENT.—Upon entry of judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any Act of Congress, the United States shall be liable for post-judgment interest as set forth in section 1961 of this title.

''(2) PRE-JUDGMENT.—The United States shall not be liable for prejudgment interest, except that in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, the United States shall disgorge to the claimant any funds representing—

''(A) interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

''(B) for any period during which no interest is actually paid, an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate described in section 1961.

''(3) LIMITATION ON OTHER PAYMENTS.—The United States shall not be required to disgorge the value of any intangible benefits nor make any other payments to the claimant not specifically authorized by this subsection.''.

SEC. 6. APPLICABILITY.

(a) IN GENERAL.—Unless otherwise specified in this Act, the amendments made by this Act apply with respect to claims, suits, and actions filed on or after the date of the enactment of this Act.

(b) EXCEPTIONS.—

(1) The standard for the required burden of proof set forth in section 981 of title 18, United States Code, as amended by section 2, shall apply in cases pending on the date of the enactment of this Act.

(2) The amendment made by section 5 shall apply to any judgment entered after the date of enactment of this Act.

The CHAIRMAN. 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.

□ 1645

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HEFLEY) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes, pursuant to House Resolution 216, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

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

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

RECORDED VOTE

Mr. HYDE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 375, noes 48, not voting 11, as follows:

[Roll No. 255]

AYES—375

Abercrombie	Baldwin	Becerra
Ackerman	Ballenger	Bentsen
Aderholt	Barcia	Bereuter
Allen	Barr	Berkley
Archer	Barrett (NE)	Berry
Armey	Bartlett	Biggert
Baird	Barton	Bilirakis
Baker	Bass	Bishop
Baldacci	Bateman	Blagojevich

Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Combest
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E.B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Pallone
Pastor
Paul
Payne
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickett
Pitts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—48

Andrews
Bachus
Barrett (WI)
Bilbray
Blumenauer
Boswell
Boyd
Bryant
Chambliss
Collins
Condit
Crowley
Cubin
Deutsch
Gekas
Gilman
Hayes
Hill (IN)
Houghton
Hutchinson
John
Johnson (CT)
Jones (NC)
Kind (WI)
Latham
Maloney (CT)
McCrery
Mica
Moore
Myrick
Pascrell
Peterson (MN)
Pickering
Portman
Ramstad
Reyes
Reynolds
Roukema
Shays
Shows
Souder
Sweeney
Taylor (MS)
Thompson (CA)
Turner
Visclosky
Weiner
Weldon (FL)

NOT VOTING—11

Berman
Brown (CA)
Costello
Gilchrest
Kasich
Lazio
McInnis
Mollohan
Packard
Waters
Wise

□ 1705

Mr. HOUGHTON changed his vote from ''aye'' to ''no.''

Mr. ADERHOLT and Mr. HOLT changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PACKARD. Mr. Speaker, I was unavoidably detained for Rollcall 255, which was final passage of H.R. 1658, the Civil Asset Forfeiture Reform Act. I am a cosponsor of this legislation. Had I been present, I would have voted "aye."

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on final passage of H.R. 1658, the Civil Asset Forfeiture Reform Act. Had I been present, I would have voted "aye."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 222 AND H.R. 1145

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor from H.R. 222 and H.R. 1145.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

COMMUNICATION FROM DISTRICT AIDE OF HON. TERRY EVERETT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Joe Williams, District Aide of the Honorable TERRY EVERETT, Member of Congress:

Washington, DC, June 18, 1999.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a trial subpoena (for testimony) issued by the Circuit Court for Houston County, Alabama in the case of *Floyd* v. *Floyd*, No. DR–1998–000040.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JOE WILLIAMS,
District Aide.

SALUTE TO PAYNE STEWART

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

Mr. BLUNT. Mr. Speaker, on an evening when our rivalries on the floor are transferred to the baseball diamond, I want to talk for a minute about sports.

Seldom are we allowed to see deep into a person's mind, but last week in Springfield, Missouri, native Payne Stewart let us see deep into his. Standing on the green of the 72nd hole of the U.S. Open, Stewart needed to make a 15 foot putt to win the championship.

Despite the enormous pressure involved and knowing that the world was watching, Stewart stepped to the ball and sank the seemingly impossible putt for the tenth PGA Tour victory of his career. As the rain fell, Stewart and his caddy celebrated with a jumping embrace on the 18th green in Pinehurst, North Carolina. With this win, Stewart also earned himself a spot on the U.S. Ryder Cup team. However Payne Stewart says that no other tournament he ever wins will be bigger than the 1982 Quad Cities Open championship. That was the only tournament victory his father, a golf pro in Springfield who taught him to play golf, ever saw him win. So on Father's Day 1999, with his wife at his side and his children watching from home, Payne Stewart proved not only to be a great golfer, but also someone with strong family values. These are the attributes we should all strive to maintain no matter what profession we choose to pursue.

A hearty congratulations is in order to Payne Stewart for the winning of his second U.S. open and third PGA major of his career. I thank Payne for setting a good example for families across America. Fellow southwest Missourians are proud of him.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1802, FOSTER CARE INDEPENDENCE ACT OF 1999

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 106–199) on the resolution (H. Res. 221) providing for consideration of the bill (H.R. 1802) to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROTOCOL AMENDING THE AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF CANADA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b) and (d)), the text of a proposed Protocol Amending the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada signed at Washington on June 15, 1955, as amended. I am also pleased to transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), I have submitted to the Congress under separate cover a classified annex to the NPAS, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Protocol has been negotiated in accordance with the Atomic Energy Act of 1954, as amended, and other applicable law. In my judgment, it meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada in two respects:

1. It extends the Agreement, which would otherwise expire by its terms on January 1, 2000, for an additional period of 30 years, with the provision for automatic extensions thereafter in increments of 5 years each unless either Party gives timely notice to terminate the Agreement; and

2. It updates certain provisions of the Agreement relating to the physical protection of materials subject to the Agreement.

The Agreement itself was last amended on April 23, 1980, to bring it into conformity with all requirements of the Atomic Energy Act and the Nuclear Non-Proliferation Act of 1978. As amended by the proposed Protocol, it will continue to meet all requirements of U.S. law.

Canada ranks among the closest and most important U.S. partners in civil nuclear cooperation, with ties dating back to the early days of the Atoms for Peace program. Canada is also in the forefront of countries supporting international efforts to prevent the spread of nuclear weapons to additional countries. It is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. It also subscribes to the Nuclear Supplier Group (NSG) Guidelines, which set forth standards for the responsible export of nuclear commodities for peaceful use, and to the Zangger (NPT Exporters) Committee Guidelines, which oblige members to require the application of IAEA safeguards on nuclear exports to nonnuclear weapon states. It is a party to the Convention on the Physical Protection of Nuclear Material, whereby it has agreed to apply international standards of physical protection to the storage and transport of nuclear material under its jurisdiction or control.

Continued close cooperation with Canada in the peaceful uses of nuclear energy, under the long-term extension of the U.S.-Canada Agreement for Cooperation provided for in the proposed Protocol, will serve important U.S. national security, foreign policy, and commercial interests.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. My Administration is prepared to begin immediate consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999*.

REPORT ON NATIONAL EMERGENCY CAUSED BY LAPSE OF EXPORT ADMINISTRATION ACT OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999*.

IN OPPOSITION TO WORLD BANK LOAN TO CHINA

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

Mr. GILMAN. Mr. Speaker, today the World Bank is about to decide whether to give China a loan to help in its efforts to colonize occupied Tibet with Chinese. Beijing's scheme with the Bank's approval would use $160 million to pay for the relocation of poor Chinese farmers onto the Tibetan Plateau.

Editorials in the Washington Post, the Washington Times and the New York Times have urged the Bank not to go through with this project. I request that copies of these editorials be included in the RECORD.

The U.S. Treasury announced on Tuesday that it is going to oppose the loan. Chinese officials have demarched

embassies in Beijing with threats of economic repercussions if member states vote to oppose the loan. Twelve bank board members have cosigned a letter to President Wolfensohn expressing opposition to this project. Activists and parliamentarians from around the globe have deluged the World Bank with letters and e-mail messages opposing the loan. Over 60 Members of this Chamber signed a letter to the President of the Bank urging him to reject the loan.

For Tibetans this is not development or poverty alleviation, it is cultural genocide. This project will lead to increased ethnic tension and conflict over access to scarce natural resources. I ask my colleagues to join in opposition to this loan.

Mr. Speaker, today the World Bank will decide whether or not to give China a loan to help it in its efforts to colonize occupied Tibet with Chinese. Beijing's scheme with the Bank's approval would use 160 million dollars to pay for the relocation of poor Chinese farmers onto the Tibetan Plateau.

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China's population transfer program is a long-standing effort to resettle Chinese in Tibet to increase its assimilation.

The World Bank loan would be the first time international financing, including U.S. dollars would be funding population transfer.

For Tibetans, it is not development or poverty alleviation, it is cultural genocide.

The World Bank, in violation of World Bank policy, failed to make an environmental analysis available to the public before the project went to appraisal.

The Bank also failed to undertake a full environmental assessment, provided no accounting of the impact on indigenous Tibetan and Mongolian peoples in the resettlement area, and neglected to evaluate the impact on fragile natural habitats.

The project will likely lead to increased ethnic tension and conflict over access to scarce natural resources.

And opposition to the project could land Tibetans in a Chinese prison. The official Chinese news agency has labeled opposition to the resettlement as a part of an "anti-China" plot.

Mr. Speaker, the World Bank has been placed on notice that it has to stay out of politics. It should stick to its mandate of poverty alleviation and not disenfranchise people who are struggling for their very existence.

China is one of the major recipients of World Bank money. It should not be dictating to terms of the loans to anyone.

[From the Washington Post, June 22, 1999]

THE U.N.'S NEW CHINA PROJECT

The World Bank's technical people, having launched 31 "poverty reduction projects" in China, saw no problem with No. 32. That is why, incredibly, only when British Tibet advocates started spreading the word seven or eight weeks ago did the bank learn of the project's political aspect: It would resettle some 60,000 poor Chinese farmers on land Tibetans say is traditionally theirs.

The word offended the bank's biggest shareholder, the United States. Treasury Secretary Robert Rubin, expressing doubt about the staff-proposed $160 million loan, has said he is "inclined" to oppose it. Needless to say, the bank's largest borrower, China, is also among the offended. It has threatened to "reevaluate its relationship with the bank" if the project does not unfold as planned.

The World Bank's board is due to vote on the question today. From an American standpoint, any vote on the merits has to be a simple one. As the Tibet lobbyists say, the project puts the bank in the position of underwriting the resettlement of Han Chinese and Chinese Muslims into a traditionally Tibetan and Mongolian area on the Tibetan plateau. Had this factor been fed into deliberations in a more timely fashion, no doubt the project would have been handled differently. It becomes a political embarrassment to deal with the project now. But it is an unavoidable and manageable embarrassment. The World Bank cannot accidentally become the instrument of a Chinese policy that affects the survival of Tibetans as a distinct people and culture.

The bank itself has a structural problem. The line between technical and political is obviously too sharp. Or the bank has been slow to grasp that decentralization works poorly when a heavy burden of accountability is devolved upon countries such as China that do not provide adequately for a free flow of information or for a space for dissent.

[From the Washington Times, June 22, 1999]

ETHNIC CLEANSING AND THE WORLD BANK

In a stunning display of insensitivity towards the plight of the Tibetan people, today the World Bank board is scheduled to vote on a project that would grant the Chinese government a $160 million loan to resettle 57,775 Han Chinese and Chinese Muslims farmers into a historically Tibetan territory. The move is being defended by China and the World Bank as a simple initiative to give poor farmers greater access to arable land. The undeniable byproduct of such a project would be to undercut Tibetan territory and dilute the Tibetan culture.

It seems inconceivable that in the wake of NATO's air campaign to enforce human rights in Yugoslavia, the World Bank would fund an ethnic cleansing initiative in China. This is what the World Bank project would amount to if approved, however.

"In order to consolidate control over Tibetan areas, the Chinese government has undertaken a policy of moving Chinese citizens into these areas," 60 congressmen said in a letter to World Bank President James Wolfensohn. The project would "facilitate the Chinese government's destructive transfer policy." The administration, on the other hand, has failed to voice clear opposition to the project. U.S. Treasury Secretary Robert Rubin said he was "inclined" to oppose it. He should try to incline himself to muster vigorous opposition.

The area in which the project would be carried out has the highest concentration of prisoners of any single county in China. According to John Ackerly, a spokesperson for International Campaign for Tibet, the bank would inevitably support prison labor by working in such a territory. The bank would have to depend on either prison labor itself or on goods produced by that labor, Mr. Ackerly added.

Not so, claims the World Bank. David Theis, chief of the World Bank's external affairs, said that local and provincial Chinese authorities assured the bank no "prison labor will be involved or benefit from this project." Somehow, these assurances are not comforting.

The World Bank is also accused of running roughshod over its own environmental guidelines to give the loan swift approval. The bank insists that it gave the project a rigorous environmental review, but circumstantial evidence isn't supportive. China, due to its economical development of the past few years, will no longer be eligible for loans doled out by the bank's International Development Association after July 1. These loans are typically interest free and paid over a 40 year period. Interestingly, the vote on the project was scheduled suspiciously close to the cut off date and the project's environmental review was conducted swifter than most.

Unsurprisingly, China is allegedly pushing hard to get the loan approved. Apart from the obvious economic benefits, the loan would effectively grant the regime an international rubber stamp of its relocation policy. The regime has threatened to reevaluate its relationship with the bank if the loan isn't approved. The World Bank should make clear it is free to do so.

The bank has long been derided for aiding and abetting corrupt and spendthrift regimes. It surely doesn't want to be labeled the benefactor of ethnic cleansing campaigns. The board should vote down the project today.

[From The New York Times, June 23, 1999]

LOAN FOR A LAND GRAB

The World Bank's board of executive directors ought to reject a loan package to China that would be used to relocate about 58,000 impoverished Chinese and Hui Muslim farmers to a remote area on the Tibetan plateau traditionally inhabited by Tibetans and Mongolians. In the past, China has used migration policies to tighten control over Tibetan areas and to diminish the viability of the distinct Tibetan culture. The World Bank should not be in the business of financing this destructive scheme.

The Chinese Government has rejected criticism of the project and insists on going forward. But approving this loan may violate the bank's own guidelines for assessing the social and environmental impacts of its projects. Dozens of international environmental groups, Tibetan activists and 60 members of Congress have written to James Wolfensohn, president of the World Bank, to oppose the resettlement. The Clinton Administration also announced its opposition yesterday.

The ostensible purpose of the project is to give desperately poor farmers in Western

China a better life. But this plan would move them from badly eroded land to a barren high-altitude plain, currently used by nomads, that is itself environmentally fragile. Even though the project would involve construction of a dam and extensive irrigation works, it did not receive a full environmental assessment. Nor does it appear that the plan fully complies with World Bank policies designed to protect ethnic minorities and indigenous peoples from the adverse effects of development.

The World Bank has worked hard to overcome its reputation for insensitivity to local cultural and ecological concerns. Approval of this loan would be a significant step backward.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BASEBALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, America has a long-standing fascination with baseball.

Perhaps only apple pie and the American flag can compete with its association to this country.

And with good reason.

Baseball, like many team sports, is beloved in part because of the unity it brings to our nation's communities.

Poet Walt Whitman once wrote, "I see great things in baseball. It's our game—the American game. It will take our people out-of-doors, fill them with oxygen, give them a larger physical stoicism. (It will) repair these losses and be a blessing to us."

Throughout times of hardship and strife, baseball has been a constant source of entertainment and pride, on both a local and national level.

In towns and cities across the country, friends and family gather together to pull for the home team, play baseball together in their backyards, or gather around their televisions to cheer for their favorite players.

In the Third District of North Carolina, which I am proud to represent, a group of young men recently gave their community and the entire state a reason to celebrate.

The Rose High baseball team from Greenville, NC had an undefeated season this year, winning 28 games and capturing the second 4–A State title in three years.

These 29 young men embody the spirit of teamwork.

They have proven that with enough hard work and dedication, success is within the reach of every young person who dares to achieve it.

Mr. Speaker, I have no doubt that every one of these outstanding baseball players can appreciate their victory.

But what they have learned on their path to success may be even more valuable than a perfect 28–0 season.

One of the greatest lessons that I learned growing up, playing team sports, is the ability to work together to accomplish a goal.

Playing baseball and basketball in school, I learned to work hard because I knew that my teammates were depending on me to always do my best.

This work ethic is something that I have carried with me throughout my life.

I use it now in Congress to face the challenges of working with 434 other Members of the House.

Sometimes we have disagreements, but our greatest successes come when we work together as a team.

The Rose High Rampant's have already mastered this lesson.

And all the while, they have let us watch and cheer from the sidelines.

Mr. Speaker, part of the enjoyment in watching these young men play and succeed is watching the families and the community that rally behind the players.

Baseball is a team sport and its instills a sense of excitement and enthusiasm to all that watch and participate behind the scenes.

Because of the community spirit that baseball inspires, when Rose won, we all won.

I salute the players, coaches, families, and fans that made this championship possible.

To the players . . . James Bengala, Jr., Kenneth Biggs, Jeffrey Blick, William Brinson, Ashley Capps, David Creech, John Finch, Brian Flye, Michael Gordon, Matthew Grace, Michael Harrington, Kelly Hodges, Dylan Jackson, John Landen, Vincent Langston, Jefferson Lea, Vincent Logan, Demond Mayo, Julian Morgan, Adrian Moye, James Paige, IV, Bryan Pair, Justin Phillips, Robert Riggs II, William Teel, Reid Twine, Adam Tysinger, Joseph White, and Jesse Williams III.

Coach Ronald Vincent and assistant coaches . . . Paul Hill, Marvin Jarman, Steven Lovett, Ryan Meadows, and Eric Jarman and coaches, congratulations.

You brought together your community.

And through your dedication and hard work, you have made us all proud.

Thank you Rose High State champions for letting us share in your success.

SMALLER SCHOOLS FOR BETTER EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, right after the Columbine shootings I mentioned as one of the many causes of some of these problems the fact that many of our high schools are simply too big. We have done a good job in getting class sizes down, but we made a bad mistake going from small neighborhood or community-based high schools to centralized, consolidated mega-sized high schools.

Columbine had almost 2,000 students. Most young people can handle this, but some feel they have to resort to weird or sometimes even dangerous behavior to get noticed or get attention in a school where they are little more than a number.

In a small school, a young person has a better chance of making a team or being a leader in a club or a cheerleader or being elected to the student council or standing out in some positive way. I wish we did not have to have a high school of more than 500 students. Young people will be much better off going to a smaller school even if they had to go into an older building or where fewer courses were offered.

Bill Kauffman, writing in the new issue of Chronicles Magazine has some very interesting comments concerning the need for smaller schools and the shootings in Colorado, and this is a very lengthy quote, but I think it is worth listening to. Writing about our mobile and anonymous society he said,

□ 1715

"Harris was an Army brat, spawn of a bizarre subculture that prizes rootlessness and places transience next to godliness. He grew up on a series of Socialist reservations. The family's final move was from Plattsburgh, New York, to Littleton, 2,000 miles distant. There he became just another brick in the wall of the inhumanly large Columbine High, whose 1,950 students were connected by a web so attenuated that dozens might fall through the cracks without the principal even knowing their names.

"Impersonal education factories like Columbine were a domestic innovation of the Cold War. The consolidation of small and rural schools into centralized warehouses was given its greatest push by Harvard President James B. Conant, who, subsidized by the Carnegie Corporation, produced a series of postwar reports arguing for the 'elimination of the small high school.'

Mr. Kaufman continued, "According to Conant, defenders of human-scale education were still living in a dream world which knew neither nuclear weapons nor Soviet imperialism. They believe they can live and prosper in an isolated, insulated United States." Conant, the barbarian, triumphed: The number of school districts plummeted from 83,000 in 1950 to 18,000 in 1970. Mr. Kaufman said, "Brutish kids will always make fun of others, but in a small school, parents or other adults have a fighting chance to enforce at least a minimal code of respect. And children in small, settled communities grow up with each other; by high school they almost certainly will have been to each other's homes and birthday parties and been on each other's ball clubs. Each student is essential to the small rural or neighborhood school; sports teams and the school play and a handful of clubs, 4–H rather than a model U.N., depend upon widespread participation. In a stable, which is to say blessedly immobile, community, kids know one another, and while to know Eric and Dylan may not have been to love them,

the ties of human sympathy and lifelong friendship with at least some of their classmates might have braked the homicidal slide.''

So, Mr. Speaker, I would say again, we need to go back to smaller high schools, even if in older buildings or even with fewer courses.

Let me mention one other thing, Mr. Speaker. Insight Magazine, a publication of the Washington Times, had a cover story a few days ago which said, almost all of these school shootings over the last 2 or 3 years have been done by young people who were taking or had recently taken very strong, mood-altering drugs such as Ritalin or Prozac.

I remember another article in the Knoxville News-Sentinel, which said we were prescribing Ritalin in the United States at six times the rate of any other industrialized Nation.

This article quoted a former top official of the DEA who said Ritalin had the same properties as cocaine and some of the strongest illegal narcotics. One study I heard about said Ritalin was most often taken by young boys who had both parents working full time.

I know some of this may be necessary, but I question whether we need it at six times the rate of other industrialized nations. Some of it may be essential, but some of these children may be just boys crying out for more attention.

We certainly should not be turning our children into drug addicts.

To sum up, Mr. Speaker, we need smaller schools and fewer drugs and more time and attention for our children.

HONORING NEW PSALMIST BAPTIST CHURCH ON ITS 100TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise today to recognize significant events that occurred 100 years ago, in the year of 1899.

A century ago our Nation was engaged in the Philippine-American War and ending the Spanish-American War. Two great literary works were being created by two of the few African-American authors, Booker T. Washington's Up From Slavery and W.E.B. DuBois' The Philadelphia Negro. Two automobile empires would begin to prosper, with the entrance of Henry Ford and David Buick into the industry; and Duke Ellington and Ernest Hemingway, and, most significantly, New Psalmist Baptist Church of Baltimore City were born.

As we reflect 100 years later on this rich history, it is my honor and privilege to congratulate my pastor, Dr. Walter Scott Thomas, and my New Psalmist Baptist Church family on our 100th anniversary to be celebrated this week. What a blessing for our church celebration to be a part of a centennial anniversary of so many momentous events in our Nation's history.

From its meager beginnings in an alley, New Psalmist was guided by Reverend Junius Gray, its founder and visionary leader. From its home at Riggs Avenue and Woodyear Street to North and Druid Hill Avenues in Baltimore, Reverend Frederick Atkins took the reins and preserved the traditions and spirit of the church.

Over the years, New Psalmist Baptist Church has flourished, expanding from a membership of 5 to more than 5,000. Under the illustrious leadership of its current pastor, Dr. Walter Scott Thomas, the church has done the following:

Birthed 13 ministers; founded a fully accredited Christian school, grades pre-K through 5; an education ministry; establish a 3-year discipleship program; launched two radio broadcasts aired throughout the Mid-Atlantic region and a television ministry aired twice weekly; and established several outreach ministries, including those focused on seniors, youth, health and prison.

I was especially honored to welcome our Nation's top leader, President Bill Clinton, to our church on November 1, 1998.

Mr. Speaker, 100 years after the birth of New Psalmist, our Nation has also made tremendous strides. Our Nation has fought and won numerous wars and strives to encourage the principles of democracy worldwide.

African-American literature, movies and music have infiltrated American culture and have become widely recognized by the mainstream. The automobile industry has developed battery-operated and electric motor vehicles, and there are 39 African-Americans that have been elected to serve as Members of the United States House of Representatives.

Even with all of these changes, albeit positive, it is still good to know that some things do remain the same. New Psalmist remains a key cornerstone of spiritual leadership to my home district of Baltimore and to the Nation, as well as a source of inspirational outreach and education.

Pastor Thomas, associate ministers, officers and members have carried on a legacy of selfless dedication and commitment to the greater Baltimore community. Not only are souls being saved, but lives are being revitalized and uplifted. Members are educating Baltimore's youth, assisting in getting people to work, and ensuring that citizens are getting appropriate health care. In other words, the church is helping real people with real-life issues.

Walking in faith and working together for good, New Psalmist has provided leadership and strength to families, men, women and children, searching for a church home. Personally, Pastor Thomas and the members have had a profound impact and have been a constant source of strength in my life and that of my family's, and it is good to have my minister and my church to call upon in good and tough times.

So it is today that I applaud New Psalmist on its continued spiritual tradition and congratulate Pastor Walter Scott Thomas and my church family on its 100th anniversary.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, at first it was campaign finance reform, then it was gun safety and school violence; now it is health care reform where we see an unfortunate recurring pattern taking place by our Republican leadership.

Mr. Speaker, on issue after issue, the leadership uses its power to stomp out any real discussion on the House floor. Once again, those of us who care about patients' rights have no alternative, no alternative but to sign a discharge petition to force a discussion on managed care reform, because, my colleagues, serious proposals for meaningful health care reform have been rejected by the Republican leadership.

Why? I am not sure, but it certainly looks like they are trying to protect the profits of the managed care industry. And that is protecting managed care industry's profits over the protection of all of our constituents, every single Member of the House of Representatives and the people we work for.

While they claim reform would actually allow the Federal Government to interfere with the doctor-patient relationship, our families are left unprotected.

Democrats in Congress have been waiting 2 years to pass a Patients' Bill of Rights, because we are ready. We are ready to improve Americans' access to health care. On the other hand, the leadership in this Congress has taken their sham bill from last year, broken it into eight pieces, eight pieces that they want to sell this year as health care reform.

Well, we have to be clear about this. There is no real change in their piecemeal approach. Their same refusal to protect doctors and patients from the insult of an insurance clerk's ability to dictate medical treatment procedures remains. The American Medical Association, in fact, says that their package falls short of the mark; says it does not solve any of the problems our doctors and patients have.

It is time, Mr. Speaker, to put doctors and patients back in charge of our

health care system. There must be enforceable rights to make consumer protections real for all Americans.

Mr. Speaker, we know that many States have passed legislation making a patchwork of protections. This patchwork does not provide a good fix. This fix does not work for over 160 million Americans who need a real effort to fix the problems of managed care.

While there are many top-notch managed care organizations, many in my own district; I represent Sonoma and Marin Counties in California, just north of the Golden Gate Bridge; in other areas, there are too many horror stories that we hear across this country. Doctors tell us horror stories about how they are gagged by insurance companies, companies that dictate what they can tell their patients, what they can tell their patients about their patients' treatment options. They tell us that a patient's treatment decisions are often overruled by a clerk, and that patients are denied a specialist's care, and that patients are shuttled out of hospitals before full recovery.

Americans are demanding, they are demanding that this Congress take action and that we do it now. But instead, the Republican leadership has provided legislation that does not ensure that patients have the right to see a specialist, nor do they prevent insurance companies from continuing to send women who have had mastectomies home early, against the advice of their physician.

Under the Republicans' bill, if patients are denied care, they would not have the right to a meaningful external appeal.

That is why we need to debate managed care reform. That is why we need a Patients' Bill of Rights. This legislation will make sure that doctors and patients are free to make decisions about the patient's health. The Patients' Bill of Rights will ensure that patients can openly discuss with their doctors their treatment options. The Patients' Bill of Rights will ensure that patients receive uniform information about their health plan, and they will be able to go to emergency rooms when the need arises, see a specialist, and seek a remedy from the courts when the claims have been unfairly denied.

It is time to put doctors and patients back in charge of our health care system. I urge my colleagues to support a full debate on managed care reform and support a Patients' Bill of Rights. I urge the Speaker and I urge my colleagues to give the American people what they want. I urge my colleagues to work for managed care reform.

□ 1730

THIRD ANNIVERSARY OF THE KHOBAR TOWERS BOMBING IN SAUDI ARABIA

The SPEAKER pro tempore (Mr. TERRY). Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House tonight on the eve of the third anniversary of the Khobar Towers bombing in Saudi Arabia.

Tomorrow will mark the third anniversary of the Khobar Towers bombing. Shortly before 10 p.m. on Tuesday, June 25, 1996, a van parked outside the Khobar Towers military complex in Saudi Arabia exploded. The van held an estimated 2,000 pounds of explosives which killed 19 American servicemen and injured approximately 500 other people.

One of those servicemen who was killed was U.S. Airman Brian W. McVeigh from DeBary, Florida.

Mr. Speaker, I had the opportunity to speak at Brian's high school graduation. I had the honor to speak at the unfortunate circumstance of his funeral and memorial service, and I was so honored to be asked to be part of that in memory of Brian after he was killed.

I had an opportunity on this Memorial Day to join with citizens of central Florida and the city of DeBary and others who chipped in to create a memorial park for Brian McVeigh, in memory of Brian and other U.S. servicemen and women who served our country and lost their lives. The parents of Brian were there; Jim and Sandy Wetmore, Brian McVeigh's parents.

But a park is not satisfactory. It is a nice memorial, but what I think we all demand on the eve of this horrible anniversary is justice. The investigation of this terrorist attack has included countless closed-door top secret briefings of government officials in which I have participated, and we still do not have answers.

Regardless of those closed-door briefings and discussions held to date, there have been no indictments. The families who lost their loved ones in this terrible crime deserve to have justice and see those responsible prosecuted. We know where some of the responsible parties are, and we have the ability to detain and to prosecute and go after them. Why have the victims' families not received justice?

While we have been informed that the Saudi Government is being extremely cooperative, they are still not producing results, while they have strong indications of who the perpetrators of this terrible crime were and are. Let us move away from international politics and bring these terrible criminals to justice.

Mr. Speaker, I include for the RECORD the names of the service members killed in the bombing of Khobar Towers, in addition to Brian McVeigh.

The list referred to is as follows:

Following is the list of names of service members killed in the bombing of Khobar Towers near King Abdul Aziz Air Base, Dhahran, Saudi Arabia, in June 1996:

Capt. Christopher J. Adams, Massapequa Park, N.Y.

Capt. Leland T. Haun, Clovis, Calif.

Master Sgt. Michael G. Heiser, Palm Coast, Fla.

Master Sgt. Kendall K. Kitson Jr., Yukon, Okla.

Tech. Sgt. Patrick P. Fennig, Greendale, Wis.

Tech. Sgt. Thanh V. Nguyen, Panama City, Fla.

Staff Sgt. Daniel B. Cafourek, Watertown, S.D.

Staff Sgt. Kevin J. Johnson, Shreveport, La.

Staff Sgt. Ronald L. King, Battle Creek, Mich.

Sgt. Millard D. Campbell, Angelton, Texas

Senior Airman Earl F. Cartrette Jr., Sellersburg, Ind.

Senior Airman Jeremy A. Taylor, Rosehill, Kan.

Airman First Class Christopher B. Lester, Pineville W. Va.

Airman First Class Brent E. Marthaler, Cambridge, Minn.

Airman First Class Brian W. McVeigh, Debary, Fla.

Airman First Class Peter J. Morgera, Stratham, N.H.

Airman First Class Joseph E. Rimkus, Edwardsville, Ill.

Airman First Class Justin R. Wood, Modesto, Calif.

Airman First Class Joshua E. Woody, Corning, Calif.

This information was confirmed by the Office of Assistant Secretary of Defense, Public Affairs.

Mr. Speaker, that list, as I said, includes 19 American servicemen who lost their lives in service to this country 3 years ago tomorrow. All the relatives of those servicemen deserve justice, Jim and Sandy Wetmore, the parents of Brian McVeigh, deserve justice, the American people demand justice, and Congress must demand justice.

On the eve of this tragic anniversary, I urge the Congress to continue its effort, I urge this administration to continue their efforts, I urge each and every agency responsible, including the Department of Justice, including the Department of State, and all of our Federal agencies, to see that justice does prevail, again, not only for Brian McVeigh, our hero, but for the parents and the families of the 18 other servicemen who lost their lives on June 25, 1996, in a terrorist attack in Saudi Arabia.

TRIBUTE TO AN AMERICAN HERO, CAPTAIN CURTIS J. ZANE, UNITED STATES NAVY RETIRED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Alaska (Mr. YOUNG) is recognized for 60 minutes as the designee of the majority leader.

Mr. YOUNG of Alaska. Mr. Speaker, on the eve of his 80th birthday, I rise tonight to pay tribute to an American hero, Captain Curtis J. Zane, United States Navy Retired.

Captain Zane, or Casey, as he is known among his friends, is not a hero in the popular sense of media. He is really one of those many silent and unsung American heroes who, when their Nation called, put everything on the line to protect our freedom. He is one of those heroes who strives every day to find the right balance between devoting time to work and financial success and just taking time to experience the sheer joy of living.

Born on July 4, our Independence Day, in 1919, in Cleveland, Ohio, Casey Zane has seen and lived the greatest part of this century, the American century. His parents came from Poland at the turn of the century, and like so many millions of immigrants, came to this country to begin a new life.

They married here and had five children. Casey is the youngest. While his father worked long and hard hours in the Cleveland steel mills, Casey attended school in Cleveland, selling newspapers before and after school with his brothers, Hank and Al.

After taking a year off to work following the tragic death of his father at the hands of a drunk driver, Casey graduated from John Hay High School in 1938. He was elected president of his graduating class. Casey's mom and brothers and sisters pulled together and were determined that he, Casey, would be the first of the family to attend college.

In 1939, he started at Ohio State University. After 3 years there, with war clouds looming, Casey signed up for and took Navy flight training from November of 1941 through September, 1942, in Kansas City and Corpus Christi.

From November, 1942, through June, 1943, Casey flew PBY's and B–24s in combat patrol missions in the South Pacific with Patrol Squadron 14, and beginning in March of 1943, with the famed Black Cat Patrol Squadron 101, under the command of Lord Louie Mountbatten.

Casey flew combat patrol missions that covered areas in Australia, Papua New Guinea, New Caledonia, the Coral Sea, the Solomon Islands, Indonesia, and the Java Sea. During those perilous years of combat and sacrifice, some of Casey's closest friends lost their lives or were wounded at the hands of the imperial Japanese forces. Fortunately for us and for myself, Casey is one of the survivors.

After combat duty from July, 1944, through May, 1946, Casey was instructing B–24 pilots at Hutchinson, Kansas. He was married on March 10, 1945, to a wonderful lady, Dorothy Dix Kavanagh, Dickey, as we call her, Kavanagh, whom Casey had met while in Ohio State, one of seven children born to Ohio farmers Fred and Mabel Kavanagh. All seven of the Kavanagh children have lived to see their 50th wedding anniversaries.

Casey and Dickey have been married for 54 years and have two daughters, two sons-in-law, one son, a daughter-in-law, four grandchildren, and two great grandchildren. They have the kind of mutual respect and supportive relationship that lasts forever. Both Casey and Dickey have a deep and abiding faith in God and continue to live honest and moral lives.

Throughout the remainder of Casey's Navy career, he continued to put it on the line for this country. After the war, Casey and Dickey served in Saipan. In fact, after transiting aboard the vessel Breckenridge from Norfolk to Saipan, Dickey and new daughter Susan had more sea time than Casey did at that time.

Further assignments included Fleet Air Wing Staff, Naval Air Station, Jacksonville, Florida, then aboard the aircraft carrier the USS Leyte as communications officer. Later the Zanes were transferred back to Jacksonville, Florida, where Casey served as executive, then commanding officer, Patrol Squadron 18, performing anti-submarine warfare missions off Florida and in the Caribbean.

During the Cuban missile crisis, Casey served at the Command Post of the CINCLant Fleet, Norfolk, Virginia. In the early sixties he was stationed at the Navy's Bureau of Personnel, and in 1965 took command of vital Cold War U.S. Navy communications bases at Londonderry, Northern Ireland, and Thurso, Scotland.

After duty in Ireland and Scotland, Casey returned to his last hitch at the Pentagon and retired as a Navy Captain in November of 1968, having served our Nation defending our freedom for a little over 27 years.

During his Navy years, Casey completed Navy flight and aviation pilot training, U.S. Command and General Staff College, Aviation Ordnance School, General Line School, postgraduate Naval Command Communications School, and U.S. Naval War College.

His medals and decorations include the American Defense Service Medal; the American Campaign Medal; the Air Medal; the Asiatic-Pacific Campaign Medal, for three stars; World War II Victory Medal; National Defense Service Medal, one star.

After the Navy, Casey was not finished by a long shot. He and his wife decided it was time to work, to hunker down and make a little money. Throughout the 1970s and 1980s and early nineties Casey and Dickey both became hard working real estate agents and brokers in the greater Northern Virginia area. Casey had a very successful second career in land development and commercial and industrial real estate.

My personal relationship with Casey goes back for more than 25 years. During that time he visited my home State of Alaska many times. In fact, as a great campaign supporter and worker he rightfully credits himself with more than one of my narrow campaign victories.

As a young man Casey was a scratch golfer and later carried a single digit handicap for years. Over 30 years a member of the Army-Navy Country Club, Casey can still break 90 on a regular basis.

Even as he approaches his 80 years young this Fourth of July, Casey is as active as ever. He works out three times a week, stays in excellent shape, maintains a delightful sense of humor, and still drinks his vodka on the rocks, sports a license plate that declares life is too short to smoke cheap cigars. God willing, my wife Lu and I will have many more years of close friendship to look forward to with this very special man and his very special family.

As I recollect on the meaning of July 4, I will, along with many other friends and family, celebrate on that day the birth of a particularly good friend, an American hero who was willing to give his all to our Nation.

Mr. Speaker, please join my colleagues and me in wishing a very happy 80th birthday to Captain Curtis J. Zane, United States Navy Retired. Happy birthday, Casey. You are my sweetheart.

HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Iowa (Mr. GANSKE) is recognized for the balance of the majority leader's hour.

Mr. GANSKE. Mr. Speaker, I plan to talk about three things concerning health care, the status of managed care reform legislation, the problem of the uninsured and access to health care, and briefly, some problems with the Medicare Reform Act of 1997.

Mr. Speaker, another week has gone by without health care reform reaching the floor of the House of Representatives. As Yogi Berra would say, it is deja vu all over again. Why do I say that? Last year we debated an HMO reform bill on this floor that was drafted in the middle of the night by the HMO lobbyists and should have been labeled ''the HMO Protection Act of 1998.''

Last week in the Committee on Education and the Workforce components of last year's sadly deficient HMO bill were debated again. Members would think that since we passed decent HMO legislation for Medicare in 1997 dealing with HMO gag rules that prevent doctors from telling patients all their treatment options, that it would not be too difficult to duplicate that for everyone.

No, on the Committee on Education and Workforce, the subcommittee bill's

rules of construction suggested that a plan's own guidelines can still be enforced, even if they have the effect of preventing full and open communication between patients and their health care providers.

Members would think that the subcommittee bill's provisions on emergency care could simply mirror what we passed for Medicare in 1997. After all, if it is good enough for seniors, it should be good enough for the rest of us, right? Well, not according to the K Street lobbyists who wrote this provision, too.

The subcommittee bill, as passed last week, narrows the prudent layperson definition so that patients would only be covered for an initial but undefined appropriate screening examination. For all other services, including potentially lifesaving treatments, emergency physicians would have to certify in writing that the patient needed immediate emergency medical care.

□ 1745

Now, think of that for a moment. In the middle of saving a patient's life, an ER doc is supposed to write a letter to an HMO. Just how long would it take for the HMO to get that letter? I would not recommend holding one's breath.

This new HMO protection bill would then make the plan cover such care only if retrospectively the plan itself agreed to. Furthermore, patients in severe pain would not be fully protected under the Committee on Education and the Workforce subcommittee bills.

What about a man or a woman whose only symptom of a heart attack is crushing chest pain? This type of patient protection is a joke. This is just another example, and on a simple issue at that, of trying to look like one is for patient protection when one is really only looking for a fig leaf.

But the bills that passed the subcommittee last week are not just bad bills, they would actually make it harder for patients to fight HMO abuses under ERISA, the Employee Retirement Income Security Act. For instance, one of the Committee on Education and the Workforce bills, the Group Health Plan Review Standards Act of 1999, requires that group health plan's arbitrary definitions and guidelines be followed throughout the review process when determining medical necessity.

Thus, the bills fail to address what we would call the smart bomb of HMOs, and that is their ability under ERISA to justify any decision they want in denying care, even if that care is well within prevailing standards of medical care.

Now, Mr. Speaker, I have spoken many times on this floor about how important it is for patients to have care that fits prevailing standards of medical care. Let me give my colleagues an example. One particularly aggressive HMO defines medically necessary as the cheapest, least expensive care, quote-unquote. So what is wrong with that, my colleagues say?

Well, take a look at this child. Prior to coming to Congress, I cared for children with this defect, cleft lip and palate. The prevailing standard of care for this defect, this birth defect is surgery. But according to that HMO's definition to give the cheapest, least expensive care, he could use his own definition under current Federal law to justify using a piece of plastic to fill in the roof of this child's mouth. After all, that would be the cheapest, least expensive treatment.

Of course, the child would not speak as well. If the plastic obturator fell out, he would get food and his drink coming out of his nose. But of what difference is that to the HMO since they are providing the cheapest, least expensive care?

This Committee on Education and the Workforce bill would, not only fail to correct that travesty, but it would move in the opposite direction by permanently stopping the development of ERISA case law that has slowly been forcing plans to account for negligent decisions.

This bill violates the dictum that all who treat patients learn early in their training, ''primum non nocere'', first do not harm. I urge my colleagues on the Committee on Education and the Workforce to remember that dictum. I urge the Committee on Education and the Workforce chairman to work with the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from Georgia (Mr. NORWOOD) to adopt real patient protections.

Fortunately, enough of my Republican colleagues on the Committee on Education and the Workforce have joined their Democratic committee members and have forced the chairman to delay the full committee markup of those HMO industry bills. Maybe if the Members of that committee hear from enough of their concerned consumers back home, they may yet come up with some legislation worthy of the name ''patient protection.''

Mr. Speaker, common sense proposals to regulate managed care plans do not constitute a rejection of the market model for health care. In fact, they are just as likely to have the opposite effect, to preserve the market model by saving it from its most destructive tendencies.

Surveys show that there is a significant public concern about the quality of HMO care. If these concerns are not addressed, I think that it is likely that the public will ultimately reject the market model. However, if we can enact true managed care reform such as that embodied in my own Managed Care Reform Act of 1999, or the bill of the gentleman from Michigan (Mr. DINGELL) or the bill of the gentleman from Georgia (Mr. NORWOOD), then consumer rejection of a market model is less likely.

Mr. Speaker, this is not a novel situation. Congress has stepped in to correct abuses in many industries. That is why we have child labor laws and food and drug safety laws. That is why Teddy Roosevelt broke up the trusts. Those laws, in my opinion, helped preserve a free market system. Congress would not be dealing with this issue were it not for past law enacted by Congress.

For a long time, Congress had left insurance regulation to the States. By and large, the States have done a pretty good job. But Congress passed a law called the Employee Retirement Income Security Act, known as ERISA, some 25 years ago to simplify pension management.

Almost as an afterthought, employer health plans were included in the exemption from State law. Unfortunately, nothing was substituted for effective oversight in terms of quality, marketing, or other functions that State insurance commissioners or legislatures have effectively done.

That lack of oversight, coupled with lack of responsibility for medical decisions that they make, has led to many tragedies. Let me tell my colleagues about just one example.

This is little Jimmy Adams tugging on his sister's shirt sleeve before his HMO health care. About 3 weeks or so after this picture was taken, at 3:30 in the morning, Lamona Adams, Jimmy's mother, found Jimmy sweating, panting, moaning. He had a temperature of over 104. So she phoned her HMO to ask for permission to go to the emergency room.

The voice at the other end of the 1–800 number told her to go to Scottish Rite Hospital. Where is it, asked Lamona. I do not know; find a map, came the reply. It turns out that the Adams family lived south of Atlanta, Georgia, and Scottish Rite was an hour away on the other side of the Atlanta metro area.

Lamona held little Jimmy in her arms while dad drove as fast as he could. Twenty miles into the trip, Mr. and Mrs. Adams passed Emory University Hospital's emergency room. They passed the emergency room at Georgia Baptist. They passed Grady Memorial's emergency room. But they pushed on to Scottish Rite Medical Center, still 22 miles away, because they knew that, if they stopped at one of those unauthorized hospitals, they would get stuck with the bill.

They also knew that Jimmy was sick. They just did not know how sick he was. I mean, after all, they were not trained medical professionals.

With miles yet to go, Jimmy's eyes fell shut, and they would not open. Lamona franticly called out to him, but he did not awaken. His heart had

stopped. Imagine Jimmy's dad driving as fast as he could while Lamona is trying to keep her little 6-month-old baby alive.

They finally pulled into the emergency room. Lamona leaped out of the car screaming, ''help my baby, help my baby.'' A nurse rushed out, gave him mouth-to-mouth resuscitation. They brought out the crash cart. They started the lines. They intubated him. They gave him medicines. They did everything that modern medicine could do to save this little infant.

Well, Jimmy was a tough little guy. He survived despite the delay in his emergency care caused by that medical decision by his HMO which told him to go a long ways and not go to the nearest emergency room. But he did not end up whole.

Because of that cardiac arrest caused by that HMO's decision, Jimmy ended up with gangrene in both hands and both feet. The doctors had to amputate both of Jimmy's hands and both of Jimmy's feet. This is Jimmy after his HMO health care.

Well, today, Jimmy is learning to put on his leg prostheses with his arm stumps. But it is tough for him to get on his bilateral arm hooks by himself.

The HMO industry calls victims like this ''anecdotes.'' Well, this little anecdote will never play basketball. He will never be able to caress the cheek of the woman that he loves with his hand. I will tell my colleagues this little anecdote, if he had a finger, and one pricked it, it would bleed.

Jimmy's mom and dad tried to get care for him. They followed their HMO's instructions. They phoned their gatekeeper. The problem was they were dealing with a managed care system that emphasizes cost over quality.

Lamona never spoke to a doctor when she called at 3:30 in the morning. They were not allowed to speak to a doctor, nor were they allowed to go to the nearest ER with what a layperson would have said surely was a true emergency.

A judge looked at the case of James Adams and said this HMOs margin of safety was ''razor thin'', and I would add to that about as razor thin as the scalpel that had to amputate little Jimmy's hands and feet.

Well, under current Federal law, this funny law called ERISA, if one receives one's insurance from one's employer, and one has a tragedy happen to one's family like happened to little Jimmy Adams, one's HMO that has made that decision is liable for nothing. That is right, nothing. Congress created this law, ERISA, with a loophole that prevents health plans from being responsible for the tragedies that they create like that that happened to little Jimmy Adams.

The Ganske Managed Care Reform Act of 1999 would help prevent a case like this. It would also make health plans responsible for their actions. So to my Republican colleagues, I call out, we Republicans talk about people being responsible for their actions. I have heard on this floor many times that we think we Republicans think that a murderer or a rapist should be responsible for his actions. We think an able-bodied person should be responsible for providing for his children. Well, my fellow Republicans, HMOs should be responsible for their actions, too. Let us walk the walk on responsibility when it comes to HMOs, just as we do for criminals, and deadbeat fathers.

Mr. Speaker, opponents to real managed care reform always try to inflate fears that this legislation will cause premiums to go up, that people will be priced out of coverage. Not so. Studies have shown that the price of managed care reform would be minimal, probably less than $35 a year for a family of four.

In fact, the CEO of Iowa's Blue Cross Wellmark told me that they are implementing HMO reforms, and they do not expect to see any premium increases from those changes.

Now, the HMO industry last year spent more than $100,000 per Congressman lobbying on this issue and has been running ads all around the country claiming larger costs for this legislation. I advise my colleagues to take their numbers with a grain of salt.

The industry took an estimate of last year's Patients' Bill of Rights, which was scored by the Congressional Budget Office at 4 percent cumulative increase over 10 years, but the industry reported the increase as if it were 4 percent annually.

The HMO industry also conveniently ignored page 2 of the Congressional Budget Office summary, which said that only about two-thirds of that 4 percent over 10 years would be in the form of raised premiums. Yes, the HMOs predict dire consequences if Congress passes a bill like my Managed Care Reform Act of 1999. They say lawsuits will run rampant. They say costs will skyrocket, that managed care will shrink.

Well, Mr. Speaker, these Chicken Littles remind me of the opponents years ago to legislation to clean water, to clean air a decade ago. At that time, they said the sky will fall, the sky will fall if that legislation is passed. Instead, what do we have today, Mr. Speaker? We have clean air, and we have clean water at a reasonable cost.

So let us look at the facts as they relate to this HMO legislation. In Texas, after a series of highly publicized hearings during which numerous Texans told of injury or death resulting from denial of treatment by their HMOs, the Texas Senate passed a strong HMO reform bill, making HMOs liable for their medical decisions by a vote of 25 to 5.

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The Texas House passed that bill unanimously. And under Governor George W. Bush, that bill became law in May 1997.

Yesterday, in the House Committee on Commerce, we heard testimony from Texans that refutes those dire predictions by the HMOs. A deluge of lawsuits? There has been one lawsuit in the 2 years since passage of the Texas Managed Care Liability Act. That lawsuit, Plocica v. NYLCare, is a case in which the managed care company did not obey the law and a man died because of that. This case exemplifies why we need accountability at the end of external review.

Mr. Plocica was discharged from the hospital suffering from severe clinical depression. His treating psychiatrist informed the HMO that he was suicidal and that he needed additional hospitalization until he could be stabilized. Texas law requires an expedited review by an independent review organization prior to discharge. Such a review was not offered by the plan. Mr. Plocica's wife took him home. During the night he went to his garage, he drank antifreeze, and he died a horrible, painful death.

That case shows that external review and liability go hand in hand, Mr. Speaker. Without the threat of legal accountability, HMO abuses, like those that happened to little Jimmy Adams or to Mr. Plocica, will go unchecked. But a lesson from Texas also is that lawsuits will not go crazy. In fact, when HMOs know that they will be held accountable, there will be fewer tragedies like these.

And just as there has not been a vast increase in litigation, neither has there been skyrocketing increases in premiums in Texas. The national average for overall health care costs increased 3.7 percent in 1998, while the Dallas and Houston markets were well below average at 2.8 percent and 2.4 percent respectively. Other national surveys show Texas premium increases to be consistent with those of States that do not have the extensive patient protections passed by the Texas Legislature.

And the managed care market in Texas certainly has not shrunk. In 1994, the year prior to the Texas managed care reforms, there were 30 HMOs in Texas. Today there are 51. In a recent newspaper article, Aetna's CEO Richard Huber referred to Texas as the filet mignon when asked about Aetna's plans to acquire Prudential. None of these facts support the HMOs' accusations that the Texas patient protection laws would negatively impact on the desires of HMOs to do business in Texas.

Perhaps all of the above is why Governor George W. Bush personally told me that he thinks that Texas patient protection laws are working ''pretty good'' in his State.

It is time for this Congress to get off its duff, to fix this problem which it created when it took health insurance oversight away from States two decades ago. I call on my Republican colleagues to bombard our leadership with demands that this legislation be brought to the floor in the next 4 weeks for a fair debate. A fair debate is already long overdue.

I would tell my colleagues that just half an hour ago I had a talk with the Speaker of the House, the gentleman from Illinois (Mr. HASTERT). I begged him to bring this legislation to the floor, and he assured me that we will have a debate on the floor here in Congress, in the House of Representatives, by the middle of July. That is his intent. So, Mr. Speaker, I am anxiously awaiting.

Now, Mr. Speaker, let me talk for a minute about the uninsured, because I think Congress should address this issue, and I have some thoughts on this important issue.

First of all, who are the uninsured? Well, there are about 43 million people without any form of health insurance coverage. About 25 percent of the uninsured are under the age of 19, 25 percent are Hispanic, 25 percent are legal noncitizens, 25 percent are poor, which is noteworthy because 46 percent of the poor do not have Medicaid even though they qualify. These groups overlap so that if someone is below the age of 19, Hispanic, poor and a legal noncitizen, the chances of being uninsured are very high. A significant proportion, however, are not poor and have incomes more than two times the poverty level, but these people tend to be aged 19 to 25. Fewer than 15 percent of those older than 25 do not have health insurance.

Well, knowing these facts, a few solutions to help solve the problem of the uninsured should be obvious. First, there are 11 million uninsured children living in this country, one-quarter of the uninsured. About 5 million of those children qualify for Medicaid or for the Children's Health Insurance Program, known as CHIP, but they are not enrolled. They are not enrolled.

Hispanic Americans represent 12 percent of the under-65 population, but 24 percent of the uninsured. The income of many Hispanics qualifies them for Medicaid, but they, too, are frequently not getting health coverage they are qualified to receive. Why? Because the government bureaucracy has made it difficult for families to access the system.

In my own State of Iowa, the application is not only long, but a Medicaid recipient must report his income each month in order to get Medicaid. I encourage my colleagues back in the State of Iowa to correct this.

In Texas, to be eligible for Medicaid, the uninsured must first apply in person at the Department of Human Services, usually located way off the beaten track and out of range of public transportation. And if even one of the receipts to prove eligibility is forgotten, the applicant then has to spend another day traveling and waiting in line.

In California, the uninsured person who is poor must first fill out a 25-page application for Medicaid, often in a language the applicant can barely read. In fact, English is frequently a second language.

So the first thing we can do to reduce the number of the uninsured is to make sure that the poor who qualify for Medicaid are, in fact, receiving Medicaid. Simplify forms, reach out to the Hispanic and other ethnic communities and oversee the CHIP program to see why more people who qualify are not taking advantage of that program. In many cases it is as simple as the uninsured not knowing about the programs.

What about those aged 19 through 23? Many are in college. This is a healthy group. They should be inexpensive to cover. Some colleges say they can cover these people for only $500 a year for a catastrophic insurance plan. That is a small price to pay compared to tuition. I know, I have a daughter in college. So why have we not made a commitment to health care coverage for that group? Maybe we should look at tying student loans to health coverage.

I do believe that tax policy also determines to some extent whether an individual has health insurance. Businesses get 100 percent deductibility for providing health care to employees. Individuals purchasing their own insurance should get the same treatment. This would lower the cost of insurance for many.

But, Mr. Speaker, in trying to address the uninsured, Congress should be very careful not to pass legislation that could actually increase the number of uninsured through unintended consequences of potentially harmful ideas such as health marts and association health plans.

Let me explain my concern. Under court interpretations of the Employee Retirement Income Security Act, ERISA, State insurance officials cannot regulate health coverage by self-insured employers. This regulatory loophole created many problems with the association health plans. The benefit of being able to create a favorable risk pool motivated many to self-insure, but without the discipline of State insurance oversight, many of the association health plans became insolvent during the 1970s and the early 1980s, and they left hundreds of thousands of people stranded without coverage.

Some of those plans went under because of bad management and financial miscalculations. Remember, they did not have insurance regulatory oversight. Others were started by unscrupulous people whose only goal was to make a quick buck and to get out without any concern about the plight of those covered in those ''association plans.'' I would encourage my colleagues to read Karl Polzer's article ''Preempting State Authority to Regulate Association Plans: Where Might It Take Us.'' It is in National Health Policy Forum, October 1997.

My colleagues, those who do not know history are bound to repeat it. The rash of failures led Congress in 1983 to amend ERISA, to give back to the States some of that authority to regulate self-insured, multiple-employer welfare associations or AHPs, association health plans. Only self-insured plans established or maintained by a union or a single employer remained exempt from insurance regulation.

Unfortunately, there are now those who want to ignore the hard lessons of the past. They want to repeat the mistakes of pre-1983. If anything, some mismanaged and fraudulent associations continue to operate. Some associations try to escape State regulation by setting up a sham union or sham employer associations. Then they self-insure, and then they claim they are not an MEWA, a multiple-employer welfare association.

To quote an article by Wicks and Meyer in an article called ''Small Employer Health Insurance Purchasing Arrangement: Can They Expand Coverage?'': ''The consequences are sometimes disastrous for people covered by these bogus schemes.'' If anything, Mr. Speaker, Congress should crack down on these fraudulent activities, not promote them.

Wicks and Meyer summarized the two big problems with expanding ERISA exemption to association health plans. First, if they bring together people who have below-average risk, and they exclude others, and they are not subject to small group rating rules, then they draw off people from the larger insurance pool, thereby raising premiums for those who remain in the pool.

Second, if they are not subject to appropriate insurance regulation to prevent fraud and to ensure solvency and long-run financial viability, they may leave enrollees with unpaid medical claims and no coverage for future medical expenses. Mr. Speaker, that certainly would not help the problem of the uninsured.

I recently asked a panel that appeared before the Committee on Commerce if they agreed with those concerns that I just mentioned about association health plans, and they unanimously did. And that panel even included proponents of association health plans.

Mr. Speaker, let us pass real HMO reform legislation. Let us learn from States like Texas. After all, is it not Republicans who say that the States are the laboratories of democracy? Let us address the uninsured by making sure that those who qualify for the

safety net are actually enrolled. And, yes, let us have equity in health insurance tax incentives, but let us also be wary of repeating past mistakes with ERISA.

And, finally, Mr. Speaker, I want to talk briefly about Medicare as it relates to access to health care for all of us. In 1997, Congress passed and the President signed the Balanced Budget Act. In that bill were provisions to slow the growth of Medicare expenditures in order to extend the solvency of that trust fund.

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But Mr. Speaker, the effect of that bill on our rural and teaching hospitals is more profound than what was anticipated. We are not seeing just slowed growth rates for our rural and teaching hospitals. We are seeing real and significant cuts.

A survey in Iowa found that Medicare's lower reimbursement will cost small rural Iowa hospitals on the average to lose $1 million each in the next 5 years. Larger rural hospitals will lose between $2 million and $5 million. And urban teaching hospitals will lose between $10 million and $40 million.

The University of Iowa hospitals and clinics is projected to lose $64 million over 5 years. And this is in Iowa, with one of the lowest reimbursement rates in the country.

Let me give my colleagues some specific examples for hospitals in Iowa. Current payment to Iowa rural hospitals for cataract operations is about $1,300. The proposed payment will be $980, a 30-percent reduction, not just a ''reduced rate of growth.''

A rural hospital in Iowa today receives about $500 for a colonoscopy. The proposed payment will be $300, a 40-percent reduction. Medicare today pays about $45 for a mammogram to rural hospitals. The future payment will be $30. And this is happening in rural and teaching hospitals everywhere in this country.

The Washington Post just published an article that Georgetown University Hospital is projected to lose $75 million because of the 1997 Balanced Budget Act. This hemorrhage in our rural and teaching hospital will cause some to fail. This will certainly not help people's access to care.

If a county seat town in Iowa loses its hospital, it will lose its doctors and the town itself will start to fade away. And I am sure that my colleague from Vermont would say the same thing about Vermont.

Mr. Speaker, I took a lot of heat from my colleagues back in 1995 when I pointed out that $250 billion in Medicare reduced payments would severely hurt health care. Fortunately, arguments like mine were able to scale back the cuts. However, it is now clear that Congress needs to restriction adjust that bill. There are reports that the savings from that legislation are significantly greater than anticipated.

Now, I am not talking about a wholesale rewrite of the Medicare bill, because a lot of it is working well. Reducing payments to HMOs was a positive. In fact, a recent GAO report shows that HMOs are still being overpaid because they select healthy seniors and they shed the sick. However, we ought to be able to afford some adjustments for our rural and teaching hospitals.

After all, Mr. Speaker, what good does it do to have insurance, whether private or Medicare, if we do not have a hospital to go to if we are sick?

Let us not bury our heads in the sand about either HMO abuses or this Medicare problem, or I will guarantee my colleagues, Mr. Speaker, the people in the next election will remember.

I am anxiously awaiting a fair and a complete debate on this floor. We owe it to the Jimmy Adamses in our country.

YOUNG AMERICANS MUST PARTICIPATE IN POLITICAL PROCESS

The SPEAKER pro tempore (Mr. DEMINT). Under the Speaker's announced policy of January 6, 1999, the gentleman from Vermont (Mr. SANDERS) is recognized for 60 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, it has always seemed to me that the major crisis that we face as a country is not that we do not know the answers to the most serious problems that we face but rather, for a variety of reasons, we refuse to ask the right questions.

As the only independent in the Congress, I want to raise some issues that are usually ignored by most of my Democratic colleagues and most of my Republican colleagues and are often ignored by the mass media, as well.

Let me start off with one question that I think is the most important of all; and that is, why is it that tens and tens of millions of people in our country, most especially the young people, are giving up on the political process? Why is it that virtually every day we become a less and less democratic and participatory society? Why is it that in the last election, in November of 1998, only 36 percent of the American people bothered to vote, which was the lowest turnout that we have had in many years? And this compares, as my colleagues know, Mr. Speaker, with the recent election that took place in Israel, where 90 percent of the eligible people voted, compared to 36 percent in the United States.

It is not uncommon in Canada, in Europe, in Scandinavia to have elections in which 70 or 80 or 90 percent of eligible voters participate.

Why is that? Why is that that so many people say, ''oh, democracy, oh, voting, oh, participating in the political system, do not be silly. I would not think of doing that.''

Now, as bad as the general situation is, as bad as a 36-percent voter turnout is, what is even worse and more frightening is that, in the last election, if my colleagues can believe it, only 18 percent of the young people under 24 years of age voted. That means 82 percent of people 24 years of age or younger did not vote. And that in itself is a very serious situation.

But what is even more frightening is that we know that, by and large, if people do not vote and participate when they are young, they are much less likely to vote as they age. So that means that, everything being equal, as low as our voter turnout is right now, it is likely that in years to come it will become even lower.

Now, not only is the voter turnout among young people distressingly low, but what is also very frightening is that polls indicate that young people know very little about the political process. There was a poll recently done by the National Association of Secretaries of State, and what they discovered when they asked young people three questions. They said, very hard question, ''Can you name the vice president of the United States?'' Pretty hard question. ''Can you name the governor of your States?'' Pretty hard question. And lastly they said, ''How long is a congressional term?'' ''How long do Members of Congress serve?''

Those are not very hard questions. Those are questions that we would hope that kids in the sixth grade would know. And yet, three-quarters of the young people 24 years of age and younger were unable to answer that question.

Poll after poll shows not only that young people but people of all ages have very little understanding of what our budget is about, of how appropriations are made, of how they can participate in the political process.

I go to many, many schools in the State of Vermont because I think it is important for a Member of Congress to do that. What we find is that people in Vermont, young people, and people all over this country, they know the rules of basketball. They know that when you throw a ball through a hoop you make two points. They know all about football. You score six points when you make a touchdown, one point an extra point, two points if you throw a pass. They know all about that. Field hockey. They know hockey. They know all of these things.

And yet they say, ''Tell me something, young people. Are you concerned about the high cost of college?'' And young people say, ''Oh, yeah. Twenty, thirty thousand dollars. My family cannot afford that.'' And then you say to them, ''Okay. From a democratic political perspective, how do you change that? How do you make your

voice heard? How do you make sure that the Federal Government helps middle class and working families better able to go to college and to pay for college tuition?'' ''Gee, I do not know. I have not got a clue. How do you do that? We do not know how to do that.''

Well, the reason is, if young people came together on this issue and they said to the United States Congress, ''get your priorities right, put more money into Pell grants, put more money into higher education so that middle class and working families can afford to get to college, and if you do not do that, Members of Congress, we are not going to vote for you,'' and that if a few million young people said, ''you know what,'' just like that suddenly Members of Congress would wake up and say, ''Oh, golly gee. College education is very expensive. We are going to deal with that. Maybe we are going to cut back on corporate welfare. Maybe we are going to cut back on tax breaks for the rich.''

But that is not going to happen unless young people participate in the political process. So the first point that I want to make is that I consider the most serious problem facing this country is the growing alienation of the American people and especially the young people from politics and government. And not only does that alienation mean that working people and young people are going to be less able to achieve their goals through the political process, it means something else.

In my view, it is an insult to the men and women who have put their lives on the line defending American democracy that people are not utilizing our democratic system. Clearly, we are not going to have a democratic system if people do not utilize it and participate in it. And if ordinary folks, if working people, if low-income people, if young people do not participate in the political process, who do you think is going to fill the gap?

The answer is quite clear. The people who have the money. The people who have the power want nothing more than for the American people and for working people and young people and elderly people, they want those people not to participate in the political process. Why is that? Well, because then their money can have an even greater impact over the political process than it has right now.

Today we have the outrageous situation that the wealthiest one-quarter of one percent of the American population makes 80 percent of the campaign contributions. And then we combine that with the fact that only 36 percent of the people vote and we end up with a Congress that does exactly what this Congress does, and that is to represent the interests of the wealthy and the powerful.

It seems to me, if young people are serious about education, what do they think education is? It means learning how to participate, learning how to use their ideas to make this country and their community and this world a little bit better place. So they are cheating themselves and they are demeaning the education that they have received if they are not participating.

Mr. Speaker, I am delighted that I am being joined this evening by the gentleman from Oregon (Mr. DEFAZIO). I am proud that I chaired the Progressive Caucus here in Congress, which now has some 55 members, for 8 years. I am delighted that the gentleman from Oregon is now chair of the Progressive Caucus, and he has been a valiant fighter for working people and the elderly and people who do not make the $50,000 contributions to both political parties. I am delighted that the gentleman is with us this evening.

Mr. Speaker, I yield to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, just to expand on the point of my colleague. I think it is a statistic the American people need to pay attention to. It is one-quarter of one percent. One-quarter of one percent of the people in America gave more than $200 to a political campaign last year and yet constituted 80 percent of the contributions.

So who do we think are in the Republican leader's office when the decisions are being made on tax relief or reforming Social Security or on whether or not we are going to have HMO reform that gives patients rights? Guess what, the insurance company executives are in the office, not the patients, not the people who desperately need access to health care and cannot get it because their HMO is more interested in profits than in their health care. Guess who is in those offices when we are talking about tax reform?

Now, we could do some tax reform around here that would benefit the majority of the working people in America. In fact, I have introduced some legislation to reform Social Security that would vouchsafe Social Security for 75 years, certified by the board of trustees, and it would give tax relief to 95 percent of the wage earning Americans in this country.

It is simple. Right now we pay Social Security tax on the first $72,600 of income. After that, we do not pay Social Security tax. If we earn a million dollars a year, our tax rate under Social Security is less than one percent. If we earn $15,000 a year, our tax rate on Social Security, which is part of the FICA, is six percent. We make six times more out of a meager income on which we cannot make ends meet.

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So if we just lifted the cap and said, fair is fair, all these people want to talk about a flat tax, well, let us make Social Security a flat tax on all income, not a regressive, super-regressive flat tax which is only on the first $72,600 of income. That would vouchsafe Social Security into the indefinite future. But you can also use some of that money to give a $4,000 exemption from FICA tax. Forty percent or 45 percent of Americans pay more in taxes to Social Security than they pay in income taxes. Ninety-five percent of Americans would benefit under that system. Everybody who earned less than $76,000 a year would get a tax break. But guess what? The same people are sitting in the leaders of the office of the Committee on Ways and Means and the Republican leader's office when I talk about a progressive Social Security reform, something to make this vital program safe, and saying, ''You better worry about your campaign contributions here if you raise my taxes.'' They want to tax the little people, and they want tax relief at the top.

It is time to change this system. But it is not going to change, as the gentleman from Vermont pointed out, until more people who have more on the line choose to vote, and that is the majority of the American people, who are losing under the current system. Often I give speeches like this on the floor and I have had colleagues and friends from the Republican side of the aisle say, ''You're talking about class warfare. We don't want class warfare around here.'' That is what they say. That is not the truth. What they want is they want to continue the current class warfare, which is winning warfare against middle-income and working families and the poor in America to the advantage of that one-half of 1 percent at the top. That is what they want to perpetuate. They do not want to talk about it. They do not want the truth out there. It goes to so many issues. It goes to Social Security reform. It could be progressive. It goes to trade. I hope the gentleman does not mind if I switch to trade for a moment.

Mr. SANDERS. Before you do, because trade is certainly an issue that you and I have worked together very hard on, I wanted to pick up on a point that the gentleman made. When we talk about campaign contributions, let us be demonstrative and very clear what we mean when we talk about the wealthiest one-quarter of 1 percent making 80 percent of the campaign contributions.

One of the issues that I have been working on very hard for the last several years and is an issue of great, great concern in my State of Vermont among the elderly, among almost the entire population, is the outrageously high cost of prescription drugs. In the United States today, we have by far, it ain't even close, the highest cost for prescription drugs of any country in the industrialized world. Many of those drugs are manufactured by American

companies. They sell it to Canada far cheaper than they sell it to Americans. They sell it to Mexicans far cheaper than they sell it to those of us in the United States. They sell it throughout Europe.

Now, how is that? One of the answers lies in the fact that the pharmaceutical industry spends more money on campaign contributions and lobbying than any other industry in the United States. In the first 18 months of the last election cycle leading up to the 1998 campaign, they spent over $83 million on lobbying and campaign contributions. Today, in a Washington publication, there is an article which says that the pharmaceutical industry is becoming very nervous. They are becoming very nervous because all over this country, people are saying, ''We can't afford to pay these outrageously high prices for prescription drugs.'' It is obscene that elderly people have to choose between food and prescription drugs. Here in Congress many of us are now saying, let us have Medicare include prescription drugs, so that elderly people do not have to make that choice.

Well, what do we read in the paper today? We read that the pharmaceutical industry is now prepared to spend between 20 and $30 million on TV ads and on lobbying so that Congress does not protect the elderly and the sick in terms of prescription drugs. That is how life goes and will continue to go until we have real campaign finance reform. So at a time when the pharmaceutical industry last year had the biggest increase in profits of any industry, over 18 percent, when the top 10 pharmaceutical companies had an average increase in profits of over 26 percent, what they do is they take those profits, they put it into lobbying, they put it into campaign funds of Members of Congress so that their interests are protected, and we continue to have the highest price for prescription drugs in the world.

Mr. DEFAZIO. I would like to expand on that because this is very important to my constituents and in a moment I will talk about a study that was just done in my district on prescription drug prices. But I will just give a personal example. There is a drug called Lomotil that you take if you get an intestinal problem and you are traveling overseas. My wife and I on a private trip were traveling overseas. My doctor said, ''You ought to take some of this with you.'' He gave me a prescription. Okay. I went to a local pharmacy. The pharmacies are not the ones that are ripping us off on this and that is something the American people need to know. They need to know where to focus their anger and it is not on the pharmacist because they are paying more than the drug company is selling the drug for to other customers. The pills were about a buck each. I got to India. I was sick. I was out of the pills. I went into a local pharmacy there, same manufacturer, exactly the same drug, made in America, that was good, I was happy to have a made in America drug, six cents per pill.

Mr. SANDERS. Compared to a dollar.

Mr. DEFAZIO. Somehow that pill is shipped from the United States to India and sold, with all the middle men, to India at a profit at six cents, but here in America I have to pay $1. You go just north of the border to Canada and, in fact, because the government is exacting some controls and scrutiny on the pharmaceutical industry, the drugs cost between 20 and 40 percent less, sometimes even more. It is extraordinary. These are life-saving drugs that Americans need. I have talked to seniors who say, ''Congressman, I've got to choose between paying my light bill and my heat, eating, the mortgage, and my drugs for my high blood pressure, or my cholesterol, or my heart condition,'' or whatever ails them. They say, ''You know what goes.'' I say, ''I know what goes, the prescription.'' Some of them are taking prescriptions and they will buy half the prescription and they will take drugs at half the dose, because they cannot afford a full dose of the drugs. The funny thing is that these same drugs, even in America, are sold for less. Now, that is getting really peculiar. You can understand there is some government scrutiny overseas and the governments there are not allowing the pharmaceutical companies to rob people blind, but here in America you find in my district, in Oregon, we just did a drug study. Let us take one drug, called Zocor, which is made by Merck, it is used for high cholesterol, quite commonly by seniors, and for favored customers, that is, for companies that will promise to only buy that drug, as there are competing drugs, from Merck, some insurance industries, HMO plans and others who will make their insureds buy that particular drug no matter what the doctor wants to give them, that will be the formulary, it is $34.80 a dose. Now, if a senior walks in with Medicare which does not cover prescription drugs today, the price in my district is $106.12. That is interesting. We know Merck is not giving it away at $34.80. They are making money to their best customers. But somehow the poor little old senior who walks in, who does not have one of those plans, is paying $106.12, 205 percent more. That is a scandal. That needs to change. But it is not going to change in this body because, as the gentleman from Vermont pointed out, that industry is a very generous contributor to campaigns, not mine, but to other Members. And the executives of that industry are very generous givers to campaigns, and they have got the ear of many powerful Members of Congress. Here is something that cries out for regulation. Here is something that is being done in other democracies and republics around the world, but not in the United States of America. It is outrageous.

Mr. SANDERS. I know the gentleman shares with me the outrage that people throughout this country are suffering and dying and are forced to take money out of their food budget or their heat budget in order to pay for the outrageously high cost of prescription drugs. What we have learned is that in terms of the drugs that seniors use, I do not know that it is different for the general population, but in terms of seniors' needs, in my State of Vermont, the most commonly used drugs by seniors cost 81 percent more in the State of Vermont than they do in Canada, same exact drugs, manufactured by companies, American companies, and they cost 112 percent more in Vermont than they do in Mexico.

Let me also mention some other information. You mentioned about how the cost of drugs in India, at least one particular drug, was significantly cheaper, the same exact product, in the same exact bottle, than you purchase here in the United States. In terms of the drugs most commonly used by seniors, if we use a figure of $1 for a drug paid in the United States, in Germany that same product would cost 71 cents, in Sweden 68 cents, in the United Kingdom 65 cents, in Canada 64 cents, France 57 cents, and Italy 51 cents. Half price in Italy. Meanwhile, the drug companies are experiencing record-breaking profits and they spend that money very freely here in Washington in campaign contributions and in lobbying.

Mr. DEFAZIO. I would like to just congratulate the gentleman on legislation he has tried to pass here in the House a couple of times which embarrassingly enough for the House of Representatives we have yet to be successful on, which is to say, when the drug is developed with public research, that the government, the taxpayers, would be reimbursed. Many of the most successful drugs were not from the pharmaceutical companies. That is what they say, we need those obscene profits to invest in research. That is not where the money goes. It goes to the stockholders, the chief executive officers, and other places. Yes, some of it goes into research, but not an inordinate amount. In fact, many of the most successful drugs are a result of research done by the National Institutes of Health. When a private company takes their research and produces and markets a drug with exclusive rights for 8 to 10 years, as happened recently with a drug for uterine cancer, this was doubly ironic, not only was the research done and the drug developed by the National Institutes of Health, at total taxpayer expense, the product, before they developed an artificial one, which

produced the drug was harvested off of Federal lands, yew bark. So this company was given not only the exclusive right to use and sell these drugs which were taxpayer-created but they were also given exclusive rights to go out and harvest the yew bark off of Federal lands, and no controls were put on their profits. None. That is absolutely obscene.

The gentleman has tried over a number of years to say, here is a simple principle. If a drug company takes the public research, patents it and puts it into a drug, then we should get some reimbursement, the taxpayers should get some reimbursement for that drug development. You might even talk about that.

Mr. SANDERS. I thank the gentleman. The bottom line is very simple. The taxpayers of this country have spent, appropriately, billions of dollars in research through the National Institutes of Health to develop very important anticancer drugs, anti-AIDS drugs and many other types of drugs. We have had a good result. What the outrage is, is that after the taxpayer pays for the development and the research of that drug, what we have right now is the government then simply gives over that product to the private pharmaceutical company which can charge any price it wants. So the taxpayer gets screwed twice. After you pay for the research, then you have to pay some outrageous price to purchase that product.

We are going to continue on that legislation, and we are going to bring it up as soon as we can on the floor of the House. But I want to mention another piece of legislation that we have recently introduced, and that is that given the reality of what goes on right now, that the price for American prescription drugs are sold in Canada and Mexico far, far cheaper than the United States, I have legislation which would do a very simple thing.

We are going to talk about trade in a minute, and a lot of the folks here think, oh, free trade is a great idea. You and I have problems with certain aspects of, quote-unquote, free trade. But here is something very interesting. If a prescription drug distributor in the United States wanted to do business with a distributor in Canada and wanted to purchase a prescription drug there at the same price that the Canadians are able to purchase it from American companies, that is currently illegal. The theory of free enterprise is that a businessperson can go shopping around and get the best price and the consumer benefits and everything else. It is a nice theory, I guess, except it does not apply, NAFTA notwithstanding, to prescription drugs.

□ 1845

So right now an American distributor cannot negotiate with a Canadian distributor to purchase a prescription drug at the same price as the Canadians are getting it. So we have very simple conservative legislation in that says: Let the free market work, and when you have exactly the same product approved by the FDA, let American prescription drug distributors get the best price, sell it to the pharmacist, and as the gentleman from Oregon (Mr. DEFAZIO) indicated a moment ago, the problem is not with the pharmacist in the United States; he or she is paying significantly higher prices than pharmacists all over the world, and we are saying: Hey, let us have a level playing field, let us have a little free trade when it comes to protecting the American consumers.

So this is a piece of legislation that we look forward to bringing to the floor of the House and passing.

Mr. DEFAZIO. In fact, in speaking further to that issue, some seniors in border States have actually formed little clubs and rented buses to go across the border to pick up their needed drugs, their lifesaving drugs, at an incredibly cheaper price, and now, of course, I understand the border patrol is starting to crack down on that.

Mr. SANDERS. Well, we have actually worked with the Customs people, and in fact I am planning to do just that. We border on Canada, and already we had a hearing in Montpelier, Vermont, well attended, and a number of folks were coming up and they say, ''You know, BERNIE, we go over the border. We have a particular problem. The drug there is 50 percent, so we are going to organize a little bit of a trip to our neighbors to the north and bring back some prescription drugs.''

And the goal of all of that is to highlight the absurdity, the outrageous situation, and let us reiterate this once again in case people get confused. We are not talking about generics, we are not talking about look-alikes. We are talking about the same exact product often in the same exact bottle sold all over the world at significantly lower prices than the United States, and we are going to do something to change that situation.

I am tired of seeing we are also asking for a study. Can you imagine how many folks, in fact, have died in this country because they cannot afford the prescription drugs? Can you imagine the absurdity of elderly people or sick people in general not being able to pay relatively small sums for their prescription drugs; what happens when they are ill? They end up in emergency rooms, they end up in the hospital, and Medicare kicks in thousands of dollars that could have been saved if these folks had their prescription drug in the first place.

Bottom line of this situation is that people are dying, people are suffering while pharmaceutical companies are enjoying record breaking profits and spending their cash all over Washington trying to prevent the Congress from doing the right thing, and the gentleman from Oregon (Mr. DEFAZIO) and I are going to do our best to turn the tables and finally give the American health care consumers a break, and we are going to save lives, and we are going to ease suffering, and we are going to finally help lead the effort in standing up to this very, very greedy industry.

Mr. DEFAZIO. Well, I do not want to get too far afield, but I think at this point, as I said earlier, I would like just to address the issues of trade a little bit because we do seem to have these kind of strange standards. If it would benefit American consumers to be able to purchase their drugs, the exact same drugs manufactured mostly in America, in Puerto Rico for the most part, in Canada seems trade law does not allow that. But if an American firm wants to export jobs, export capital, if an American firm wants to blackmail their suppliers into moving to Mexico to get cheaper labor, now that is okay. It is kind of an odd world.

I mean when are the American consumers and workers going to truly come out ahead on trade, or is it all just about corporate profits and driving down wages in this country? I have got to believe that that maybe is more of the agenda.

I just, as my colleagues know, have been watching for years our trade balance, and we are headed toward a record trade deficit this year. The funny thing is that the Commerce Department loves to talk about trade and how much trade benefits American people, and they say: Hey, every billion dollars of trade is worth 20,000 jobs. But if you are running a $200 billion trade deficit and you apply the ruler of our own Commerce Department, that means we have just lost a lot of jobs.

Mr. SANDERS. Is the gentleman actually suggesting that we should look at both sides of the equation?

Now that is a radical concept.

Mr. DEFAZIO. Well, they do not, but, as my colleague knows, I think that I mean they want to use the ruler for our exports, let us use the ruler on the imports which exceed our exports by 200 hundred million dollars. So then you multiply 200 times 20,000. I am not really very good at math, but it seems like that is going to come out to about a lot of jobs, like probably a job for just about every American who would want one and then more.

But, as my colleagues know, our greatest trade deficit has been with Japan, but that probably will be eclipsed this year by China, and the extraordinary thing is, of course, we have got a few problems with the way the Chinese behave in the international community. They are identified as the least fair trading Nation on earth. They have been identified as a Nation

that provides weapons and nuclear technology to rogue States. You know, they have committed a few human rights abuses, running over students with tanks and a few other things, have, as my colleagues know, basically destroyed the country of Tibet and taken it into their country. Of course we said nothing about that because it would interfere with business.

Well, what are we so desperate about in terms of business when we are running an $80 billion trade deficit with the Chinese, an $80 billion trade deficit is what we are heading toward this year; what do they do with that money? They use that money to go around the world and buy technology to become our economic and military competitor in the next century. Credibly they are using American dollars. They allow, as my colleagues know, in a few critical American goods where they can use the technology, but for the most part they keep our goods out, but their goods are flooding into the United States.

And now the President apparently is going to propose making this situation permanent, to give China permanent, as my colleagues know, Most Favored Nation status, and secondly, to allow them to get into the World Trade Organization because the theory is some day, some how we will whip them into line and they will drop all those trade barriers and we will start to sell them Coca-Cola or something else in the billions, and we will make a lot of money.

But right now it is just a few American corporations that are in China making a bundle of money, trying to drive down wages here. Boeing has time and time again threatened to export jobs to China to their workers here in the United States as they export the technology. Of course Chinese say do not worry, we will not build airplanes, we are not going to use your technology in any critical way, and then, of course, they lied again.

Mr. SANDERS. The gentleman forgets one very important point. China is a very good place to do business. It is a wonderful place to do business. Why would you want to pay an American worker $15 an hour or $20 an hour? Why would you have to live up to and obey environmental standards and work safety standards? Why would you have to deal with workers who might actually be members of unions? Why would you want to deal with workers who have the freedom to vote and to elect or un-elect their officials when you can go to China and pay workers 20 cents an hour, 25 cents an hour, where workers cannot form unions, where workers cannot go out on strike, where workers cannot protect their safety on the job?

It is an absolutely outrage, prima facie, right on the surface, that you have tens of billions of dollars being invested in China by the largest American corporations who at the same exact time have laid off millions of American workers, and they are going there because they can pay desperate people slave wages.

And that is the essence of our trade policy which is what? Two hundred billion dollars deficit this year? And yet when you hear the administration or you hear the Chamber of Commerce or the National Association of Manufacturing, they tell us about all the jobs that we are creating by exporting, and, as you just indicated a moment ago, they forget to tell us about the millions of jobs that we have lost.

Not only have we lost jobs, but another very important factor is taking place, and that is that if an employer has the option to run to Mexico and pay a desperate person there 50 cents an hour through NAFTA or runs to China and pays a worker there 20 cents an hour, what do we think this does to the wage structure in the United States? All over this country workers are given a proposition. They say either you are going to take a wage cut, take cuts in your health insurance, or we are going to move to Mexico, we are going to move to China.

So our whole trade policy has not only cost us jobs, it has lowered wages in the United States.

Mr. DEFAZIO. Well, we just do need to expand on that point a little bit; as my colleagues know, the fact that these companies are chasing the lowest labor around the world and the least enforcement. As my colleagues know, actually I saw, not to be humorous about a serious subject, but I saw a cartoon once, and it was one a guy asked another, ''Why do you think it is we are spending all this money on NASA, National Aeronautics and Space Administration?''

And the other guy said; well, he says no because we know somewhere out there in the universe there are people who work for less than a dollar a day.

As my colleague knows, I mean it is kind of a sad commentary, but unfortunately there is some truth in it. Under this guise of free trade American corporations are chasing around the world, and multinational corporations, after the cheapest labor from the most desperate people or from children, as we have seen in many countries where children are exploited in horrible conditions as young as age 7 and 8 in some countries, basically indentured into their jobs, deprived of an education or any opportunity to get ahead, to make products that are marketed in the United States and other developed countries. And trade law does not allow us to prohibit those goods from coming into our country.

Mr. SANDERS. You are not suggesting that we should interfere with, quote, unquote, free trade just because we are importing products made by children who are virtual slaves; the gentleman is not suggesting that, is he?

Mr. DEFAZIO. Well, I understand it is not the policy of this Congress or this administration to interfere in those workings of the market, but as an individual Member of Congress and someone who is concerned about humanity worldwide, I kind of would like to see us take a stand there. I mean slave labor, prison labor, child labor; it seems to me these are sort of basic things that should be allowed and should be part of your trade policy. Project your values, and, yes, this is even more radical to talk about maybe looking toward the people at home and protecting their jobs.

Now say, oh, well, you are talking about protectionism. I say no, I am just talking about leveling the playing field. Let us not have unfair competition. Let us not let American firms go south of the border and dump their pollutants out the back-door into the rivers in Mexico. Let us have them follow the same environmental laws there. Let us allow the Mexican people to organize and strike and not be bullied or even killed sometimes by their own government because they are trying to organize and help their wages. If we get level playing field, then workers all around the world will benefit, and I think these companies will ultimately do well too. They forget something:

In America, in our country, we have kind of a compact. As the middle class grew, the companies did better because they could consume the goods. They seem to have forgotten that now because with families desperate more and more to make ends meet, they are becoming less and less capable.

Mr. SANDERS. The gentleman has led us in an interesting direction, and he talks about families making ends meet. But wait a second. I looked at the newspaper this morning, and I watched television. We are in the greatest economic boom in the history of this country.

Is the gentleman suggesting that not all of the people in Oregon or in Vermont are doing extraordinarily well? Gee, that is what I saw on television. What is the reality of this great economic boom?

As my colleagues know, when I speak in the State of Vermont, I go from one end of our State to the other, and I talk to a lot of middle class audiences and working class audiences, I talk to family farmers. I always ask one question. I start off, and I would like to ask the people of America this question, and that is you see on the television and you read in the newspaper that the economy is booming.

So my question is: Is the economy booming for you? And in the State of Vermont you ask that question of 300 people in an audience, one or two people raise their hands. What does a booming economy mean? A booming economy for you means that you are making more money and working fewer

hours; that is what a booming economy is. You have better health care, you are better able to send your kids to college. Your housing situation is better.

What is the reality? Well, let me say first the good news, and we have to be honest about this. The good news is that last year Bill Gates had a very good year, and I mean a very good year. Bill saw his wealth increase by $40 billion, increase up to 90 billion.

What is 40 billion? Let me put it in a context. In my State of Vermont, which is a small State, we have our entire state budget which covers all of the needs of the people of 580,000 people in the State of Vermont. It is a little over $1 billion. That means that in Gates' increase in wealth in 1 year, could run the State of Vermont for 40 years, which brings him to a total, by the way, of 90 billion.

So Gates had a good year; what about the average American? Let us go over some facts here.

□ 1900

During the period of 1979 through the present, the growth in income has disproportionately flowed to the top. The bottom 60 percent of the population actually saw their real income, that is inflation-accounted income, decrease in 1990 dollars. The top 20 percent saw modest gains, but the wealthiest 1 percent saw their incomes explode over 80 percent.

In other words, when we talk about the great economic boom, most people today are worse off in terms of what they earn than they were in 1979. People are working longer hours for lower wages, and a lot of that reason has to do with the absurd trade policy that the gentleman described. We have 43 million Americans with no health insurance. And, here is a fact that is not very much discussed: today, the average American is working 160 hours a year more than was the case 20 years ago.

We had hoped as we entered the 20th century, and remember, the unions were saying 40 hours, they wanted a 40 hour work week 100 years ago; that is what workers were fighting for. Today we are lucky to find the workers only working 40 hours. People are working 50 and 60 hours; people are working two jobs, three jobs. So how do we have an economy booming when people are forced to work 50 or 60 hours at wages less than was the case 20 years ago; when they do not have health insurance and they cannot afford their basic needs.

Mr. DEFAZIO. Mr. Speaker, I have talked to a lot of people in Oregon and different places and I just remember one young man, I pulled into the gas station late one night after I flew back across the country, as I do almost every week, and he was kind of almost apologetic about it; he recognized me, and he said, I got to tell you, Congressman, I am not doing too good, I am not making it. And Oregon has the highest minimum wage in the United States, and guess what, our economy is booming, all the companies have not fled the State as we heard they would with the highest minimum wage in the country.

But he said I have two jobs, my wife has a job, and he said, we are really not making it. We want to have a kid. We are not really sure we can afford to have a kid, because, he said, I have two minimum wage jobs at the Oregon minimum wage, the highest minimum wage in the United States; my wife has a minimum wage job, but after we pay the rent and the car payment and the other stuff, he said, there is not much left over. That is the unfortunate reality for many Americans.

There have been a lot of jobs created, but compare the salaries and wages and benefits of those jobs. The largest employer in the United States of America now is not General Motors, it is not even Microsoft; it is something called Manpower, Inc., which is a temporary employment firm, with no benefits and, obviously, very little security and not the greatest wages in the world for most of the people they place. That is the largest employer in America. There is something wrong with that picture.

It goes to trade policy, it goes to tax policy; it goes back to who funds the elections in this country. I mean there are a whole host of things contributing to this. It is very complex. It also goes to the Federal Reserve Board, who are a bunch of bankers who meet downtown at the largest, heaviest, most expensive marble and exotic hardwood table in the world, in secret, by the way, to determine monetary policy for the United States of America. And now, they are obsessed. They are obsessed. It is now, will a one-rate increase satisfy the Fed? What are they worried about? Another cartoon, I saw it. There are all these old guys, pretty much older guys, bankers and stuff, standing around behind Frankenstein, who is tied town, and Frankenstein's label is inflation, and one of them says, his eye lid twitched, his little toe moved, I think he is starting to breath.

They are worried about inflation that does not exist; the lowest real rate of inflation in the last 50 years in the United States. Highest real interest rates, though, if we borrow money, and guess what? If there was a little bit more inflation, debtors, which is most of the people in America, the ones certainly I care the most about; everybody has a credit card, a mortgage, a home loan, a car loan, if inflation ticked up a half percent or 1 percent, guess what, you come out a little bit ahead, but your banker, your banker loses a little bit on the margin.

So the obsession is we have to worry that wages might go up. The Fed is petrified, petrified that wages might go up. We have a law that says we are supposed to work to our full employment and keep down inflation. They do not look at the full employment side, and they particularly look negatively upon the idea of a real increase in wages. They do not want that to happen. And they are willing to drive up interest rates, which raises the credit card of virtually every American who has credit card debt, makes car loans more expensive, makes housing loans more expensive, because they are worried that the profits of the banks, that some of them who actually sit there and make policy in secret work for, might go down a little bit.

There is a very strange system we are running here. What happened to the policymakers? What happened to the Congress? What happened to the President? Why can we not make monetary policy to drive up wages in this country, to create full employment? Why are those things anathema. Something is very wrong. Why can they make policy in secret? How can they do this?

Mr. SANDERS. Mr. Speaker, my friend obviously misses the main point about what the function of the United States Congress is supposed to be. Does the gentleman not think that the function of the Congress is to represent the interests of the large banks and the rich? Does he really have the radical idea that the United States Congress is supposed to represent the vast majority of the people, the working people, the elderly people, the people who are struggling?

Ah, he forgets. Those are not the people who contribute $50,000 a plate at fund-raising dinners, so those are not the people who are going to get a fair shake.

If my friend will allow, I want to quote something from a very interesting book. It is called Shifting Fortunes, the Perils of the Growing American Wealth Gap by Chuck Collins and some other people, and it touches on an issue that we very rarely talk about, and that is the fact that the United States has by far the greatest disparity of wealth and income in the industrialized world; that we now have the obscene situation where the wealthiest 1 percent of the population owns more wealth than the bottom 95 percent. And in the book, and let me quote it, he says, ''The top 1 percent of households have soared, while most Americans have been working harder to stay in place, if they have not fallen further behind.''

Now, this is not income, this is all together what you own.

Well, since the 1970s, the top 1 percent of households have doubled their share of the national wealth at the expense of everyone else. The top 1 percent have doubled their share of the national wealth. Using data from the Fed, Federal Reserve Survey of Consumer Finances, economist Edward

Wolf of New York University says that 40 percent of the Nation's household wealth as of 1997, the top 1 percent of households have more wealth than the bottom 95 percent. And in fact, what we are seeing today is a greater concentration of wealth than at any time in the modern history of this country.

Mr. DEFAZIO. Mr. Speaker, there are some policy issues at stake here. We talked about trade and we will not go back to that, but we could have a trade policy that helped in those areas. But the other issue is tax policy.

The majority party here in the House very much wants to give a tax break to the American people, and the question becomes first off, are they going to give that tax break out of the Social Security surplus; that is a question and a problem; or, are they going to give a tax break by cutting programs like Pell grants and other things the gentleman talked about. But maybe it can be justified, but we can only justify it if we look and see where those tax benefits are going to flow. There are ways that we can provide substantial tax relief to the majority of the American people, but I fear, as in the last several tax bills since I have been here, the wealth and what they are talking about, the people at the top are going to do very well, and those average people are not.

They want to reduce the capital gains tax again. Now, this is not quite clear to me, but let me see if I totally understand this. If I invest for a living, my effective tax rate is just slightly more than half of a retail check-out, unionized check-out clerk or a teacher, is that correct? A teacher is paying at 28 percent on the margin and if I do capital gains, I do not have them, so I do not know, but I think it is 18 or 19 percent, as I recall.

So what are we saying to the American people? Is this like the Leona Helmsley theory of taxation, only the little people pay taxes? I mean they are talking about a world in which they would do away with the inheritance tax, and let us say we were lucky enough to be Bill Gates' kids. But he says he is going to give most of the money away and not to his kids. So maybe he only gives his kid $1 billion. So his kid only gets $1 billion. The rest, the other $89 billion goes to charity. That would be nice. But then the kid goes to college and vests that $1 billion and becomes an investor for a living. Does not work for wages.

Guess what? That person would not pay any inheritance taxes under the brave new world of tax reform they are talking about, and would pay no income taxes, because they would exempt capital gains from income taxes. So the guy selling the burgers down on the corner, well, they are paying FICA tax, Social Security, they are paying income tax; they are subject to all of these taxes, but the person who inherited and invests for a living does not.

What is wrong with this picture? If they want to talk about leveling the playing field, why should it be that people who invest for a living pay a lower rate of taxes than people who earn through blood, sweat and tears and time away from their home and their families, wages? Let us equalize the two. Why would we not do that? What is wrong with that idea? Would that not help most people?

Mr. SANDERS. Mr. Speaker, it makes a lot of sense to me, but unfortunately, those people who make $10 or $12 an hour are not making the huge contributions to both political parties and to their Members of Congress, or to the United States Senate.

The gentleman a moment ago, and maybe we can get back to this point, touched on a very important issue that I do not think is very widely known by the American people. That is when some of our friends talk about taxes, talk about income taxes, two points to be made. Number one, when we hear somebody on television saying, let us have an across-the-board reduction in income tax, it sounds pretty good. But please understand that the bulk of those tax breaks are going to go to upper income people.

Now, the gentleman a moment ago touched on the FICA tax and Social Security. It seems to me that if we want to make our tax system a bit fairer and protect middle income and working families, we might want to take a hard look at the Social Security tax, which is extremely regressive. As the gentleman said a moment ago, somebody makes $1 billion a year, somebody makes $72,000 a year, who contributes more into the Social Security system? Answer: they both contribute exactly the same. A worker making $20,000 a year pays 6.2 percent; somebody making $1 million a year pays 6.2 percent on the first $72,000. Very regressive system.

I know that the gentleman has brought forth a proposal which is far more progressive, and maybe he might want to say a word on it, which not only protects middle and low-income workers, but it does something else very interesting. When we hear all of our friends telling us how Social Security is falling apart, the gentleman's approach would extend the life of Social Security for many years.

Mr. DEFAZIO. Mr. Speaker, it is pretty simple. They are talking about destroying the system to save it; moving toward a privatized, sink-or-swim, on-your-own system, but there is one simple fact. If we just lifted the cap and said every American will pay the same amount of Social Security tax on all of their wages, that sounds pretty fair to me. It is not progressive, even. It is not. We are not saying low income people will pay less, we are saying everybody would pay the same amount on every dollar, and that would provide more than enough money to make Social Security solvent beyond the 75-year window.

But I went a step further in my bill. I said okay, I like that, that is pretty good. We do not have to cut benefits, raise the retirement age or do things that hurt working people, and we do not have to roll the dice on some sort of individualized accounts, which have not worked out real well in Great Britain and in Chili, but what we could do also is exempt the first $4,000 of income. I would like to give a little tax relief.

So the plan I have would lift the cap and use some of that money to provide tax relief by exempting the first $4,000 of income for self-employed and for wage-earning Americans who pay FICA taxes.

Now, guess what that means? That means 95 percent of the people in the United States of America who work for wages would get a tax cut, and they would still collect their full Social Security. But 5 percent, those who earn over $76,600 a year, would pay the same amount as the other people who earn less than them.

Now, would that not be a fairer way to fix Social Security?

Mr. SANDERS. Mr. Speaker, if I could interrupt the gentleman, what he is suggesting is that his proposal would lower taxes for 95 percent of the American people and in fact would provide a very substantial tax break for lower income working people, and at the same time, we would be able to extend the life of Social Security for the 75 years that the actuaries think we need; is that what the gentleman is saying?

Mr. DEFAZIO. Mr. Speaker, that is correct.

Mr. SANDERS. Now, Mr. Speaker, that sounds like a pretty good proposal to me, and let us see how many of our colleagues here who tell us day after day how the Social Security system is going bankrupt, which certainly is not true, let us see how many of them are going to join us in that type of an approach.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. In fact, I went before the Committee on Ways and Means. They would only accept bills that the actuaries had certified as meeting the 75-year requirement, so they only had testimony I believe on five pieces of legislation before the Committee on Ways and Means, and mine was one of the five certified by the trustees of Social Security. The chairman of that committee, who is also I believe for a flat tax, he did not just like latch on to it. I said, well, Mr. Chairman, this is going to be right down your alley; this is a flat tax. People are going to pay the same if they earn $1 million, if they earn $75,000 a year. Would that not be fair? And, we fix the system and we do not have to go through this whole disassembly and reassembly and rolling

the dice and taking chances on whether something else would work, and whether the ''something else'' that they might put in place of Social Security, the system that is responsible for lifting millions of Americans, older Americans out of poverty, disabled Americans out of poverty, survivors of workers who died at a young age; we would lose or risk all that in the newly fractioned, independent sort of account kind of system.

□ 1915

Yes, a few people would do better, but most would not. Here is an option that would provide tax relief and save the system, but it just somehow did not capture the chairman's attention right off. I do not intend to drop the idea. I have final legislation and I am ready to introduce it soon. I am hoping to begin a debate about a better way to fix social security.

Mr. SANDERS. Mr. Speaker, we are running out of time, and I want to thank the gentleman from Oregon (Mr. DEFAZIO) for joining me this evening.

The bottom line of this discussion is the following, that unless ordinary people, working people, middle-income people, young people, get actively involved in the process and fight and stand up for social justice, what will happen is that the people who have the money, the people who make the campaign contributions, they will continue to call the tune here in the Congress and in the administration.

What will happen is that the policies, whether they are trade policies, health care policies, prescription drug policies, labor policies, environmental policies, whatever, those policies will be heavily influenced by the interests of those people who have the money, and they will work against the interests of the vast majority of the people.

The bottom line of this whole discussion is that we are a great and wealthy Nation. If we all stood together and became actively involved in the political process, we could create a society where every man, woman, and child had a decent standard of living. That is not utopian vision, that is concrete reality. That is what we could do. We could join the rest of the industrialized world and provide health care to every man, woman, and child, including prescription drugs.

We will not do that unless people stand up and be prepared to fight for what is right. I just want to thank the gentleman from Oregon (Mr. DEFAZIO) for joining me this evening.

THE VITAL ROLE OF THE FEDERAL GOVERNMENT IN AMERICA'S EDUCATION SYSTEM

The SPEAKER pro tempore (Mr. GREEN of Wisconsin). Under the Speaker's announced policy of January 6, 1999, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, abolishing the Federal role in education will produce a long-term monumental disaster for this country. I open with that statement to make it clear what I want to talk about tonight. Abolishing the Federal role in education would produce a long-term monumental disaster for this country.

I want to make it clear what I am speaking about because I have had a couple of people, interns in my office and constituents, say that I ramble a bit, and they are not sure what my basic subject is about because of my examples that are far-reaching, et cetera.

It is about education. I am here to talk about education again because it is important that we not allow education to get off of the radar screens of the people who make decisions here in Washington.

Members of Congress and the White House must understand that it is a subject that the voters have indicated in poll after poll that they consider to be the number one priority. They want the Federal government to do more in the area of aid to education. That is a priority, and they are on target. The common sense of the voting public is more on target than the priority-setting here in Congress. Education is the number one priority.

The reaction of the political leadership here in this city, in Washington, has been not to deal with education in a straightforward way which recognizes the need to provide more resources for education. No, instead we are avoiding the issue with rhetoric and trickery. I am here tonight because the latest active trickery deserves immediate exposure.

On Tuesday, June 22, the Republican majority, and this includes the majority in both Houses, let it be known what their basic thrust is going to be with respect to education. The reauthorization of the Elementary and Secondary Education Act per se has been put on the back burner, but it is being preempted by an obvious assault on the Federal role in the process of education.

The same Republicans who came to power in 1995 and said they wanted to abolish the Department of Education are now pursuing that same goal through a different route. They have found that the American people did not approve of a frontal assault on education which talked about abolishing the Department of Education. That was unacceptable.

Instead of a frontal assault, now we are going through a different route, through the back door, and waging guerilla warfare against the Federal role in education.

On Tuesday, June 22, Republican leaders, and I am reading from an article in the New York Times, page A–18, Tuesday, June 22, ''Republican leaders in Congress today unveiled an education bill that builds significantly on their previous efforts to give State and local governments even broader discretion over the spending of Federal money.''

I appreciate the wisdom of the writer of this article, Mr. Frank Bruno. He starts out with an indication of exactly what is happening: ''It builds significantly on their previous efforts to give State and local governments even broader discretion over the spending of Federal money.''

The article continues, ''Under the proposal, a State could opt out of the current Federal financing system which allocates money for specific purposes and instead use most of that Federal aid as it wishes, provided that the State first enters into a 5-year contract with the Department of Education that holds the State to certain performance goals.''

The trickery here is that this proposal follows the same course as the Welfare Reform Act, where there were supposed to be contracts and specific plans made, and most States have reneged on their contracts already. The Federal government seems to be paralyzed and unable to monitor them properly or to enforce those welfare reform agreements.

Now we propose to follow the same course with education. The same people who wanted to abolish education in 1995 are not saying we should abolish the Department of Education, but instead take all the money, give it to the States, and let the Department of Education monitor it.

However, we will hear them shortly after that saying that the Department of Education is a swollen bureaucracy, and therefore, we should cut the administrative costs by cutting the size of the Department of Education. The staff to monitor these programs I assure the Members in a few years, they will not be around at all. Right now they are all too few.

Continuing in the New York Times article, ''The plan, which would apply to more than $10 billion in Federal money nationally, faces an uncertain fate. There is not yet a timetable for its procession to the floor of either the House and Senate, and Democrats in both chambers denounced it as a reckless experiment.''

The Democrats who have been quoted are the same Democrats who voted against the Ed-Flex bill, which is the forerunner for this present, broader block grant approach. The Ed-Flex bill was taking a portion of the existing Federal funds and allowing States to use that as they saw fit. That was quite popular and a large number of Democrats voted for it.

My fear is that despite the recklessness of this and the extremism involved here, large numbers of Democrats are going to be caught sleeping, and the idea is going to look very attractive when the Governor calls and the State Department of Education people call and say, yes, we would like maximum flexibility. Give it to us. They will have an immediate targeted approach to the Members of Congress while the public is still out there wandering in confusion about the meaning of this kind of flexibility.

The meaning of this kind of flexibility is that the States, which have traditionally and presently always had the power to forge education policy to improve schools and to get better results, the States that have failed to keep our education systems up to par and promote the kinds of education systems which are able to keep up with a world that is rapidly moving towards a cyber civilization, demanding more and more education of workers, a high-tech civilization where those who do not have a first-rate education will find it difficult to find employment, the States have failed to do that, and they have had 93 percent of the responsibility.

In another part of the same article they point out, the writer, Mr. Bruno points out the fact that ''Overall, the Federal government provides only about 7 percent of the education budget.'' I cannot emphasize this fact too much, because the core of Republican propaganda about education insists that education has been ruined by Federal intervention.

The Federal government intervenes to the tune of 7 percent of the total allocation, the total appropriation for education. The States and the local governments are responsible for the rest, 93 percent. They have 93 percent of the funding authority and responsibility. They have 93 percent of the control. So this preoccupation with grabbing the 7 percent from the Federal government has no basis in any rational philosophy of trying to improve education. It is just a grab for more money, and it is an extremist act.

It is extreme because it will push the Federal government completely out of the process of trying to improve our schools and to reform education. This is the last big amount of money the Federal government has invested, or the only significant amount it has invested to date. So if we push the Federal government out, then we only have the States left, and we have an extreme system.

Our system already is weighted in terms of local control and State control. Unlike any other industrial democracy or industrial Nation, democracy or otherwise, we have decentralized policy-making, decentralized control of our education system. We are way at the other end of the spectrum from those nations that have total control in a central education ministry like Japan and France, and Great Britain has decentralized to a great extent.

Basically all of the European countries have strong central roles for the development of education policies and practices and procedures, enforcement of accountability, et cetera. We have always been out there as the most decentralized system, and we are not apologetic about that. There is a lot to say about the American decentralized approaches to education.

It started with Thomas Jefferson opposing a central national university, but he was the first to establish a university at the State level, and many other States followed suit. The Morrill Act created land grant colleges in all the States, and we have had a decentralized system in terms of elementary and secondary education as well as higher education for the life of this Republic.

However, there are weaknesses in a system which is so extreme that it only involves the States and local governments. We discovered those weaknesses in a big way in World War II, and even more so later on when the Russians challenged us in the scientific race for new high-tech weaponry and the race into space, et cetera.

The Russian challenge led to a great intervention by the Federal government in the form of incentives and new ways to stimulate science education, math and science education in our local schools. The involvement of the Federal government has been there to some degree since then.

Later on under Lyndon Johnson, of course, we created the Title I program, which seeks to provide greater aid for the poorest school districts, the poorest schools in the poorest school districts in the country.

□ 1930

But total involvement, even after the Federal intervention, is minuscule compared to the involvement of other Nations in terms of their central government involvement with education.

So we have a system which is at one extreme already. We are going to make it even more extreme by pushing the Federal Government totally out of the process. There is a great deal to be said about the present involvement in the Federal Government. I think it is far too little. It should be more.

But even if we increase the Federal appropriations from 7 percent of the total to 25 percent of the total, we still would only have a minor role, a secondary role being played by the Federal Government. The States and localities would have 75 percent of the control. That would be a greater balance.

The check and balance approach that we have found very useful in our overall national government, the check and balance approach is good in a number of different kinds of activities and enterprises, the check and balance approach where one does have some participation by another body to help to sort of balance off the kind of extremes that are negative on one side at the same time not take over and not smuggle the process.

We need a check and balance of the Federal Government with respect to the State and local governments on education. There is nothing negative about having some ideas and some initiatives, innovations, research, statistics gathering, comparative analyses, sharing of information from one State to another, a number of things that the Federal Government does and does very well that it will not be able to do if it is pushed out of the process.

It has to have a role which is significant, and the fact that it actually makes funds available to States and local governments gives it a role of some significance, however minor it may be. But to totally eliminate that is extremism.

It is the kind of Republican extremism we heard in 1995. It is just more subtle now. Instead of screaming that we should abolish the Department of Education, they now propose a rational reallocation of the dollars that the Federal Government provides for education.

It is like Marie Antoinette, when they said they have no bread, the poor have no bread, she said let them eat cake. The Republican majority, answering the call of the common sense of the voters who say we should have more Federal aid to education, they say let us just scramble the resources we have now. No more resources. Nothing new is going to be offered.

We are going to scramble the existing money that is being provided in federal aid to education and make it appear that we are doing something great by giving control of all of the Federal funds to the States, which have done a bad job, I will not say bad, but inadequate, they certainly have not been able to keep up, and their resources are dwindling while the Federal resources are increasing. It is an extreme position.

The bill which both houses of the Congress are praising as their new approach to education, they call it the Academic Achievement For All Act. They have already got a good nickname called the Straight A's Act. Their public relations people have done a good job. That is very, very effective, Academic Achievement For All, Straight A's Act.

But it is only scrambling the Title I money primarily. We already have Title I funds. We already have a few other funds. They are going to take that, put it in a pot, scramble it, give it away to the States, and will claim that they have done something new for education.

Let me just quote again from the article, ''But the extraordinary fanfare with which it was introduced suggested the extent to which Republicans in Congress eyeing next year's critical elections have decided to seize education as an issue and make local control their battle cry.

''Education is number one on the Republican agenda, said Senator TRENT LOTT of Mississippi, the majority leader, at an early afternoon news conference just outside the Capitol. Mr. LOTT was joined by Speaker J. DENNIS HASTERT of Illinois. They stood with other lawmakers in front of a yellow school bus brimming with fresh-faced students. Dozens of other students fanned out around the lawmakers, clapping and cheering their assent to each policy point, no matter how arcane.''

I am quoting from the New York Times article Tuesday, June 22. ''Mr. HASTERT described the bill which Republicans have titled the Academic Achievement For All Act and nicknamed the Straight A's as a historic step. Democrats said the direction of that movement was backward. Representative GEORGE MILLER, Democrat of California, said it was unclear from the Republican plan how accountable schools would be. Mr. MILLER also said States would be able to shift money from poor districts and children to wealthier ones. Communities will be pitted against each other to lobby their State Capitols for school money, he said.

''We know how that fight will turn out. Education Secretary Richard W. Riley issued a statement denouncing the bill along similar lines. The bill is a far-reaching extension of the philosophy behind the Education Flexibility Partnership Act, or Ed-Flex, which Congress passed with broad bipartisan support this year and President Clinton signed the bill into law.''

Let me repeat that last paragraph. I quote from the New York Times article, ''The bill is a far-reaching extension of the philosophy behind the Education Flexibility Partnership Act, or Ed-Flex, which Congress passed with broad bipartisan support this year and President Clinton signed into law.''

I reread that because I want to make it clear that I am not an alarmist. I am not here upset and frightened for no reason. What was done before on a bipartisan basis, with large numbers of Democrats participating, was a precedent-setting action. It is the forerunner of what is about to come back to us in the form of a take-it-all flexibility-for-all-of-it, meaning take everything that the Federal Government has invested in education and give it to the States.

Democrats, beware. Democrats, do not fall into this kind of appeal for local control reasonableness. The local control is already 93 percent. Why not let the Federal Government remain in the process with its measly 7 percent?

Continuing to read the article from the New York times, ''The law authorizes States to grant waivers to local school districts that want to spend Federal dollars in ways differ slightly from the specifically intended purpose.

''The new Republican bill whose chief sponsors are Representative BILL GOODLING from Pennsylvania and Senator SLADE GORTON of Washington would allow precisely that kind of reshuffling. Republicans said the safeguard preventing any particular area of education or school district from neglect would be the performer's contract which would oblige States to prove that achievement was not suffering.''

The performance contract, the same kind of thing that they have in the welfare reform bill. The States must show that they are doing certain kinds of things, only they have not bothered to do it, and no one in the Federal Government has been strong enough to force them to live up to the contract.

Thus, it will be with education. Once the States have the money and the Department of Education has less of a reason to exist, less staff, less budget, who will go out to enforce the contract? No one. This is a rip-off, a grab for the 7 percent of the Federal dollars that are now devoted to education by the States, who have, as I said before, done a very poor job up to now.

Democrats contended that many students could fall by the way side before the Federal Government was able to determine that a State had fallen short of its goals. Like Ed-Flex, the new bill would affect slightly more than $10 billion of Federal money, largely the same pool of money to which Ed-Flex applies. That represents most of what the Federal Government spends on primary and secondary education.

So we are about to make a monumental mistake. It is on extremist's proposal that will be clothed in sweet reasonableness, and a lot of people are going to be caught off guard and fall for it. Why have total control, total involvement only by States and local governments and leave the Federal Government totally out of the picture with respect to the effort to reform education and improve our schools?

There was a time when States were totally responsible for housing, States and local governments, housing for the poor. Nothing ever happened. Only the Federal Governments intervention provided decent housing in areas for people for whom there was no other answer.

There was a time when health care was not a Federal responsibility. Federal Government did not get involved with health care. We had a monumental disaster across the Nation in terms of health care later. Later on, the Federal Government, through Medicaid and Medicare, through Lyndon Johnson, began to play a greater role.

Whatever my colleagues may consider wrong with our health system at present, I am certain that my colleagues would not try to take away Medicare. Medicaid, they are trying to take away, but even Medicaid, one would have great resistance in taking that away from the American people.

Senior citizens and retirement and care for people who are aging was totally neglected by the States. We had the poor houses. We had all kinds of bizarre ways in which they made a token effort to help aging people. But only Social Security, a Federal program saved senior citizens from abject poverty and suffering.

The States had the ball, and they would not run with it. The States traditionally are controlled by people who have not bothered to govern for everybody. The temptation and the tendency of the States is always to govern for the powerful, and to do as little as possible to please the majority, and let the minority go completely. Triage systems. Do not provide health care at all. Do not provide housing at all. Social Security. Do not provide anything for the aging. It is the Federal Government that has made the effort to close the gap and provide the safety nets.

In education, that has not been the case. It is still primarily a State responsibility, a local responsibility. So why move to the extreme position of trying to make it a total State local responsibility using Federal funds?

I spoke last time about the fact that the Federal Government, in its intervention, redistributes funds in ways that have aroused a great deal of opposition in certain quarters, because if one distributes funds according to the population, the big cities are likely to get a larger percentage of the funds than other areas, the States that have large populations. For some reason, that is considered to be undesirable. If one distributes funds according to population it seems to me the fairest way in the world to distribute them. But that is undesirable.

There was a move afoot last week to try to cut back on the mass transit funds received by California and New York because the mass transit funds were going a larger percentage to California and New York. Well, that is where most of the mass transit is. That is where the people who ride on subways and buses live. So why was there a great outcry about the fact that they got a larger proportion of the mass transit funds than most other areas?

Highways and road were getting large amounts of money in areas where the per capita utilization of the highways is minimal. If one had to give highway and road money out on the basis of how often the roads are used, then the large population centers would get more highway money because, actually, the number of people utilizing the highways and utilizing

the roads are far greater in the areas where the people live. People are there, therefore they should get from the Federal Government a proportional share of the resources that are available.

But this has not happened; and for that reason, I use an example which several people called me about and said, well, what does that have to do with education? What does it have to do with justice for the big cities? Why are you reverting to reciting statistics about who died in all the wars? It just seems to me a very graphic way to try to bring home the point I am trying to make.

□ 1945

The resources for education, the resources which involve helping people, should go where the people are. The fact that we are abandoning public schools means that the largest concentration of public schools and the largest concentration of people voting in public schools are in the big cities and the States that have the big cities.

Why do we want to abandon them with respect to education and leave them in a situation where they will not be able to get decent employment in the future? We are going to create an uneducated underclass, an inadequately educated class or half educated class or poorly educated class. Whatever title we may choose to give it, it is a class of people that will not be able to qualify for the high-tech jobs. They will not be able to participate in the cyber civilization that is coming. That will be a great tragedy. And if we do that, we are generating a great unjust situation against a segment of the population which repeatedly has been called upon to defend the country.

In all the wars, the largest number of casualties have been in the big States and the big cities where most of the people live. I used that example before and I will repeat it again. I think it is important to recognize that the demographics of the war dead, the demographics of heroism. These are heroes. Everybody who gave their life is automatically a hero. They gave all they could give in defense of this country in World War I, in World War II, in Vietnam, in Korea. The demographics stand out.

But the people who died in the greatest numbers came from the places where people live in greatest numbers, where the population is. They might have had other factors that contribute to the heroism, but it was there.

Even the battle of Gettysburg. On the Union side, the largest number of soldiers who died were New Yorkers. Because New York was probably clearly the State which is most densely populated at that time which furnished soldiers and troops for the Union's cause. That is certainly one of the biggest factors. And there might have been other factors. But the greatest number of soldiers on the Union side who died were from New York and Massachusetts and Pennsylvania, the States with the largest population.

In World War I, New York and Pennsylvania again are way up there ahead of everybody else; 35,100 casualties, 7,307 combat deaths from New York in World War I. Pennsylvania 5,996 combat deaths. Illinois 3,016. These are the big cities of New York, Buffalo, Philadelphia, Pittsburgh, Chicago.

California was just beginning to boom in population, and they had far fewer deaths. But later on, California, where the people live, where the population is, they are the people who send the largest number of soldiers to the wars and they died in great numbers. Eighty-nine thousand casualties in World War II from New York State. Twenty-seven thousand of those, almost 28,000, were combat deaths.

Why should we quibble about the portion of Federal funds that New York receives for mass transit or that they receive for education or for Medicaid? That is where the people live.

California, big jump in World War II, 47,000 casualties. Seventeen thousand died. But even then, it was less than half of New York, which was still the largest population center during the Second World War. Where the people live, that is where we have the casualties, that is where we have the heroes, and that is where we have the public schools that are being abandoned now. Those are the people that we call upon and order to go to war. But in peacetime suddenly they become a nuisance.

We have a philosophy that is sometimes weakly expressed, and sometimes there are high-powered people who come right out and say it: We do not need poor people.

There was a member of the editorial board of the New York Times more than 15 years ago who used the phrase, ''planned shrinkage,'' that instead of trying to rebuild poor communities, instead of trying to take care of the poor, let us just plan for the city to shrink in size and population. Planned shrinkage sounds like a perfectly respectable, acceptable term.

Now, that was long before anybody ever talked about ethnic cleansing. Ethnic cleansing you would say cannot be equated to planned shrinkage, and I would agree. But it is on the way. Low-income cleansing is what happens when you have plan shrinkage, low-income cleansing. Let us make life difficult for people who are poor and maybe they will move away. Let us make life difficult and hostile and they will solve the problem for us by moving away. We do not really need people. We only need people in times of war. We only need people when the Vietnam War takes place, and out of our cities comes a larger percentage of combat deaths than any other part of the Nation.

In the big cities we will have the names on the Vietnam Wall Memorial. Go look at the names. And I am glad we have such a memorial, as I said before, because it brings war home in a very human way. We are not talking about unknown soldiers. We are not talking about tombs for unknown soldiers. We are talking about human beings that lived and breathed and they lived and breathed in the big cities. That is where the soldiers came from. They died in large numbers. Their names are on the Vietnam Memorial. They are the soldiers whose families and friends and neighbors still in those big cities that we should make a pledge to provide first-class education.

The Federal Government should participate in provisional education because those people are very important to our Nation. I hope I do not just have to use that example, but that example is a graphic which brings it home.

What about the future of the Nation if we do not educate the people in the big cities, we do not educate the folks who go to our public schools large numbers?

There are a couple of other items that appeared recently in the paper that I think are significant. I am here repeatedly to talk about improving education and improving schools. I talk about the need to have a massive construction program, a school construction program, which not only deals with the problem of overcrowding in our big cities and in rural areas, replacement of schools that are falling down, replacement of the trailers that are inadequate in so many places, but also school construction which would provide for the wiring of schools so that we can get more technology in schools.

They need new computers to do the construction. They need to be hooked up to the Internet. That is where the world is going. We have thousands of thousands of jobs. I think now they talk about right now there being 300,000 vacancies. There are 300,000 vacancies in the information technology industry. They expect the number to climb to 1.5 million in 2 or 3 years. And these estimates are based on the fact that they look at the number of youngsters who are taking computer science in our colleges and they say that number is totally inadequate.

We need more youngsters going into college. We need more youngsters at every level, not only the colleges where they can get the computer program training, but the junior colleges where they are going to become computer technicians, or even high school where they get enough training to become computer mechanics or in some way assist. Because the world is going in that direction.

The age of cyber civilization is going to be here sooner than we realize. And

in order to participate in that and hold a job, they have got to have the education necessary.

Let me just highlight this report that appeared yesterday in the New York Times.

A report was issued by the Commerce Department which describes the economic benefits from the Internet. The economic benefits from the Internet have greatly benefited our economy. Our overall economy is fed by a new kind of phenomena which requires a highly educated work force.

The article was in the New York Times on June 23. It reads as follows:

The financial benefits of the Internet and high technology extend beyond the quick riches they have brought high-profile entrepreneurs and investors in recent years to the Nation's economy as a whole, a new Government study shows.

The information technology industry, which includes everything from the Dell Computer Corporation PC's to the Microsoft Corporation's software, to Cisco System, Inc.'s routers, generated at least a third of the Nation's economic growth between 1995 and 1998, the Commerce Department said in a report released today. During that period, the gross domestic product rose 22 percent, to $8.7 trillion.

The Internet as a force in our economy did not exist 20 or 30 years ago. But between 1995 and 1998, it expanded to reach the point where it is now third. Internet related activities are a third of our economy.

Those goods and services also got cheaper and allowed businesses to become more productive, cutting inflation by seven-tenths of a percentage point in 1996 and 1997, the report says.

''The improvement in technology, in productivity, is what has made the economy so incredibly attractive in the last couple of years,'' said William J. McDonough, president of Federal Reserve Bank of New York.

Today's Commerce Department report, the second in a series of three on technology, does not provide figures measuring total spending on high technology. Instead, it focuses on growth of on-line businesses and companies that cater to the technology industry. For example, it says almost half of all American workers will be employed in high-technology industries or at companies that rely heavily on technology by 2006.

I repeat. The report says, ''Almost half of all American workers will be employed in high-technology industries or at companies that rely heavily on technology by 2006.''

I cannot say that too often. Because as I move through my own district, which has very serious problems with respect to resources that schools have, most of them are not appropriately wired, they do not have enough computers, and many of those who have computers are not wired to the Internet.

I move about among people who say that I am talking about a luxury. ''Let us get enough books, enough crayons enough blackboards. Let us deal with the basics,'' they say, ''and then you can come back to us and talk to us about computers and the Internet.''

No, we cannot wait because we are galloping forward and if half of the people employed, if half of the American workers in the year 2006 are going to be in the high-tech industries, our youngsters in the schools in my district, unless they have more exposure to computers and there is an effort to interject and interweave the Internet and the kind of things it can do, computer literacy, computer competency, we will not be able to qualify for those jobs.

The unemployment rate is already very high in my district. It is already very high. There is no hope for it going down even if the number of jobs increase, as they have in New York City. We have a large amount of vacancies in the high-technology industry in New York City. But the unemployment rate among the young people in my district is still up around 20 percent. They cannot qualify for the jobs if they do not have the education. That is a simple fact, and we have to understand that.

I cannot speak too often or too long or too forcefully about education when we are talking about the livelihood of these young people. They have no future if they do not get the education that they need.

Workers in information technology have been at least twice as productive as other workers from 1990 to 1997 and earn 78 percent more than other workers, the report said.

The report ''provides fresh evidence that our Nation's massive investments in these sectors are producing gains in productivity and that these sectors are creating new and higher-paying jobs faster than any other,'' Commerce Secretary William M. Daley said in the report.

Meanwhile, those who invested in high technology have reaped rewards that outpaced the market as a whole. The Standard and Poor's High Technology index rose more than five times since June of 1994, while the broader S.&P. 500 stock index tripled. Spending on information technology has quadrupled over the last decade, rising as a share of all business spending on equipment to 53 percent from 29 percent, according to the Commerce Department in a separate report.

□ 2000

''Internet activity is driving deflationary boom conditions,'' said Ed Hyman, an economist for the ISI Group in New York. ''It's official.''

Mr. Speaker, I ask to enter the article which describes the report from the Commerce Department on the impact of high technology and information technology in its entirety for the RECORD.

[The New York Times, June 23, 1999]

COMMERCE REPORT DESCRIBES ECONOMIC BENEFITS FROM INTERNET

WASHINGTON, June 23 (Bloomberg News)—The financial benefits of the Internet and high technology extend beyond the quick riches they have brought high-profile entrepreneurs and investors in recent years to the nation's economy as a whole, a new Government study shows.

The information technology industry—which includes everything from the Dell Computer Corporation's PC's, to the Microsoft Corporation's software, to Cisco Systems Inc.'s routers—generated at least a third of the nation's economic growth between 1995 and 1998, the Commerce Department said in a report released today. During that period, the gross domestic product rose 22 percent, to $8.7 trillion.

Those goods and services also got cheaper and allowed businesses to become more productive, cutting inflation by seven-tenths of a percentage point in 1996 and 1997, the report says.

''The improvement in technology, in productivity, is what has made the economy so incredibly attractive in the last couple of years,'' William J. McDonough, president of the Federal Reserve Bank of New York, said in a speech in New Jersey today.

Today's Commerce Department report, the second in a series of three on technology, does not provide figures measuring total spending on high technology. Instead, it focuses on growth of on-line businesses and companies that cater to the technology industry. For example, it says almost half of all American workers will be employed in high-technology industries or at companies that rely heavily on technology by 2006.

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''Internet activity is driving deflationary boom conditions,'' said Ed Hyman, an economist for the ISI Group in New York. ''It's official.''

Mr. Speaker, it cannot be said too often, if we do not educate our young people in our big cities, a whole segment of the population will be out there wandering in the wilderness, nowhere to go, in terms of employment. I will not begin to postulate on what the consequences will be. I just know that a just America, which seeks to have a continuation of law and order, of promulgation of the right to pursue happiness, is an America which will not shut down the public school system and cut off the opportunities for the young people in our biggest cities and the poor people in our rural areas. That is what will happen if the Republican Academic Achievement for All Students Through Freedom and Accountability Act goes through. Because all it does is take the Federal initiative, the Federal dollars, scramble them up and put them in the hands of State and local governments who have not been able to measure up to the job, to the requirements, up to now.

How can we improve education by giving more money, throwing more

money, taking Federal money which exists now, throwing it into the State and local coffers? What is the great automatic, obvious advantage of local control? Why is local control sacred? There are many examples of local control degenerating into complete corruption. There are more examples of local control being stagnant. For long periods of time school systems did not move off dead center in terms of improving the performance of their students. This is not just true of low-income areas but large numbers of middle-income communities had stagnation. When the Federal Government intervened shortly after the Russian Sputnik triumph in space and began to offer greater incentives and offer greater amounts of money and money for training and for leadership to promote more science and education, better science and education teachers, the public schools began to do a better job in science and math. The effect of that was to create something that has continued. We have a large number of very good public schools in the Nation. In areas where you have low performance overall, there are schools that stand out. We have some of the best schools in the world in New York City. Some of the high schools have repeatedly taken the largest share of science prizes whether it is Westinghouse or some other science prizes. If you move into the area of debate, any other area, you find other high schools who stand out there. So we have individual schools that have done a magnificent job, but the system overall is lagging. The system overall that seeks to educate 1 million children in New York City has many, many problems. A majority of the youngsters in these schools are receiving an inadequate education. Some of them have never been able to sit in a classroom with a teacher of science or math who majored in math or science in college. In our junior high schools a survey was done which showed that in the areas where most of the African Americans and Latino students live, the poorest students in the city, most of the junior high school teachers teaching science and math had not majored in science or math in college. They were people who were thrown in there and had to try to do a job because no other bodies were available. This is a chronic problem. It was not just for that year or the year after, it still exists. There are some schools that lost their physics teachers, high schools, several years ago. They still do not have a physics teacher who majored in physics and has some expertise in the area 3 or 4 years later. The problem is acute. In an area where larger salaries are paid in the suburbs surrounding the city, they attract off the best teachers and you have a situation where the ones who need the greatest amount of help and the most expertise, the most creative, the most imaginative teachers, get the least from the teachers.

The shrinking teacher pool, the number of teachers available, the fact that it is becoming more and more difficult to find good teachers, is part of the larger problem. Because of the fact that we have not appropriately funded the education system, we have not appropriately insisted on accountability, you do not have enough youngsters going into college, you do not have enough coming out. So those who are graduating from college, they choose other professions in large numbers and the number of students who go into teaching as a percentage of the professions chosen, that number keeps shrinking. We need more youngsters going into the college from high schools, youngsters who are qualified to do college work, who can come out of college and become those good teachers which would back up the system's effort to teach those who need help most. Nothing of that kind will happen if we take away from the big city schools the title I funds that go in large amounts to big city schools. This Academic Achievement for All Students Through Freedom and Accountability, Straight A's Act, that was described by the Republicans the day before yesterday is an attempt to move in a direction where the ultimate, the final result would be that States would have the power to move the money that the Federal Government appropriates now for the poorest schools, they can move it anywhere. We know from past history they will move it to the areas where they are seeking votes, where the greater number of votes are. They will move it to the areas where the people have the most political power. Those who have political power now have the best schools now already. In New York State, we have some of the world's best schools, best outfitted high technology schools, schools who have had computers, that the ratio of students to computers has been very good for years and they have been hooked up to the Internet for years. They have not had problems of wiring their schools because there is an asbestos problem. We cannot wire a lot of schools because asbestos still exists and when you start boring holes just to put wires in, that is a big problem. They have not had the problem of appropriations being too small for books so that the teachers and the principals do not even want to ask for additional appropriations for computers. They have not had those kinds of problems. They have not had the problems that there is no room to place the computers even if they were given to you because the schools are overcrowded. There are a number of schools in my district that are operating at a capacity of twice the number of students that they were built for. An elementary school built for 500 students has 1,000. A high school built for 2,000 students has 4,000. They go from 7 in the morning until late in the afternoon. Many schools have three lunch periods because the lunchroom cannot accommodate all of the students so they have to have lunches in shifts. That forces some elementary school students to eat lunch as early as 10 o'clock in the morning. That is child abuse, to force a child to eat lunch at 10 o'clock in the morning. It happens in large numbers of schools.

So without the Federal help, the first opportunity to learn factor, a decent building, a place where you can go and feel safe, a place which is adequate, adequate and conducive for learning, a place which nowadays would be able to accommodate technology and allow computers which are not a luxury anymore, wiring to the Internet which is not a luxury, to allow all of those factors to be involved in the education process, it is impossible to achieve that without more help from the Federal Government.

The greatest emphasis that I have placed on my role as a member of the Committee on Education and the Workforce is to focus on the basic problem of school construction. We may talk about a lot of other factors, and I do not want to minimize the need for more research, I do not want to minimize the need for more teacher training and teacher accountability. All of these problems, all of these factors are important. But before anything happens, we need to have a massive school construction program which says to the Nation that we have not abandoned the public schools. The fact that schools are literally falling down sends a message that is highly visible and highly symbolic, that we do not care about public education anymore. We talk about improving the teaching of reading, computer literacy and computer competence, but when a child walks into a school with a coal-burning furnace, the risk to that child's health is greatly increased, it would be better off if at a young age they stayed away from school because the more you are exposed to certain fumes, the greater the likelihood that you are going to have asthma or other respiratory illnesses. Why should we have children go to school and have their health jeopardized, be placed at risk because they go to school? If a child goes to a school which still has paint that had lead in it, and they are first graders or kindergarten children, they play with the paint and they get some of that in their system, their health is greatly threatened. We still have those kinds of problems. We still have asbestos problems, but the greatest problem is, of course, the overcrowding, where you cannot teach 40 children in one room, especially when they are children who need a great deal of attention. You need the space before you can use the additional teachers.

I am very proud of the fact that President Clinton forged an initiative on increasing the number of teachers per classroom, especially in the early grades. That was a $1.2 billion initiative in last year's budget which was not easily gained. It took a lot of hard negotiating. The Republican majority resisted it all the way and they are still resisting. They want to convert that into something else. But it is important that we made the effort, we recognized the need to have a ratio of students to teachers, especially in the early grades, which is better than the kind of 35 to 40 ratio of students to teachers that exist in some schools now.

But in New York, the truth is where they need the teachers to relieve the burden of teachers having too many students, they do not have the classrooms. You cannot put a teacher with 20 children in the front of the room, a teacher with 20 children in the back of the room and expect to really have education among young children. It is not going to happen. That is too many kids in one room. The fact that there is another adult, another teacher, will not solve the problem. You need space. You need a classroom. You need a well-lighted classroom. You need a classroom that does not have the threat of coal dust from a coal-burning furnace. You need a classroom that is properly ventilated. You need new classrooms in many of these situations.

The Republicans claim in their new initiative that the way to solve the problem is to give it all to the States and let them solve the problem, let the States and the localities have the Federal money, that measly 7 percent that we provide for the overall education budget, give it to the States and that is the solution to the problem. Well, the States, some States have large surpluses at this point. In fact, quite a number of States have surpluses. The prosperity that has benefited the Federal treasury has also benefited State treasuries. In New York State, the State had more than $2 billion as a surplus in last year's budget. The Democrats in the legislature sought to get a measly $500 million of that to provide for school repairs and school construction in the areas of greatest need. The governor vetoed the $500 million out of the $2 billion budget.

At the city level, New York City had a surplus of at least $2 billion, and the mayor of the city of New York did not bother to appropriate a single penny to relieve the overcrowding in schools, to get rid of more coal-burning furnaces, to deal with asbestos problems, not a penny went out of that surplus. Are we going to give more money to the mayors and the governors, are we going to give the Federal money and expect an improvement in the situation when their behavior has indicated that they do not themselves care about their public schools? They are abandoning public schools. The great talk of vouchers and charter schools, et cetera was designed to deflect attention away from the fact that you need to invest heavily in public schools.

I introduced, on May 14, a bill, H.R. 1820, to amend the Elementary and Secondary Education Act of 1965 to provide grants to improve the infrastructure of elementary and secondary schools. Title XII already exists in present law. This is a very germane approach. There is no need to depend only on the Committee on Ways and Means to provide loans for school districts as a means of dealing with the problem of construction. We have a massive need for more school construction. We might recall that last year, we authorized $218 billion over a 6-year period for highway construction. I do not know why the Federal Government has to be so involved in highways and roads, but $218 billion was authorized for highway construction. I was not against that. I think that is a proper use of public dollars. But I am proposing in this bill, H.R. 1820, that over a 5-year period we spend $110 billion on school construction, $22 billion a year. The $110 billion is close to the $112 billion that the General Accounting Office said in 1995 we needed in order to, at that time, revamp, repair and keep our public school inventory at its present level, in proper condition. They did not talk about the expanding enrollments which now require probably, if we were trying to meet the need, about $200 billion for school construction all across the Nation.

□ 2015

H.R. 1820 is based on the fact that there are certain findings we cannot turn away from. There are 52,700,000 students in 88,223 elementary and secondary schools across the United States. The current expenditure of the Federal Government for education infrastructure is only $12 million. The present federal expenditure per enrolled student for education infrastructure, any kind of physical facility, is 23 cents per student, and appropriation of $22 billion a year would result in a federal expenditure for education infrastructure of only $417 per student per fiscal year, $417 per student per year compared to the present 23 cents.

That is what I am talking about. Let us not be overwhelmed by the big numbers; 22 billion a year sounds so great, but when you look at the number of children involved, we are talking about spending $417 per year.

My bill, H.R. 1820, proposes to provide, to distribute, the money across the country in accordance with the number of school aged children that each State has. Therefore my use of the statistics of the number of students divided into the amount of money is correct.

I do not propose to try to make judgments on priorities. We just proposed to address the problem. Some schools will spend majority of their money on building new schools, some may spend the funds on repairing existing schools, in some cases schools will choose to use some of the money for improving their schools for technology. Those are the options that they would have at the local level, but we must understand that there is a need to move and not to leave this up to the local and State governments that are obviously not going to deal with the problem.

Overcrowded classrooms have a dire impact on learning. Students in overcrowded schools score lower on both mathematics and region exams than do students in other schools. We must meet the challenge of a cyber civilization by educating all of our children. The Republican approach which proposes to end the federal role in education is the wrong one; we need more help, not less, for our public schools.

The article I referred to is as follows:

[The New York Times, June 23, 1999]

BILL OFFERS STATES LEEWAY ON EDUCATION AID

(By Frank Bruni)

WASHINGTON, June 22.—Republican leaders in Congress today unveiled an education bill that builds significantly on their previous efforts to give state and local governments ever broader discretion over the spending of Federal money.

Under the proposal, a state could opt out of the current Federal financing system, which allocates money for specific purposes, and instead use most of that Federal aid as it wishes, provided that the state first enters into a five-year contract with the Department of Education that holds the state to certain performance goals.

If the state failed to meet those goals, which the Secretary of Education would have to approve, the state would return to the old system of financing.

The plan, which would apply to more than $10 billion in Federal money nationally, faces an uncertain fate. There is not yet a timetable for its procession to the floor of either the House or the Senate, and Democrats in both chambers denounced it as a reckless experiment.

But the extraordinary fanfare with which it was introduced suggested the extent to which Republicans in Congress, eyeing next year's critical elections, have decided to seize education as an issue and make local control their battle cry.

''Education is No. 1 on the Republican agenda,'' said Senator Trent Lott of Mississippi, the majority leader, at an early after news conference just outside the Capitol.

Mr. Lott was joined by Speaker J. Dennis Hastert of Illinois. They stood with other lawmakers in front of a yellow school bus brimming with fresh-faced students. Dozens of other children fanned out around the lawmakers, clapping and cheering their assent to each policy point, no matter how arcane.

Mr. Hastert described the bill, which Republicans have titled the Academic Achievement for All Act and nicknamed Straight A's, as a ''historic step.''

Democrats said the direction of that movement was backward. Representative George

Miller, Democrat of California, said it was unclear from the Republican plan how accountable schools would be. Mr. Miller also said states would be able to shift money from poor districts and children to wealthier ones. ''Communities will be pitted against each other to lobby their state capitols for school money,'' he said. ''We know how that fight will turn out.''

Education Secretary Richard W. Riley issued a statement denouncing the bill along similar lines.

The bill is a far-reaching extension of the philosophy behind the Education Flexibility Partnership Act, of Ed-Flex, which Congress passed with broad bipartisan support this year and President Clinton signed into law.

The law authorizes states to grant waivers to local school districts that want to spend Federal dollars in ways that differ slightly from the specfically intended purpose. But the districts can deviate only so much; money meant to combat substance abuse can be shuttled from a program specified by the Federal Government to one that is not, but the money cannot be used, for example, to improve reading skills.

The new Republican bill, whose chief sponsors are Representative Bill Goodling of Pennsylvania and Senator Slade Gorton of Washington, would allow precisely that kind of reshuffling. Republicans said the safeguard preventing any particular area of education or school district from neglect would be the performance contract, which would oblige states to prove that achievement was not suffering.

Democrats contended that many students could fall by the wayside before the Federal Government was able to determine that a state had fallen short of its goals.

Like Ed-Flex, the new bill would affect slightly more than $10 billion in Federal money, largely the same pool of money to which Ed-Flex applies. That represents most of what the Federal Government spends on primary and secondary education.

Over all, the Government provides only about 7 percent of the education budget for the nation's public schools and education experts have said that even striking changes in Federal policy have limited impact.

THE REPUBLICAN AGENDA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes.

Mr. HOEKSTRA. Mr. Speaker, tonight I would like to take the opportunity to talk about a number of the items on the Republican agenda, the agenda that I believe provides us with the opportunity to really build on the prosperity that this country has experienced over the last 7 to 8 years, the opportunity to take that prosperity and to reform the programs that we have in here in Washington, to reform our budget priorities and to address some of the systematic problems that we are experiencing.

Let me give my colleagues one example. In the budget resolution that we passed earlier this year this Congress took a historic step. We stated that for the budget horizon, the next 10 years, that we would lock away every dollar of Social Security surplus, that we would lock it away and allow those funds to be only used to reform and save Social Security and Medicare.

When we take a look at the commitment that we have made of locking away 1.8 trillion dollars, we see that that is a historic change. It provides the framework for shoring up Social Security and Medicare and at the same time ensures that those dollars will not be spent to grow other segments of government.

That is exactly what has happened over the last 30 years. Every American today, they get their paycheck at the end of the week, and they recognize how much they have grossed, and between their gross and their net is this thing called FICA. That is the amount that your employer, actually that you, pay to Washington for Social Security. It is 6.2 percent of your income.

The interesting thing is that your employer also matches that with another 6.2 percent. It means that you are paying or based on the hours and the salary that you have earned, 12.4 percent of your income is going to Washington, and it was going and it is supposed to be coming to Washington to deal with Social Security and to be set aside so that when you reach retirement income those dollars will be there and they will be there for you.

But what has happened over the last 30 years is those dollars have come into Washington. They have been set aside. They have been set aside with IOUs. Government then went in, and took that money, and put in the IOU and spent it on other federal programs. So what we now have in the Social Security Trust Fund is not all of the 30 years of surplus in Social Security, but what we have is a stack of IOUs, and on this hand we have got a bunch of federal programs that we have grown and expanded.

We want to set aside the total Social Security surplus for the next 10 years, $1.8 trillion. That is a hundred billion dollars more than what the President plans to set aside for Social Security. As a matter of fact, when you take a look at a shorter window rather than 10 years out, you take a look at what this President and this administration is proposing for the next 5 years, they are going to spend $146 billion of the Social Security surplus. They are not saving every dime of Social Security over the next 5 years and setting it aside to save and reform Social Security and Medicare; they are actually going out and continuing the practices of the past, and they are going out, and they are going to spend it one more time.

What happens when we set aside $1.8 trillion? What it means is that we can go out and we can reduce the public debt. We will reduce the public debt by $1.8 trillion over the next 10 years. That is $450 billion more of debt reduction than what the President's budget proposes. Under our budget it means that the debt held by the public declines from $3.6 trillion to $1.9 trillion by the year 2009.

The other thing that we have in our budget plan is that we maintain the spending discipline of the 1997 balanced budget agreement. As the Chair will remember, in 1997 we passed a historic budget agreement. It laid out a 5-year plan for spending, it laid out a 5-year plan for revenues, and it said by the year 2002 we will be out of surplus budget.

Some positive things have happened. The economy and Federal tax revenues have been stronger than what we anticipated. What it means is that we move closer and we have actually moved to a surplus budget, as it is defined in Washington, this year. There are those now that would say, well, now that we are at surplus, let us forget about the spending restraints that we agreed to in 1997, let us open up the vault, and let us start spending the surplus.

There are many here in the House who believe that that is the wrong thing to do. We believe that this is an opportunity where we can really continue the fiscal discipline and commit to meeting the spending targets that were outlined in 1997 which then enables us to save every dime for Social Security and then also provides us with the opportunity to another step which we think is very positive, which is to provide tax relief to the American people.

When you take a look at taxes and why we need tax relief, think about the two-parent working family today. The second working adult usually earns about 40 percent of the combined income. It is interesting enough to note that the average American today pays 40 percent of their income in one form of tax or another, a State tax, a local tax or a Federal tax. What that means is that in a two-parent or two-working-parent family, the second person is not working to support the family. The second person is working to support Washington, their State government or their local government. They are paying 40 percent of their income.

We have an opportunity to relieve the stress that that places on American families and that places on American workers. Think about it. You go out, and you earn a dollar; you lose 40 cents of it before you ever go home and use it to buy food, to pay for a vacation, to invest in your child's education. The first 40 cents always comes to government.

We think that there is an opportunity to reduce taxes in three different areas. In one way we will propose in our tax relief package something that provides an immediate benefit to the American people. What does that mean? It means that your take-home pay is larger, means that your check at the end of the week for what

you have worked that week, means that you get to keep more of it and Washington gets to take less of it.

We want to provide tax relief in a way that says you can prepare for your long-term future. Because a tax code is being restructured, you can be better prepared to plan your financial future so that you will be more secure and you will have the freedom to get financial security.

How do we do that? For those of you that save, for those of you that invest, we can reduce the capital gains tax. We can encourage you through the Tax Code to invest in individual retirement accounts so that you can prepare for your retirement, or perhaps that you can set aside dollars so that if you want to go out and purchase your first home, you can use those dollars for that, or if you are really talking about long-term security, would it not be great if you can take more of your income and set it aside so that you can prepare to help your child get a better education?

That is what we mean when we talk about enabling you to have more freedom to plan for your future and to get your financial independence.

There is another area that we think we can reduce taxes in, and that is we think you have got the opportunity, and we have got the opportunity, to let Washington know who is in charge. Do you ever have these fees or services that you just think where did they come from? And why are they doing this? Let me give you two examples:

A few years ago we passed a telecommunications reform bill. As part of that we said that we were going to encourage the expansion of the Internet into the schools, a very good goal. We have got a bureaucracy that said: Wow, that gives us the latitude to impose a fee on every American's phone bill.

□ 2030

It is called the Gore tax. It is the Vice President's idea. It was not passed by Congress; it was an interpretation by a bureaucracy and a group of bureaucrats as a way to get money from the American people. This is a wonderful opportunity to say, no. The American people are in charge. We are going to repeal that bureaucratic abuse of power and we are going to eliminate that ''fee.'' It is not a fee. It was a tax that was initiated by bureaucrats who had no right and no authority to do it.

There is another one that is currently going through, and I think it is maybe going to affect only a small number of Americans today, but again, it is an abuse of power, and it is an abuse of power by the Postal Service. For those of us that have a box, a mailbox, but it is not at the Post Office and it is now at a private business, there is a whole new set of rules and regulations that the Postal Service has put on the small businesses and has put this cost on Americans who say, I would really like a Post Office box or a place of business that can receive my mail, because it can do things that the Postal Service cannot do, meaning that this business will sign and accept a delivery by an overnight delivery company. The Post Office will not do that. But if one now wants to do that, this company that has provided someone with this service is going to have to go through and provide a whole series of documents on that box to the Post Office.

The bottom line: rules, regulations. They do not come free. It is a huge new cost and another way, again for, in this case, not for the government to collect more money, but for someone who is providing a service that may be in direct competition to a government monopoly, to penalize this service and make it more expensive for the American people to use an alternative delivery service or a Post Office box that provides additional services.

This is a wonderful opportunity for us to go back and say, no. We are not going to let the government do that. We are going to repeal that. We are going to pass a bill here that says, you cannot put these kinds of costs on the American people. You cannot put these kinds of costs on small businesses who, because the Postal Service could not deliver the service, found a niche, identified a need, and in the great spirit of the American entrepreneurs, created a business, only now to be penalized by the Postal Service. We need to change that, and this will provide us an opportunity to do that.

Mr. Speaker, underlying our direction on taxes where we want to increase take-home pay, we want to let Americans understand that they are going to have more freedom for planning their financial security in the future and for sending a message back to Washington that says, we are in charge and you are not, we want to overlay two broad themes. It is time to simplify the Tax Code, and it is time to make it fairer. Perhaps the most unfair component of our Tax Code today, although there are probably a number of different items competing for that title, but perhaps the most unfair is that our Tax Code continues to penalize married couples. Think about it. We have a Tax Code in America that penalizes people for being married. That is not fair. Not only that, it is the wrong thing to do. So as we move forward through our agenda this year, as we continue building on the balancing of the budget, as we plan for solidifying Social Security, solidifying Medicare, we are doing the right things, and we are using the prosperity to get our house in order.

I want to spend a little time now moving on to another priority that over the last number of years I have spent a lot of time on, and that is education. I am glad that I came to the House Floor tonight to be able to respond to my colleague's comments about what those Republicans did this week with our Straight As program, where we are going to move more flexibility back to the local level and we are going to move the dollars down there so that people at the local and at the State level can have the flexibility to deal with the issues and the problems at their local level and not worry about whether their problems match the problems that we here in Washington have identified as national issues.

I have a great quote. My colleague earlier was asking the question, do we really trust people at the local level and at the State level to do what is right for our kids? Do we really trust those people who know the names of the kids in their class and in their school to do the right thing for those kids? And the answer, obviously, from my colleague was, of course we do not. There is a Federal role here because Washington knows best.

As my colleague in the chair remembers, back in 1995 when we began the welfare debate, we began the welfare debate very much on the same tone and tenor, and we really accelerated the debate on welfare reform when I came down to the floor with a number of my colleagues from Wisconsin. And the reason we came to the floor was that Wisconsin had proposed a reform of welfare. It had passed the State legislature in a bipartisan way. The governor had signed it. They sent their application here to Washington, because somebody in Washington in Health and Human Services had to approve what the State of Wisconsin wanted to do to help their people in their State get off of welfare, to go to work, to get training, and to become more productive.

I believe that it was something like 287 days later that we came to the floor, 287 days or something like that after Wisconsin had sent their application to a bureaucracy in Washington, a bureaucracy that probably had some people from Wisconsin working in it, but the reform proposal maybe was not read by anybody that had ever been to Wisconsin. But 280-some days later, Health and Human Services had not acted.

Now, get this. It is the State of Wisconsin, the governor, the State legislature saying, we think we have a better idea. We think we have a model that we would like to try that is better for our people and it is better for the people on welfare than what the national Washington one-size-fits-all model is. And after roughly two-thirds of a year, the people in Washington had not thought it was important enough to go through this, to study the issue, and to answer the people in the State of Wisconsin as to whether this was or was not something that they were going to

let them do. And that is the same attitude that our colleagues are expressing when it comes to education.

What finally happened in welfare reform? We pushed for flexibility, we pushed for local accountability, and now that welfare reform has passed the House, that it has been implemented at the State level where we have given this authority to the governors and to the State legislatures and said, you have a great degree of flexibility, you have a huge opportunity here to take the Washington resources, to break the rules, to break the mold, and use the money to solve the problems in your own State.

A couple of years ago we heard the same types of claims: they will not do the right thing. They will move the money into the wrong places. They do not really care about the people that are on welfare. They are not going to help. They are going to take the money and move it to different places.

What we found in welfare reform is exactly the opposite. It is a wonderful success story. The States have taken the freedom, they have taken the flexibility to reach out and help those that were on welfare get work, to come off of the welfare rolls, and the wonderful thing is that I am not sure what they are doing in Wisconsin. Wisconsin has a model that works for them. Michigan has a model that has worked for us. Michigan is probably learning from Wisconsin and Wisconsin is learning from Michigan, and both programs are moving forward. What they are doing in Hawaii is probably a little bit different or very different from what they are doing in New York, but as we go around the country, it is one success story after another. And, we have 50 models of welfare reform, all working, all learning from each other, and all moving forward. And what a wonderful difference it makes to have 50 States learning from each other and all competing to have the best welfare program, or the best welfare reform program; to have the best statistics about saying we have moved this percentage of people off of welfare into being more productive members of society. What a wonderful way to compete versus where we were before.

Because what has happened now is States are forced to focus on results, not process. Under the old model, Wisconsin had to focus on process. They had to fill out all of the Washington forms. They had to fill out all of the forms and make sure that they dotted the I's and crossed the T's correctly, and they would send it to Washington and Washington would make sure that they had dotted the I's and crossed the T's and if they had filled out something slightly wrong, they would send it back to Wisconsin to fix it or they would send it back to Michigan to fix it and the paper would flow back and forth eating up dollars. But as soon as we reformed welfare, we moved away from a paper work shuffle, we moved away from a bureaucratic red-tape system to a system that is doing exactly what it is supposed to. It is focusing on people. It is focusing on how, with key help, people get off of welfare.

Why am I talking about welfare reform? Because I think it is a beautiful model for what we are proposing to do with education. And we know that the same broken bureaucratic model that we suffered under in welfare reform is also found in education. That model is Washington Knows Best. We are going to take the 7 percent of the dollars that any school district gets from Washington and we are going to use that 7 percent to, on a significant scale, impact what goes on in the school because we know best and the people at the local level do not. That is the broken model.

How do we know that that is the model that people at the local level believe exists today? We know because we went to over 15 States, had something like 18, 19 different hearings, and learned about what is going on in education. But the thing that we found over and over and over again, really two things. Number one, we saw great schools, we saw great kids, we saw great teachers, great administrators, parents, administrators, and teachers who knew the child's name and had a passion for making sure that that child would have the best opportunities to learn that they could provide.

Now what do we see? Here is what somebody basically found out and what they said about Washington. I think there is an arrogance on the part of the school bureaucracy, that is Washington, that assumes that they know what is best for everybody's children. I assume the opposite. I do not think that anybody can make a better decision for their children than the parent.

□ 2045

The focus of directing a child's education does not need to be here in a bureaucracy in Washington, it needs to be at the local level, starting with a parent or an adult guardian, moving to a teacher, moving to an administrator, and the last person in the food chain is a bureaucrat in Washington. We need to improve education.

Let me just talk about why we believe it is important to reform education and why the current model does not work. We published a report called ''America's Education System at a Crossroads,'' ''Education at a crossroads.'' It is the result of a whole series of hearings around the country, a series of hearings here in Washington meeting with the education experts here in Washington, and other research and analysis that we completed here.

We know that America's education system needs to be reformed. Why? What are some of the statistics? Forty forty percent of fourth-graders do not read at even a basic level. Half of the students from urban school districts fail to graduate on time, if at all. The average NAPE scores among 17-year-olds are lower than they were in 1984. That is a year after a Nation at Risk was released. We are not necessarily making progress.

U.S. 12th graders only outperformed two of 21 nations in mathematics. What does that mean? Here are the statistics. In the Third Annual International Math and Science Study, called TIMS, 12th grade U.S. lags behind in math and sciences.

Here are the nations with average scores significantly higher than the U.S.: the Netherlands, Sweden, Denmark, Switzerland, Iceland, Norway, France, New Zealand, Australia, Canada, Austria, Slovenia, Germany, and Hungary. Nations with average scores not significantly different from the U.S.: Italy, the Russian federation, Lithuania, the Czech Republic, and the U.S. are in this category. The two nations that did score below us, Cyprus and South Africa; not a very impressive showing.

Another startling statistic: American students fall further behind students from other countries the longer they are in school.

One of our first hearings a couple of years ago was in California. We had one on K through 12 and then we had one on higher ed.

The first year, the hearing with people from the colleges, they said, make sure you do not cut our remedial education budgets. You kind of do a double-take and say, excuse me? These are kids who have gotten into college. What are we remediating? They are remediating basic skills. Public institutions of higher education annually spend $1 billion on remedial education. It is a huge problem.

The other thing that I can tell the Members, even though those are the national statistics, as we went around the country we saw success story after success story of people at the local level achieving some wonderful things. That is where the reform is taking place. It is where parents and people at the local level have control over their local schools.

What other stuff did we find out as we took a look at Washington's answer to education, one of which says we are going to take the 7 percent of the Washington dollars and we are going to come up with a solution for almost every problem? We wonder, how does 7 percent really drive so much of a local curriculum?

Think about it. In Washington we have a program that will pay and contribute for a child's breakfast and a child's lunch. I am not saying these programs are not needed, but they come along with bureaucracy and red tape.

There are people in Washington who want to build the schools, they want to pay for putting in technology, they want to buy the technology, they want to pay for the technology classes. We already pay for drug education. We pay for sex education. We pay for arts in the schools. They want to hire our teachers. They want to test our kids. They want to develop curriculum. They want to develop after-school programs.

So when we take a look at it, they want to feed our kids breakfast, build our schools, pay for the technology, teach them about sex, teach them about drugs, teach them art, get involved with curriculum. They want to test our kids, hire our teachers, feed them lunch, do after-school programs, maybe midnight basketball. But other than that, it is our local school.

That is how 7 percent of Washington's Federal education dollars drive into a local school district to drive administrators from, rather than focusing on the child, rather than focusing on the education, to recognize that they have become just like welfare. They have become process-driven.

I want administrators, I want teachers focused on helping our children learn, not pushing paper. How do we know that they push paper? We surveyed the Federal government, and these are not all K through 12, but when we asked the question, how many Federal education programs are there, there are 760. Like I said, they are not all K through 12, but there are lots of programs.

We say, wow, that is why we have a Department of Education, to take these programs and centralize them in one department? Wrong. These 760 programs are spread over 39 different agencies that spend over $100 billion a year. It has gotten to be so complex that there is a cottage industry, again, the wonderful entrepreneurial spirit in America.

There is a company called the Education Funding Research Council. What do they do? They will sell a book for $400. What is it? It is the guide to Federal Funding for Education. We have a business out here that has decided that they can make a living by telling the rest of America where the dollars are in education, and help them go through the process of getting Federal education dollars.

There is another one that says, they talk about 500 education programs. There is another one that is called ''The Aid for Education Report.'' Here is what they say: ''Huge sums are available. In the Federal government alone there are nearly 800 different education programs that receive authorization totalling almost $100 billion a year.''

What do 760, 800 programs, what do they lead to? Even accounting for recent reductions, the U.S. Department of Education still requires over 48.6 million hours of paperwork per year, 48.6 million hours. This is for the paperwork. This is the focus on process rather than on results.

The President talks about hiring maybe 100,000 teachers. We do know that when you require 48.6 million hours of paperwork, that is about the equivalent of 25,000 people working full-time, 25,000 people working to meet the paperwork requirements of the Department of education and other Federal agencies.

The Department of Education talks about, well, there are only 4,637. We are one of the smallest agencies in Washington. They have been smart. They have moved the paperwork and the requirements down to the State level. At the State level there are another 13,400 full-time employees funded with Federal dollars to administer these programs.

The end result is that when we send a dollar to Washington, there is a good chance that only 65 to 70 cents actually reaches the classroom. If we are really concerned about educating our children, let us take a look at the welfare model, the welfare reform model that has been so successful, and let us focus on results rather than paperwork and process. Let us focus on educating our children, rather than administering 760 programs with mountains of paperwork that are run by a shadow education department that consume 30 to 40 cents of every dollar before it gets back to the child.

How does this work? Vice President GORE's National Performance Review discovered that the Department of Education's discretionary grant process, now think about this, in a world today where a new product in a high-tech business can be developed in India and can be in the room next door in a matter of seconds, if we want to get money from the Department of Education to help educate a child, the process is 26 weeks long and goes for 487 steps.

I have good news, the Department of Education has streamlined the process. They are now in the Information Age. But they define their Information Age and their streamlining as resulting in a process that now only takes 20 weeks and only has to go through 216 steps of review.

Think about this. This is the model that we have for 7 percent of our education funding: 760 programs, mountains of paperwork, three employees in the States for every Federal employee here in Washington chewing up every dollar in education so there is only about 65 to 70 cents left for the classroom, a process that goes through 216 steps and takes 20 weeks.

Where does this money go? It is kind of like, well, at least we have 65 to 70 cents of every dollar going to help educate our children in the basics. Wrong. Let me just give one good example: The Department of Education's Office of Special Education and Rehabilitative Services.

The objective of this program is supposedly to promote the general welfare of the deaf and hard of hearing, a very appropriate goal. How is that mandate and objective interpreted in Washington? It means that in Washington our taxpayer dollars, when we have this kind of performance that I mentioned earlier in education, what we are doing is in Washington educational meaningful programs include paying for the closed captioning of Baywatch, Ricki Lake, the Montel Williams Show, and Jerry Springer. And they have a special program dedicated to closed captioning for major sports programs. That is defined as a high priority program in Washington.

Other education programs, and remember, this is in context with where we were earlier for how our kids are performing internationally. Our education department believes that, here, they print a cartoon book. The title is ''The Ninjas, the X-men, and the Ladies, Playing with Power and Identity in the Urban Primary School.''

□ 2100

They have got one for the bakery industry. Lesson plans prepared for grocery employees. The lessons focused on topics from the workplace in the following areas: bakery, cake orders, courtesy clerk, and sushi bard. It is 96 pages long. Fifth grade pipe fitters. Building workplace vocabulary for pipe fitters, 27 pages.

I am not sure that those are the right priorities. My colleague said that is why we need more money in Washington and we need more focus in Washington, because we cannot trust people at the local level.

There is a better way to address education. What do we want to do? Let me talk a little bit about the values that are the foundation for our Academic Achievement For All Act, Straight A's, because there is a different approach. It builds on the welfare approach.

What it says simply is, we are going to take these Federal programs, and we are going to provide States with the opportunity, this is not a mandated program, this is a choice for the States, we are going to provide them with the opportunity to go through the categorical programs, the model that my colleague thinks is the most appropriate; and my colleague should be pleased to know that that program is going to stay in place.

But we also then provide the States with the opportunity of coming to Washington and presenting a plan and saying, we have got some special need and some special focus and some special priorities that we have in Wisconsin or that we have in Michigan that we really think we need to focus on.

So they reach an agreement with the Department of Education on a charter. So they get a 5-year waiver from the rules and the regulations. And, yes, they do get flexibility. They get flexibility to move their dollars around to their areas of focus and their areas of need.

In exchange for that increase to flexibility and in exchange for eliminating the paperwork, they reach an accountability agreement that says, for that flexibility for the dollars and that freedom from the red tape, we are going to focus on results, and we are going to agree on these accountability standards for all of our students, to make sure that we deal with all of our students and do not forget about any of our students. The State then gets that flexibility.

If, after 5 years, the States have not met their accountability guidelines, the Federal Government can come back and say they did not do what they said they were going to do. They did not get the results that they were going to get. They have got to go back into the categorical programs.

Flexibility, elimination of red tape, and a freedom to focus on results. It is the welfare model. What do we believe that this will lead to, and what are the values that drive this kind of a strategy? We believe that education needs to be student centered. Successful schools are not forced to rely and focus on Federal paperwork. They have the opportunity and the freedom to focus on each and every child. They are results oriented, not process oriented.

We believe in equality. Each and every child in America must be given the opportunity to succeed in his or her school.

Another value we have is that parental involvement and local control. Schools thrive, and we have seen this wherever we went, schools thrive when parents are integrated into the learning process, when parents and adults are viewed as equal partners in decision making and direction setting, and when decisions are made at the local level by individuals who know the names and understand the needs of each child in their school.

Freedom. We believe that families and students deserve the opportunity to choose the school that they will attend.

Safety. Successful schools are free from violence. Children and parents need schools which can provide a secure learning environment.

Basic academics. It is another core value much the schools and the successful schools that we have seen focus on basic academics. Reading, writing, and math are taught as the foundation of lifelong learning and a sound future. The methods used to teach these subjects and others should be based on sound science and reliable and reputable research.

Discipline. Successful schools maintain disciplined environments where all are respected.

Flexibility. Schools need the ability to shape programs and policies that fit their particular needs. One size does not fit all. It did not work in welfare. It does not work in education. No two school districts or States are the same, and a one-size-fits-all Federal education system just will not work. One size fits all cannot replace the knowledge or the concern. To imply that people at the local level and that parents and teachers and administrators do not care about their children at the local level sells them short. It does not sell them short, it is just a total lack of understanding of what is going on in local America today.

Results. Successful schools implement accountability mechanisms which measure whether or not a child is learning.

Finally, another value is we believe that dollars need to be spent in the classroom and not on bureaucracy. Successful schools spend less time and resources on paperwork and more time on classroom resources.

We all want a better education system. We want common sense principles that drive our education strategy. For us, that means parental involvement. It means basic academic. It means flexibility. It means dollars to the classroom, and it means eliminating red tape.

For the other side, it means creating a Federal school board and running one's local school in a much more direct way from Washington than at the local level. That is just not going to work. It is not the right way to go.

We have a wonderful opportunity in today's prosperity to reform and to rethink the education model. We did part of it earlier this year when we did the Education Flexibility Act, providing a certain degree of latitude and flexibility in States to deal with the paperwork that has been imposed upon them.

We can build off that now by giving States and local schools the flexibility in how they spend their dollars and focusing on meeting the needs of their children's learning.

We can provide parents with the opportunity and the flexibility to secure their child's education by providing tax relief in the form of education savings accounts.

We can get more resources focused into the classroom by saying, when it comes to Federal education spending, Washington comes last. It does not mean we cut our Washington spending. It says that, for every dollar we spend in Washington, instead of getting 60 or 65 to 70 cents back to a local classroom, which is where the leverage point is, which is where we can have an impact on learning, we are saying we are going to get 95 cents of every Federal dollar back.

So without even expending more money in Washington, we can increase the amount of Federal dollars that get to the classroom, the local classroom, by 50 percent. That is an effective way to improve education.

We have made a lot of progress. We are going to continue working on this issue.

As I wrap up, I take a look at what we have accomplished and what we want to accomplish this year. We are going to have a balanced budget. We are going to begin the process of setting aside $1.8 trillion for Social Security and Medicare. We are going to provide tax relief to the American people. We are going to strengthen our national security so that we can be secure at home and abroad.

We are going to focus on education. We are going to allow parents and local schools to focus on meeting the needs of their children. We are going to provide States the flexibility. We are going to take the model that worked in welfare, and we are going to take that same kind of criteria, which is a trust in the local level, a trust in the State level, and saying the top-down structure does not work. We have got a model that works. We have seen it work. People have experienced it. People are benefiting from it. We need to take that same model and apply it to education.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILCHREST (at the request of Mr. ARMEY) for today and the balance of the week on account of illness.

Mr. SANFORD (at the request of Mr. ARMEY) for after 5 p.m. today and the balance of the week on account of official business.

Mr. PACKARD (at the request of Mr. ARMEY) for after 4 p.m. today and the balance of the week on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:

Mr. DUNCAN, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Friday, June 25, 1999, at 9 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the fourth quarter of 1998 and the first quarter of 1999 by Committees of the House of Representatives, as well as a consolidated report of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 1999, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 31 AND DEC. 31, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Archer:											
Hotel cancellation fees, 11/7/98			Chile						2,508.00		2,508.00
Committee total											2,508.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL ARCHER, Chairman, May 12, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND MAR. 31, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Stephen Horn	1/10	1/12	Finland		568.00						
	1/12	1/14	Germany		508.00						
	1/14	1/16	France		502.00						
	1/16	1/18	Austria		480.00						
Hon. John Mica	1/10	1/12	Finland		568.00						
	1/12	1/14	Germany		508.00						
	1/14	1/16	France		502.00						
	1/16	1/18	Austria		480.00						
	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Robert Charles	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Michael Yeager	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Sean Littlefield	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Hon. Mark Souder	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Hon. Doug Ose	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		499.00		88.89		
Hon. Judy Biggert	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Kevin Long	2/13	2/14	Panama		217.00		92.00		54.55		
	2/14	2/15	El Salvador		210.00		87.85		114.70		
	2/15	2/16	Peru		306.00		43.10				
	2/16	2/17	Bolivia		398.50		173.34		1,052.64		
	2/18	2/21	Mexico		455.00		183.00		88.89		
Committee total					16,808.00		4,950.32		10,486.24		32,244.56

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN BURTON, Chairman, Apr. 30, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Conyers, Jr	1/27	1/28	Dominican Republic		161.00		(3)				161.00
	1/28	1/28	Haiti								
Hon. Bob Goodlatte	2/14	2/17	England		1,095.00		(3)				1,095.00
	2/17	2/18	France		332.00						332.00
	2/18	2/20	Belgium		582.00						582.00
Hon. Rick Boucher	2/14	2/17	England		1,095.00		(3)				1,095.00
	2/17	2/18	France		332.00						332.00
	2/18	2/20	Belgium		582.00						582.00
Debra Laman	2/14	2/17	England		1,095.00		(3)				1,095.00
	2/17	2/18	France		332.00						332.00
	2/18	2/20	Belgium		582.00						582.00
Robert Jones	2/14	2/17	England		1,095.00		(3)				1,095.00
	2/17	2/18	France		332.00						332.00
	2/18	2/20	Belgium		582.00						582.00
Delegation expenses	2/18	2/20	Belgium				765.26		455.75		1,221.01
Committee total					8,197.00		765.26		455.75		9,418.01

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HENRY HYDE, Chairman, May 6, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
David Heymsfeld	1/12	1/17	China		1,047.00		4,422.40				5,469.40
Committee total					1,047.00		4,422.40				5,469.40

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BUD SHUSTER, Chairman, May 5, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
John Stopher, Staff	1/8	1/20	Europe		3,207.00						3,207.00
Commercial Airfare							5,301.97				5,301.97
Patrick Murray, Staff	1/8	1/20	Europe		2,843.00						2,843.00
Commercial Airfare							6,586.47				6,586.47
Catherine Eberwein, Staff	1/24	2/1	Asia		2,045.00						2,045.00
Commercial Airfare							5,920.20				5,920.20
Jay Jakub, Staff	1/24	2/3	Asia		2,473.00						2,473.00
Commercial Airfare							7,383.40				7,383.40
Christopher Barton, Staff	1/28	1/29	Caribbean		161.00		(3)				161.00
Tom Newcomb, Staff	1/12	1/21	Europe and Asia		2,097.00		(3)				2,097
Commitee Total					12,826.00		25,192.04				38,018.04

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER J. GOSS, Chairman, May 12, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION TO GERMANY, ALBANIA, MACEDONIA, ITALY, AND BELGIUM, EXPENDED BETWEEN APR. 16 AND APR. 18, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. C.W. Bill Young		4/16	USA								
	4/16	4/17	Germany								
	4/17	4/17	Albania								
	4/17	4/17	Macedonia								
	4/17	4/17	Italy								
	4/17	4/18	Belgium		100.00						
	4/18		USA								100.00
Identical itinerary and Per diem for:											
Hon. Steny Hoyer [3]					100.00						100.00
Hon. Henry Bonilla [3]					100.00						100.00
Hon. Ernest Istook [3]					100.00						100.00
Hon. Mac Collins [3]					100.00						100.00
Hon. Mark Souder [3]					100.00						100.00
Hon. Jim Gibbons [3]					100.00						100.00
Hon. Robin Hayes [3]					100.00						100.00
Hon. Nancy Pelosi [3]					100.00						100.00
Hon. Donald Payne [3]					100.00						100.00
Hon. Neil Abercrombie [3]					100.00						100.00
Hon. Rod Blagojevich [3]					100.00						100.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION TO GERMANY, ALBANIA, MACEDONIA, ITALY, AND BELGIUM, EXPENDED BETWEEN APR. 16 AND APR. 18, 1999—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bill Inglee [3]					100.00						100.00
Doug Gregory [3]					100.00						100.00
Greg Dahlberg [3]					100.00						100.00
Scott Paul [3]					100.00						100.00
Committee Total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Identical itinerary and per diem as Hon. C.W. Bill Young.

BILL YOUNG, Chairman, May 13, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HOUSE DELEGATION TO GERMANY, ALBANIA, MACEDONIA, ITALY, AND BELGIUM, EXPENDED BETWEEN APR. 30 AND MAY 2, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Richard Armey	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Chris Smith	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Peter Hoekstra	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Rick Lazio	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Ed Royce	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Sue Kelly	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Mark Sanford	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Mac Thornberry	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. John Cooksey	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Bob Riley	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Steven Kuykendall	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Tony Hall	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Sheila Jackson-Lee	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Frank Mascara	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Bill Pascrell	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Brad Sherman	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Tammy Baldwin	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Grace Napolitano	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Hon. Mike Thompson	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Wilson Livingood	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Scott Palmer	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Brian Gunderson	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Jim Wilkinson	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Kathleen Moazed	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Bill Natter	4/30	5/2	Belgium		218.19		(3)		140.51		358.70
Committee total					5,672.94				3,653.26		9,326.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DICK ARMEY, Chairman, June 3, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO RUSSIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 11 AND JAN. 14, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Frank Wolf	1/11	1/14	Russia		1,002.00		4,961.00				6,113.00
Committe total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK R. WOLF, Chairman, May 17, 1999.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO ITALY, ISRAEL, EGYPT, JORDAN, TUNISIA, AND MOROCCO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 26 AND APR. 8, 1999

Name of Member or employee	Date		Country	Per diem [1]		Transportation				Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dr. James Ford	3/27	3/28	Italy		328.00						
	3/28	3/30	Israel		658.00						
	3/30	4/1	Egypt		452.00						
	4/1	4/3	Jordan		588.00						
	4/3	4/5	Tunisia		358.00						
	4/5	4/8	Morocco		661.00						
Committtee total					3,045.00						

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DR. JAMES FORD, May 12, 1999.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2722. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Performance of Certain Functions by National Futures Association With Respect to Those Foreign Firms Acting in the Capacity of a Futures Commission Merchant—received June 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2723. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Rules of Practice; Final Rules; Correction—received June 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2724. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Fees for Applications for Contract Market Designation—received June 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2725. A letter from the Administrator, Food and Consumer Service, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties (RIN: 0584–AC46) received May 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2726. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Kresoxim-methyl; Pesticide Tolerances [OPP–300873; FRL–6085–4] (RIN: 2070–AB78) received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2727. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Azoxystrobin; Extension of Tolerance for Emergency Exemptions [OPP–300840; FRL–6074–2] (RIN: 2070–AB78) received May 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2728. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Para-Aramid Fibers and Yarns [DFARS Case 98–D310] received May 12, 1999; to the Committee on Armed Services.

2729. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Applicability of Buy American Clauses to Simplified Acquisitions [DFARS Case 98–D031] received May 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2730. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Antiterrorism Training [DFARS Case 96–D016] received May 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2731. A letter from the Secretary of Defense, transmitting approval of the retirement of Lieutenant General Joseph J. Redden, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2732. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2733. A letter from the Commissioner, National Center for Education Statistics, Department of Education, transmitting the annual statistical report of the National Center for Educational Statistics (NCES), ''The Condition of Education,'' pursuant to 20 U.S.C. 1221e–1(d)(1); to the Committee on Education and the Workforce.

2734. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Lead; Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors [OPPTS–62158A; FRL–6058–6] (RIN: 2070–AD11) received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2735. 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; District of Columbia; Enhanced Inspection and Maintenance Program [DC036–2017; FRL–6356–4] received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2736. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act: Compliance Determination [FRL–6341–2] (RIN: 2060–AI27) received May 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2737. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Emissions From Existing Hazardous/Medical/Infectious Waste Incinerators [FRL–6340–6] received May 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2738. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan for South Coast Air Quality Management District [CA012–0144a, FRL–6335–3] received May 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2739. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Halosulfuron; Pesticide Tolerance [OPP–300854; FRL–6078–5] (RIN: 2070–AB78) received May 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2740. A letter from the Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Meyersdale, Pennsylvania) (Richwood, West Virginia) (Newell, Iowa) (Superior, Wyoming) (La Center, Kentucky) (Lovell, Wyoming) (Royal City, Washington) [MM Docket No. 98–28; RM–9234] [MM Docket No. 98–33; RM–9224] [MM Docket No. 98–71; RM–9266] [MM Docket No. 98–109; RM–9282] [MM Docket No. 98–114; RM–9298] [MM Docket No. 98–116; RM–9281] [MM Docket No. 98–150; RM–9302] received May 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2741. A letter from the Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules [MM Docket No. 98–93] received May 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2742. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted For Direct Addition to Food For Human Consumption; Sucrose Acetate Isobutyrate [Docket No. 91F–0228] received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2743. 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 Greece for defense articles and services (Transmittal No. 99–06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2744. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the activities of the Multinational Force and Observers (MFO) and certain financial information concerning United States Government participation in that organization, pursuant to 22 U.S.C. 3422(a)(2)(A); to the Committee on International Relations.

2745. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Exports to Cuba [Docket No. 990427108–9108–01] (RIN: 0694–AB93) received May 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2746. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released by the GAO in April 1999, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

2747. A letter from the Inspector General, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period October 1, 1998, through March 31, 1999, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2748. 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; Groundfish of the Bering Sea and Aleutian Islands Management Area; Exempted Fishing Permit [I.D. 052699D] received June 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2749. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of the San Juan High Offshore Airspace Area, PR [Airspace Docket No. 97–ASO–21] (RIN: 2120–AA66) received June 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2750. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; West Union, IA [Airspace Docket No. 99–ACE–12] received June 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2751. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Back Bay of Biloxi, MS [CGD8–96–049] (RIN: 2115–AE47) received June 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2752. A letter from the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Notice and Request for Proposals [Docket No. 990416102–9102–01] (RIN: 0648–ZA64) received June 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

2753. A letter from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting the Department's final rule—Schedule for Rating Disabilities; Diseases of the Ear and Other Sense Organs (RIN: 2900–AF22) received May 11, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

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. YOUNG of Florida: Committee on Appropriations. H.R. 853. A bill to amend the Congressional Budget Act of 1974 to provide for joint resolutions on the budget, reserve funds for emergency spending, strengthened enforcement of budgetary decisions, increased accountability for Federal spending, accrual budgeting for Federal insurance programs, mitigation of the bias in the budget process toward higher spending, modifications in paygo requirements when there is an on-budget surplus, and for other purposes; with an amendment, adversely, (Rept. 106–198 Pt. 1). Ordered to be printed.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 221. Resolution providing for consideration of the bill (H.R. 1802) to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes (Rept. 106–199). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOWNS (for himself, Mr. GILLMOR, Mr. HALL of Texas, Mr. BURR of North Carolina, Mr. BISHOP, and Mr. HASTINGS of Washington):

H.R. 2335. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Commerce.

By Mr. MCCOLLUM:

H.R. 2336. A bill to amend title 28, United States Code, to provide for appointment of United States marshals by the Attorney General; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. BARR of Georgia, Mr. HINCHEY, Mr. HOSTETTLER, Mr. MEEKS of New York, and Mr. CAMPBELL):

H.R. 2337. A bill to repeal section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on Government Reform.

By Mr. RAMSTAD:

H.R. 2338. A bill to require the Secretary of Health and Human Services to provide an individual who seeks to have a particular type of item or service to be covered benefit under the Medicare Program the option to meet with the Secretary in advance to develop a written agreement specifying the information necessary for the Secretary to make a national coverage determination under the Medicare Program; 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. BEREUTER (for himself, Mr. VENTO, Mr. HEFLEY, Mr. RAHALL, Mr. CASTLE, Mr. PICKETT, Mr. BARRETT of Nebraska, Mr. SAWYER, Mr. BOEHLERT, Mrs. TAUSCHER, Mr. GILCHREST, Mrs. NORTHUP, Mr. MCINNIS, Mr. OBERSTAR, Ms. PELOSI, Mr. FALEOMAVAEGA, Mr. LIPINSKI, Mr. LEACH, Mr. HINCHEY, Mr. MOLLOHAN, Mr. EHRLICH, Mr. ENGLISH, Mr. KUCINICH, Mr. EVANS, Mr. STARK, Mr. LANTOS, Mr. PORTER, Ms. WOOLSEY, Mr. COSTELLO, Mr. DAVIS of Illinois, Mrs. MORELLA, Mr. PHELPS, Mr. UDALL of Colorado, Ms. NORTON, Mr. MORAN of Virginia, Mr. EHLERS, Mr. WELLER, Mr. CLAY, Mr. GILMAN, and Mr. BLUMENAUER):

H.R. 2339. A bill to amend the National Trails System Act to authorize an additional category of national trail known as a national discovery trail, to provide special requirements for the establishment and administration of national discovery trails, and to designate the cross country American Discovery Trail as the first national discovery trail; to the Committee on Resources.

By Mr. BISHOP (for himself and Mr. CHAMBLISS):

H.R. 2340. A bill to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes; to the Committee on the Judiciary.

By Mr. BURR of North Carolina (for himself and Mr. TOWNS):

H.R. 2341. A bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics; to the Committee on Commerce.

By Mr. BURR of North Carolina (for himself and Mr. BALLENGER):

H.R. 2342. A bill to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes; to the Committee on International Relations, and in addition to the Committee on 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. CALVERT:

H.R. 2343. A bill to amend the Endangered Species Act of 1973 to provide for the review and recommendation by the National Academy of Sciences of species that should be removed from lists of endangered species and threatened species; to the Committee on Resources.

By Mr. DAVIS of Florida (for himself, Mr. ROEMER, Mr. ETHERIDGE, Mr. GONZALEZ, Mr. FORD, Mr. SHOWS, Mr. BENTSEN, Mr. MARTINEZ, Mrs. MINK of Hawaii, Mr. KUCINICH, Ms. SANCHEZ, Mr. FATTAH, Mr. HOLT, Ms. WOOLSEY, Mr. ROMERO-BARCELÓ, Mr. SCARBOROUGH, Mr. FOLEY, Mr. HINOJOSA, Ms. STABENOW, Ms. BERKLEY, Mrs. THURMAN, Mr. KIND, Mr. SMITH of Washington, Mr. LAMPSON, and Mr. WYNN):

H.R. 2344. A bill to provide funds to assist high-poverty school districts meet their teaching needs; to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mrs. LOWEY, Mr. ROEMER, Mr. BONIOR, Mr. FROST, Ms. KAPTUR, Mr. HINCHEY, Mr. SERRANO, Mr. CROWLEY, Mr. MCDERMOTT, Ms. ROYBAL-ALLARD, Mr. MCGOVERN, Ms. KILPATRICK, Mr. WAXMAN, Mr. DOYLE, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. WYNN, Mr. KILDEE, Mr. LATHAM, Mr. DAVIS of Illinois, Mr. LIPINSKI, and Mr. CUMMINGS):

H.R. 2345. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Agriculture, 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. EHLERS (for himself, Mr. COBLE, Mr. DINGELL, Mr. UPTON, Mr. HOBSON, Mr. HOEKSTRA, Mr. TRAFICANT, and Mr. CAMPBELL):

H.R. 2346. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce.

By Mr. ENGLISH (for himself, Mr. HILL of Montana, and Mr. NETHERCUTT):

H.R. 2347. A bill to amend the Internal Revenue Code of 1986 to provide that the look-back method shall not apply to construction contracts required to use the percentage of completion method; to the Committee on Ways and Means.

By Mr. HANSEN (for himself, Mr. COOK, Mr. CANNON, Mr. UDALL of Colorado, Mr. MCINNIS, Mr. SCHAFFER, Mr. TANCREDO, and Mrs. CUBIN):

H.R. 2348. A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Resources.

By Mr. HERGER (for himself and Ms. DUNN):

H.R. 2349. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment of the unified credit against the estate and gift taxes; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. MCINTOSH, Mr. DOOLITTLE, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. HILLEARY, Mr. HOSTETTLER, Mrs. CHENOWETH, Mr. GRAHAM, Mr. BARTLETT of Maryland, Mr. TANCREDO, Mr. PITTS, Mr. DICKEY, Mr. JONES of North Carolina, Mr. SUNUNU, Mr. HANSEN, Mr. SOUDER, Mr. WELDON of Florida, Mr. CHABOT, Mrs. CUBIN, Mr. DEMINT, Mr. HERGER, Mr. MCINNIS, Mr. WATKINS, Mr. HULSHOF, Mr. HAYWORTH, Mr. DELAY, Mr. PAUL, Mr. MANZULLO, Mrs. MYRICK, Mr. SKEEN, Mr. BILIRAKIS, Mr. HEFLEY, Mr. ROHRABACHER, Mr. MILLER of Florida, Mr. THORNBERRY, Mr. BONILLA, Mr. COBURN, Mr. POMBO, Mr. ISAKSON, Mr. SESSIONS, Mr. PICKERING, Mr. RYUN of Kansas, Mr. GREEN of Wisconsin, Mr. RILEY, Mr. SHADEGG, Mr. RYAN of Wisconsin, Mr. DREIER, Mr. HOBSON, Mr. HYDE, Mr. SPENCE, and Mr. METCALF):

H.R. 2350. A bill to amend the Internal Revenue Code of 1986 to repeal taxes on American Values; to the Committee on Ways and Means, and in addition to the Committee on the Budget, 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. LAFALCE (for himself, Mr. WATT of North Carolina, Mr. VENTO, Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, and Mr. LUTHER):

H.R. 2351. A bill to amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself and Mr. SHAW):

H.R. 2352. A bill to provide for a judicial remedy for United States persons injured as a result of violations by foreign states of their arbitral obligations under international law; to the Committee on the Judiciary.

H.R. 2353. A bill to direct the President to withhold extension of the WTO Agreement to any country that is not complying with its obligations under the New York Convention, and for other purposes; to the Committee on Ways and Means.

By Mr. RAHALL (for himself and Mr. GIBBONS):

H.R. 2354. A bill to grant a federal charter to the Association of American State Geologists; to the Committee on the Judiciary.

By Mr. SHAYS (for himself, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BAIRD, Mr. BALDACCI, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mrs. BIGGERT, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BOEHLERT, Mr. BONIOR, Mr. BRADY of Pennsylvania, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. CAMPBELL, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Ms. CARSON, Mrs. CHRISTENSEN, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. COYNE, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DIXON, Mr. DOOLEY of California, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. FORBES, Mr. FORD, Mr. FRELINGHUYSEN, Mr. FROST, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILMAN, Mr. GONZALEZ, Mr. GREENWOOD, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLT, Ms. HOOLEY of Oregon, Mr. HORN, Mr. HOYER, Mr. INSLEE, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Mr. KLINK, Mr. KOLBE, Mr. KUCINICH, Mr. KUYKENDALL, Mr. LAFALCE, Mr. LANTOS, Mr. LARSON, Mr. LEACH, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MCNULTY, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MEEKS of New York, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Ms. PRYCE of Ohio, Mr. RANGEL, Mr. REYES, Ms. RIVERS, Mr. RODRIGUEZ, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Ms. SANCHEZ, Mr. SANDERS, Mr. SAWYER, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Washington, Ms. STABENOW, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mrs. THURMAN, Mr. TIERNEY, Mr. TOWNS, Mr. TRAFICANT, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UNDERWOOD, Mr. VENTO, Ms. WATERS, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. WEINER, Mr. WEXLER, Mr. WEYGAND, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H.R. 2355. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Government Reform, 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. THOMAS (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. SAM JOHNSON of Texas, Mr. CAMP, Mr. RAMSTAD, Mr. ENGLISH, Mr. MCINTOSH, and Mr. LOBIONDO):

H.R. 2356. A bill to amend title XVIII of the Social Security Act to improve review procedures under the Medicare Program by making those procedures more equitable and efficient for beneficiaries and other claimants, and for other purposes; 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. TRAFICANT:

H.R. 2357. A bill to designate the United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, as the ''Louise Stokes Post Office''; to the Committee on Government Reform.

By Mr. VISCLOSKY (for himself, Mr. BURTON of Indiana, Mr. ROEMER, Mr. BUYER, Ms. CARSON, Mr. MCINTOSH, Mr. HILL of Indiana, Mr. HOSTETTLER, Mr. SOUDER, and Mr. PEASE):

H.R. 2358. A bill to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the ''Lance Corporal Harold Gomez Post Office''; to the Committee on Government Reform.

By Mr. YOUNG of Alaska (for himself, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. FROST, Ms. PELOSI, Mr. ABERCROMBIE, Mr. FOLEY, Mr. MCINNIS, Mr. UDALL of Colorado, Mr. PALLONE, Mr. WATKINS, Mr. HAYWORTH, Mr. KENNEDY of Rhode Island, Mr. SMITH of Washington, Mr. OBERSTAR, Mr. FALEOMAVAEGA, Mr. HOUGHTON, Mr. TOWNS, Ms. WATERS, Mr. NETHERCUTT, and Mr. STUPAK):

H.R. 2359. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Ways and Means.

By Mr. SANDERS (for himself and Mr. BURTON of Indiana):

H.R. 2360. A bill to provide that benefits under chapter 89 of title 5, United States Code, may be afforded for covered services provided by a licensed or certified chiropractor, acupuncturist, massage therapist, naturopathic physician, or midwife, without supervision or referral by another health practitioner; to the Committee on Government Reform.

By Mr. SANDERS:

H.R. 2361. A bill to repeal the interim payment system for home health services furnished under the Medicare Program, to eliminate the mandatory 15 percent reduction in payment amounts for such services under the prospective payment system, to continue periodic interim payments for such services, and for other purposes; 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.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. LAMPSON, Ms. GRANGER, Mr. BAKER, Mr. BONILLA, Mr. BURR of North Carolina, and Mr. CANNON.

H.R. 25: Mr. SANDERS.

H.R. 72: Mr. SCHAFFER.

H.R. 82: Mr. CLEMENT.

H.R. 148: Mr. ORTIZ and Mr. SWEENEY.

H.R. 172: Mr. DEAL of Georgia.

H.R. 175: Mr. SAXTON, Mr. LOBIONDO, Mr. STUPAK, and Mr. BLILEY.

H.R. 220: Mr. WAMP.

H.R. 303: Mr. PETERSON of Minnesota.

H.R. 323: Mr. CONYERS.
H.R. 355: Mr. MEEHAN.
H.R. 357: Mr. GORDON.
H.R. 405: Mr. DICKEY.
H.R. 406: Mr. OBERSTAR.
H.R. 486: Mr. WYNN, Mr. HILLIARD, Mr. LOBIONDO, and Mr. KANJORSKI.
H.R. 490: Mr. JOHN, Mr. WATTS of Oklahoma, Mr. STENHOLM, Mr. BENTSEN, Mr. COOK, Mr. GREEN of Texas, Mr. SHOWS, Mr. SESSIONS, Mr. SANDLIN, Mr. ISTOOK, Mr. SHIMKUS, Mr. HALL of Texas, Mr. SCHAFFER, Mr. SAM JOHNSON of Texas, and Mr. MANZULLO.
H.R. 516: Mr. PETERSON of Minnesota.
H.R. 518: Mr. PETERSON of Minnesota.
H.R. 555: Mr. GEORGE MILLER of California.
H.R. 597: Ms. GRANGER, Ms. KAPTUR, Mr. ROEMER, and Ms. SCHAKOWSKY.
H.R. 614: Mr. MILLER of Florida.
H.R. 623: Mr. SKELTON and Mr. SYNDER.
H.R. 628: Mr. GOODE.
H.R. 639: Mr. PHELPS.
H.R. 655: Mr. MALONEY of Connecticut.
H.R. 664: Mr. CLEMENT.
H.R. 675: Mr. MANZULLO.
H.R. 692: Mr. BAKER.
H.R. 742: Mr. DEUTSCH, Mr. GORDON, Mr. MENENDEZ, and Mr. QUINN.
H.R. 756: Mr. PITTS.
H.R. 765: Mr. CLEMENT and Mr. COSTELLO.
H.R. 783: Mr. BROWN of California and Mr. SHAYS.
H.R. 784: Mrs. MCCARTHY of New York.
H.R. 797: Mr. GUTIERREZ and Mr. TRAFICANT.
H.R. 804: Mr. COSTELLO and Mr. KIND.
H.R. 835: Mr. LAMPSON and Mr. SPRATT.
H.R. 853: Mr. RYAN of Wisconsin.
H.R. 864: Mr. FOSSELLA, Mr. LUTHER, Mr. JOHN, Mr. BOSWELL, Mrs. CHRISTENSEN, Mr. STUPAK, Mr. DEFAZIO, Mr. LOBIONDO, Mr. CONYERS, Mr. SAXTON, and Mr. COLLINS.
H.R. 865: Mr. RANGEL and Mr. SISISKY.
H.R. 903: Mr. CALVERT.
H.R. 922: Mr. GOODLING.
H.R. 976: Mr. GORDON and Mr. DOOLITTLE.
H.R. 1020: Mr. STUPAK, Ms. WOOLSEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. THURMAN.
H.R. 1046: Mr. MCHUGH.
H.R. 1052: Mr. MCINTOSH, Mr. WEINER, and Mr. GOODLATTE.
H.R. 1070: Mr. COOKSEY, Mr. HEFLEY, Mr. ENGLISH, and Mr. SAXTON.
H.R. 1081: Mr. HOLDEN.
H.R. 1083: Mr. GOODE and Mr. JEFFERSON.
H.R. 1090: Mr. GILMAN, Mr. CLYBURN, Mr. CLAY, Ms. VELÁZQUEZ, and Mr. STUPAK.
H.R. 1092: Mrs. CAPPS.
H.R. 1103: Mr. BECERRA, Mr. BORSKI, Mr. BOYD, Ms. BROWN of Florida, Mr. CAPUANO, Mr. DAVIS of Illinois, Mr. DOOLEY of California, Mr. ENGEL, Ms. ESHOO, Mr. FRANK of Massachusetts, Mr. KING, Mrs. LOWEY, Mr. MEEKS of New York, Ms. MCCARTHY of Missouri, Ms. MILLENDER-MCDONALD, Mr. OLVER, Mr. OWENS, Mr. RAHALL, Mr. VISCLOSKY, and Mr. BLUMENAUER.
H.R. 1144: Mr. GIBBONS.
H.R. 1176: Ms. RIVERS.
H.R. 1180: Mr. KUCINICH, Mr. HOYER, Mr. BECERRA, and Mr. YOUNG of Alaska.
H.R. 1182: Mr. BAKER.
H.R. 1188: Mr. BOUCHER.
H.R. 1193: Mr. DEUTSCH and Mr. MURTHA.
H.R. 1218: Mr. PHELPS.
H.R. 1221: Mr. SKEEN and Mr. SHAW.
H.R. 1222: Mr. PHELPS.
H.R. 1247: Ms. SCHAKOWSKY.
H.R. 1260: Ms. BROWN of Florida.
H.R. 1264: Mr. SENSENBRENNER.
H.R. 1271: Mr. HINCHEY, Mr. MALONEY of Connecticut, Mr. FROST, Mr. NADLER, Ms. LEE, Mr. BROWN of Ohio, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, Ms. KAPTUR, Ms. BROWN of Florida, Mr. BRADY of Pennsylvania.
H.R. 1287: Mr. TERRY.
H.R. 1300: Mr. HUTCHINSON and Mrs. ROUKEMA.
H.R. 1323: Mr. SMITH of Washington, Mr. BLUNT, and Mr. SKEEN.
H.R. 1329: Mr. MANZULLO and Mr. ANDREWS.
H.R. 1344: Mr. TAYLOR of North Carolina and Mr. DICKEY.
H.R. 1352: Ms. LOFGREN, Mr. ROTHMAN, Mr. KENNEDY of Rhode Island, Mr. CUMMINGS, Mr. EVANS, Ms. DANNER, Mrs. LOWEY, Mr. ALLEN, Ms. DELAURO, and Ms. PELOSI.
H.R. 1407: Mr. HOLT.
H.R. 1412: Ms. KAPTUR.
H.R. 1422: Mr. BISHOP, Ms. SCHAKOWSKY, Mr. DEFAZIO, Mr. LANTOS, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. FRANK of Massachusetts, Mr. DAVIS of Illinois, Mr. MCGOVERN, Mr. RAHALL, Mr. FROST, Ms. VELÁZQUEZ, Ms. MILLENDER-MCDONALD, Mrs. EMERSON, Ms. KAPTUR, and Mr. EVANS.
H.R. 1443: Mr. BLUMENAUER.
H.R. 1450: Mr. JEFFERSON.
H.R. 1477: Mr. WEINER, Mr. JEFFERSON, and Mr. KNOLLENBERG.
H.R. 1495: Mr. GILCHREST and Mr. SHOWS.
H.R. 1505: Mr. KASICH and Mr. FOLEY.
H.R. 1507: Mr. DOOLITTLE.
H.R. 1523: Mr. MCINNIS, Mr. WATKINS, and Mr. ROHRABACHER.
H.R. 1524: Mr. BOYD.
H.R. 1525: Mr. FILNER, Mrs. MALONEY of New York, and Mr. CAPUANO.
H.R. 1543: Ms. KILPATRICK, Mr. FROST, Mr. GUTIERREZ, and Mr. BENTSEN.
H.R. 1592: Mr. DOOLEY of California and Mrs. FOWLER.
H.R. 1622: Mrs. LOWEY and Ms. BALDWIN.
H.R. 1634: Mr. JEFFERSON and Mr. COOKSEY.
H.R. 1645: Mr. HINCHEY.
H.R. 1650: Mr. CASTLE, Mr. BOEHNER, Mr. CLYBURN, Mr. MCNULTY, Mr. GONZALEZ, and Mr. JACKSON of Illinois.
H.R. 1671: Mr. WEXLER.
H.R. 1681: Mr. CUMMINGS, Mr. CONYERS, Mr. MEEKS of New York, Ms. KILPATRICK, Mr. DAVIS of Illinois, Mr. JEFFERSON, Mrs. CLAYTON, Mrs. CHRISTENSEN, Mr. FRANK of Massachusetts, Mr. TOWNS, Mr. CLYBURN, Mr. JACKSON of Illinois, Mr. PAYNE, Ms. NORTON, Mr. HASTINGS of Florida, Mrs. MEEK of Florida, Mr. SCOTT, Mr. WATT of North Carolina, Ms. BROWN of Florida, Ms. LEE, Mrs. JONES of Ohio, Mr. RANGEL, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 1728: Mr. RODRIGUEZ.
H.R. 1730: Mr. ENGLISH, Ms. LOFGREN, Mr. MCHUGH, Mr. FALEOMAVAEGA, and Mr. DEUTSCH.
H.R. 1732: Mr. THOMPSON of California.
H.R. 1736: Mr. THOMPSON of Mississippi and Mr. BALDACCI.
H.R. 1760: Mrs. MORELLA and Ms. STABENOW.
H.R. 1785: Mrs. MALONEY of New York, Mr. NADLER, Mr. DAVIS of Illinois, Mr. RAHALL, Mr. CROWLEY, Mr. OLIVER, Ms. MCCARTHY of Missouri, and Mr. BLUMENAUER.
H.R. 1788: Mr. WAXMAN, Mrs. MYRICK, Mr. SNYDER, Mr. DOYLE, Mr. GONZALEZ, Mr. ENGLISH, Mr. SHERMAN, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. MCNULTY, and Mr. TIAHRT.
H.R. 1791: Mr. STENHOLM.
H.R. 1793: Mr. UPTON and Mr. CAMPBELL.
H.R. 1794: Mr. BEREUTER, Mr. LANTOS, Mr. ACKERMAN, Mr. BERMAN, Mr. WEXLER, Mr FALEOMAVAEGA, and Mr. DAVIS of Florida.
H.R. 1795: Mrs. MORELLA, Mr. BOUCHER, Mr. LOBIONDO, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. FILNER, and Mr.OBERSTAR.
H.R. 1837: Mr. GOODE, Mr. HALL Of Texas, Mr. BALDACCI, Mr. OXLEY, Mrs. JOHNSON of Connecticut, and Mr. MCGOVERN.
H.R. 1839: Mr. BARCIA.
H.R. 1841: Mr. NADLER, Ms. SCHAKOWSKY, Mr. UNDERWOOD, and Ms. LOFGREN.
H.R. 1884: Mr. FROST, and Ms. LEE
H.R. 1899: Mr. THOMPSON of Mississippi, Ms. MILLENDER-MCDONALD, Mr. ENGEL, Mr. SMITH, of New Jersey, Mr. LAMPSON, Mr. RAHALL, Mr. WALSH, Mr. DAVIS of Illinois, Ms. KAPTUR, Mr. DIXON, Mr. BROWN of California, and Mr. DAVIS of Florida.
H.R. 1929: Mr. JEFFERSON.
H.R. 1935: Mr. LUTHER.
H.R. 1966: Mr. BONIOR, Mr. FOLEY, Mr. LANTOS, and Mr. BORSKI.
H.R. 1994: Mr. BEREUTER.
H.R. 2013: Mr. WAMP.
H.R. 2021: Mr. FROST, Mr. WEINER, Mr. CUMMINGS, Ms. PELOSI, and Ms. SCHAKOWSKY.
H.R. 2025: Ms. SCHAKOWSKY.
H.R. 2031: Mr. GILLMOR, Mr. GARY MILLER of California, Mr. SKELTON, Mr. BAKER, Mr. KILDEE, Mr. GUTKNECHT, and Mr. HILLIARD.
H.R. 2038: Mr. MCINNIS and Mr. SHIMKUS.
H.R. 2086: Mr. CAMPBELL, Mr. LARSON, Mr. COSTELLO, Mr. BARTON of Texas, and Mr. LAMPSON.
H.R. 2101: Mr. CHAMBLISS.
H.R. 2106: Mr. PALLONE.
H.R. 2116: Mr. SMTIH of New Jersey and Mr. BILIRAKIS.
H.R. 2136: Mr. SHOWS and Mr. MCHUGH.
H.R. 2170: Mrs. THURMAN, Mr. RAHALL, Mr. MOAKLEY, Mr. PORTMAN, Mr. SISISKY, and Mr. REYES.
H.R. 2174: Ms. LEE and Mr. THOMPSON of Mississippi.
H.R. 2202: Mr. KIND and Mr. JONES of North Carolina.
H.R. 2227: Mr. SANDERS, Mr. FRANK of Massachusetts, Mr. WAXMAN, Mr. FROST, Ms. PELOSI, and Mrs. MINK of Hawaii.
H.R. 2243: Mr. MCHUGH.
H.R. 2247: Mr. LATOURETTE, Mr. TIAHRT, and Mr. GOODE.
H.R. 2252: Mr. BARTON of Texas.
H.R. 2260: Mr. TAYLOR of Mississippi, Mr. HUNTER, Mr. PACKARD, and Mr. EHLERS.
H.R. 2265: Mr. GILMAN, Mrs. JONES of Ohio, Ms. PELOSI, Mr. MASCARA, and Mr. BARCIA.
H.R. 2280: Mr. RODRIGUEZ, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. SANDLIN, Mr. REYES, Ms. BROWN of Florida, Mr. DOYLE, Ms. CARSON, Mr. SNYDER, Mr. SHOWS, Mr. ABERCROMBIE, Mr. PASCRELL, Mr. CRAMER, Mr. OLVER, MR. GUTIERREZ, and Mr. HILL of Indiana.
H.R. 2283: Mrs. MEEK of Florida, Ms. CARSON, Ms. LEE, and Mr. GREEN of Texas.
H.R. 2287: Ms. SANCHEZ, Mr. FORD, Mr. FROST, Mr. GUTIERREZ, Ms. ROS-LEHTINEN, Mr. LEWIS of Georgia, and Mr. MEEKS of New York.
H.R. 2306: Mr. FROST, Ms. MILLENDER-MCDONALD, Ms. DELAURO, and Mr. GREEN of Texas.
H.J. Res. 34: Mr. PASCRELL.
H.J. Res. 55: Mr. KUYKENDALL and Mr. PACKARD.
H. Con. Res. 60: Mr. TANNER, Mr. MENENDEZ, and Mr. BARRETT of Wisconsin.
H. Con. Res. 64: Ms. BALDWIN and Mrs. JONES of Ohio.
H. Con. Res. 97: Ms. WOOLSEY, Mr. BLUMENAUER, Mr. FARR of California, Ms. KILPATRICK, Mr. MINGE, Mr. ENGLISH, Mr. GUTIERREZ, Mr. HOEFFEL, Mr. BLAGOJEVICH, Mr. BARRETT of Wisconsin, Mr. BROWN of Ohio, Mr. CONYERS, Mr. HINCHEY, Mr. BERMAN, Mr. MCNULTY, Ms. LOFGREN, and Mr. OBERSTAR.
H. Con. Res. 111: Mr. STARK, Ms. PELOSI, Ms. VELÁZQUEZ, Mr. MARTINEZ, and Mr. BECERRA.

H. Con. Res. 124: Ms. RIVERS, Mr. BECERRA, and Ms. WOOLSEY.

H. Con. Res. 128: Mrs. LOWEY, Mr. KENNEDY of Rhode Island, Mr. SALMON, Ms. WOOLSEY, Mr. CUNNINGHAM, Mr. GUTKNECHT, Mr. DELAHUNT, Mr. TALENT, Mr. FORD, Mr. KING, Mr. BILBRAY, and Mr. HUNTER.

H. Con. Res. 131: Ms. WOOLSEY, Mr. ROTHMAN, Mr. SHOWS, Mr. FROST, Mr. CROWLEY, Mr. ANDREWS, Mrs. NORTHUP, Mr. SHERMAN, Mr. WAXMAN, and Mr. FOLEY.

H. Con. Res. 132: Ms. LEE, Mr. KUCINICH, Mr. JACKSON of Illinois, Mr. STARK, and Ms. WATERS.

H. Res. 41: Mr. BARTLETT of Maryland, Mr. LATOURETTE, and Ms. SCHAKOWSKY.

H. Res. 184: Mr. BRADY of Texas, Mr. BROWN of California, Mr. ENGEL, and Ms. MCKINNEY.

H. Res. 201: Mr. BURR of North Carolina, Mr. MOAKLEY, Mr. FROST, and Mr. FRANKS of New Jersey.

H. Res. 214: Mr. STUPAK and Mr. TANCREDO.

H. Res. 215: Mr. KING.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 222: Mrs. MYRICK.

H.R. 1145: Mrs. MYRICK.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 10

OFFERED BY: MR. DREIER

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Act of 1999''.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 105A. Public meetings for large bank acquisitions and mergers.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. GAO study of economic impact on community banks, other small financial institutions, insurance agents, and consumers.
Sec. 110. Responsiveness to community needs for financial services.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.
Sec. 117. Equivalent regulation and supervision.
Sec. 118. Prohibition on FDIC assistance to affiliates and subsidiaries.
Sec. 119. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.
Sec. 120. Technical amendment.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Safety and soundness firewalls between banks and their financial subsidiaries.
Sec. 123. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 124. Repeal of stock loan limit in Federal Reserve Act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Preservation of FTC Authority

Sec. 141. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.
Sec. 142. Interagency data sharing.
Sec. 143. Clarification of status of subsidiaries and affiliates.
Sec. 144. Annual GAO report.

Subtitle F—National Treatment

Sec. 151. Foreign banks that are financial holding companies.
Sec. 152. Foreign banks and foreign financial institutions that are wholesale financial institutions.
Sec. 153. Representative offices.
Sec. 154. Reciprocity.

Subtitle G—Federal Home Loan Bank System Modernization

Sec. 161. Short title.
Sec. 162. Definitions.
Sec. 163. Savings association membership.
Sec. 164. Advances to members; collateral.
Sec. 165. Eligibility criteria.
Sec. 166. Management of banks.
Sec. 167. Resolution Funding Corporation.
Sec. 168. Capital structure of Federal home loan banks.

Subtitle H—ATM Fee Reform

Sec. 171. Short title.
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TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company the activities of which had been determined by the Board by regulation or order under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1999, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation or order, unless modified by the Board);''.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: ''as of the day before the date of enactment of the Financial Services Act of 1999.''.

SEC. 103. FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

''SEC. 6. FINANCIAL HOLDING COMPANIES.

''(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

''(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

''(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

''(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

''(B) All of the subsidiary depository institutions of the bank holding company are well managed.

''(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution;

''(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A), (B), and (C).

''(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital and other operating standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution acquired by a bank holding company during the 12-month period preceding the submission of a notice under paragraph (1)(D) and any depository institution acquired after the submission of such notice may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined (by regulation or order and in accordance with subparagraph (B)) to be—

''(i) financial in nature or incidental to such financial activities; or

''(ii) complementary to activities authorized under this subsection to the extent that the amount of such complementary activities remains small.

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE BOARD.—

''(I) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection, including a regulation or order proposed under paragraph (4), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Board determines to be appropriate in light of the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE TREASURY.—

''(I) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

''(II) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

''(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

''(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(E) Underwriting, dealing in, or making a market in securities.

''(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

''(G) Engaging, in the United States, in any activity that—

''(i) a bank holding company may engage in outside the United States; and

''(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1999) to be usual in connection with the transaction of banking or other financial operations abroad.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an affiliate of the bank holding company that is a registered broker or dealer that is engaged in securities underwriting activities, or an affiliate of such broker or dealer, as part of a bona fide underwriting or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

''(iii) such shares, assets, or ownership interests are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

''(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

''(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

''(4) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Board shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(5) POST-CONSUMMATION NOTIFICATION.—

''(A) IN GENERAL.—A financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association or in paragraph (6) of this subsection, a financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

''(6) NOTICE REQUIRED FOR LARGE COMBINATIONS.—

''(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that—

''(i) is engaged in activities permitted under this subsection or subsection (g); and

''(ii) has consolidated total assets in excess of $40,000,000,000,

unless such holding company has provided notice to the Board, not later than 60 days

prior to such proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board, the Board has not issued a notice disapproving the proposed acquisition or retention.

''(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

''(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

''(ii) whether the proposed combination represents an undue aggregation of resources;

''(iii) whether the proposed combination poses a risk to the deposit insurance system;

''(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

''(v) whether the proposed combination can reasonably be expected to be in the best interests of depositors or policyholders of the respective entities;

''(vi) whether the proposed transaction can reasonably be expected to further the purposes of this Act and produce benefits to the public; and

''(vii) whether, and the extent to which, the proposed combination poses an undue risk to the stability of the financial system in the United States.

''(C) REQUIRED INFORMATION.—The Board may disapprove any prior notice filed under this paragraph if the company submitting such notice neglects, fails, or refuses to furnish to the Board all relevant information required by the Board.

''(D) SOLICITATION OF VIEWS OF OTHER SUPERVISORY AGENCIES.—

''(i) IN GENERAL.—Upon receiving a prior notice under this paragraph, in order to provide for the submission of their views and recommendations, the Board shall give notice of the proposal to—

''(I) the appropriate Federal banking agency of any bank involved;

''(II) the appropriate functional regulator of any functionally regulated nondepository institution (as defined in section 5(c)(1)(C)) involved; and

''(III) the Secretary of the Treasury, the Attorney General, and the Federal Trade Commission.

''(ii) TIMING.—The views and recommendations of any agency provided notice under this paragraph shall be submitted to the Board not later than 30 calendar days after the date on which notice to the agency was given, unless the Board determines that another shorter time period is appropriate.

''(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds, after notice from or consultation with the appropriate Federal banking agency, that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (b)(1), the Board shall give notice of such finding to the company.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

''(3) AUTHORITY TO IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected—

''(A) the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or subsidiary of a depository institution as the appropriate Federal banking agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

''(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

''(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

''(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions or wholesale financial institution from such risks;

''(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions and wholesale financial institutions; and

''(3) the holding company complies with this section.

''(f) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1999 may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

''(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

''(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

''(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

''(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

''(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

''(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

''(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

''(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (c)(3); or

''(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

''(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—A depository institution controlled by a financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to section 10(c), this subsection, or subparagraph (H) or (I) of subsection (c)(3).

''(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1999. The Board may, upon application by a

financial holding company, extend such 10-year period by a period not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

''(g) DEVELOPING ACTIVITIES.—A financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

''(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

''(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

''(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

''(5) neither the Board nor the Secretary of the Treasury has determined that the activity is not financial in nature or incidental to financial activities under subsection (c);

''(6) the holding company is not required to provide prior written notice of the transaction to the Board under subsection (c)(6); and

''(7) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.''.

(b) FACTORS FOR CONSIDERATION IN REVIEWING APPLICATION BY FINANCIAL HOLDING COMPANY TO ACQUIRE BANK.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following new paragraph:

''(6) 'TOO BIG TO FAIL' FACTOR.—In considering an acquisition, merger, or consolidation under this section involving a financial holding company or a company that would be any such holding company upon the consummation of the transaction, the Board shall consider whether, and the extent to which, the proposed acquisition, merger, or consolidation poses an undue risk to the stability of the financial system of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsection:

''(p) INSURANCE COMPANY.—For purposes of sections 5, 6, and 10, the term 'insurance company' includes any person engaged in the business of insurance to the extent of such activities.''.

(2) Section 4(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended—

(1) in paragraph (1)(A), by inserting ''or in any complementary activity under section 6(c)(1)(B)'' after ''subsection (c)(8) or (a)(2)''; and

(2) in paragraph (3)—

(A) by inserting '', other than any complementary activity under section 6(c)(1)(B),'' after ''to engage in any activity''; and

(B) by inserting ''or a company engaged in any complementary activity under section 6(c)(1)(B)'' after ''insured depository institution''.

(d) REPORT.—

(1) IN GENERAL.—By the end of the 4-year period beginning on the date of the enactment of this Act and every 4 years thereafter, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a joint report to the Congress containing a summary of new activities which are financial in nature, including grandfathered commercial activities, in which any financial holding company is engaged pursuant to subsection (c)(1) or (f) of section 6 of the Bank Holding Company Act of 1956 (as added by subsection (a)).

(2) OTHER CONTENTS.—Each report submitted to the Congress pursuant to paragraph (1) shall also contain the following:

(A) A discussion of actions by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, whether by regulation, order, interpretation, or guideline or by approval or disapproval of an application, with regard to activities of financial holding companies which are incidental to activities financial in nature or complementary to such financial activities.

(B) An analysis and discussion of the risks posed by commercial activities of financial holding companies to the safety and soundness of affiliate depository institutions.

(C) An analysis and discussion of the effect of mergers and acquisitions under section 6 of the Bank Holding Company Act of 1956 on market concentration in the financial services industry.

(D) An analysis and discussion, by the Board and the Secretary in consultation with the other Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), of the impact of the implementation of this Act, and the amendments made by this Act, on the extent of meeting community credit needs and capital availability under the Community Reinvestment Act of 1977.

SEC. 104. OPERATION OF STATE LAW.

(a) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between insured depository institutions or wholesale financial institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit—

(A) any State from requiring any person or entity that proposes to acquire control of an entity that is engaged in the business of insurance and domiciled in that State (hereafter in this subparagraph referred to as the ''insurer'') to furnish to the insurance regulatory authority of that State, not later than 60 days before the effective date of the proposed acquisition—

(i) the name and address of each person by whom, or on whose behalf, the affiliation referred to in this subparagraph is to be effected (hereafter in this subparagraph referred to as the ''acquiring party'');

(ii) if the acquiring party is an individual, his or her principal occupation and all offices and positions held during the 5 years preceding the date of notification, and any conviction of crimes other than minor traffic violations during the 10 years preceding the date of notification;

(iii) if the acquiring party is not an individual—

(I) a report of the nature of its business operations during the 5 years preceding the date of notification, or for such shorter period as such person and any predecessors thereof shall have been in existence;

(II) an informative description of the business intended to be done by the acquiring party and any subsidiary thereof; and

(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions appropriate to such positions, including, for each such individual, the information required by clause (ii);

(iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days before the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulatory authority of the State;

(vi) any plans or proposals that each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(vii) the number of shares of any security of the insurer that each acquiring party proposes to acquire, the terms of any offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at;

(viii) the amount of each class of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(ix) a full description of any contracts, arrangements, or understandings with respect to any security of the insurer in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, and identification of the persons with whom such contracts, arrangements, or understandings have been entered into;

(x) a description of the purchase of any security of the insurer during the 12-month period preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

(xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the

date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party;

(xii) copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, of additional soliciting material relating thereto; and

(xiii) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto;

(B) in the case of a person engaged in the business of insurance which is the subject of an acquisition or change or continuation in control, the State of domicile of such person from reviewing or taking action (including approval or disapproval) with regard to the acquisition or change or continuation in control, as long as the State reviews and actions—

(i) are completed by the end of the 60-day period beginning on the later of the date the State received notice of the proposed action or the date the State received the information required under State law regarding such acquisition or change or continuation in control;

(ii) do not have the effect of discriminating, intentionally or unintentionally, against an insured depository institution or affiliate thereof or against any other person based upon affiliation with an insured depository institution; and

(iii) are based on standards or requirements relating to solvency or managerial fitness;

(C) any State from requiring an entity that is acquiring control of an entity that is engaged in the business of insurance and domiciled in that State to maintain or restore the capital requirements of that insurance entity to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the entity, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A);

(D) any State from taking actions with respect to the receivership or conservatorship of any insurance company;

(E) any State from restricting a change in the ownership of stock in an insurance company, or a company formed for the purpose of controlling such insurance company, for a period of not more than 3 years beginning on the date of the conversion of such company from mutual to stock form; or

(F) any State from requiring an organization which has been eligible at any time since January 1, 1987, to claim the special deduction provided by section 833 of the Internal Revenue Code of 1986 to meet certain conditions in order to undergo, as determined by the State, a reorganization, recapitalization, conversion, merger, consolidation, sale or other disposition of substantial operating assets, demutualization, dissolution, or to undertake other similar actions and which is governed under a State statute enacted on May 22, 1998, relating to hospital, medical, and dental service corporation conversions.

(3) PRESERVATION OF STATE ANTITRUST AND GENERAL CORPORATE LAWS.—

(A) IN GENERAL.—Subject to subsection (c) and the nondiscrimination provisions contained in such subsection, no provision in paragraph (1) shall be construed as affecting State laws, regulations, orders, interpretations, or other actions of general applicability relating to the governance of corporations, partnerships, limited liability companies or other business associations incorporated or formed under the laws of that State or domiciled in that State, or the applicability of the antitrust laws of any State or any State law that is similar to the antitrust laws.

(B) DEFINITION.—The term ''antitrust laws'' has the same meaning as in subsection (a) of the first section of the Clayton Act, and includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

(b) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities, which shall be governed by paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—In accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose any of the following restrictions, or restrictions which are substantially the same as but no more burdensome or restrictive than those in each of the following clauses:

(i) Restrictions prohibiting the rejection of an insurance policy by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, solely because the policy has been issued or underwritten by any person who is not associated with such insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit.

(ii) Restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, unless such charge would be required when the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance.

(iii) Restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary;

(iv) Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class of insurance at the time at which the services are performed, except that, in this clause, the term ''services as an insurance agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

(v) Restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.

(vi) Restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution or a wholesale financial institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by State or Federal law.

(vii) Restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer.

(viii) Restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, lease or sale of property of any kind, or furnishing of any services or fixing or varying the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from an insured depository institution, wholesale financial institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution or wholesale financial

institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity described in this clause that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof.

(ix) Restrictions requiring, when an application by a consumer for a loan or other extension of credit from an insured depository institution or wholesale financial institution is pending, and insurance is offered or sold to the consumer or is required in connection with the loan or extension of credit by the insured depository institution or wholesale financial institution or any affiliate or subsidiary thereof, that a written disclosure be provided to the consumer or prospective customer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution or wholesale financial institution may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen.

(x) Restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or wholesale financial institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal.

(xi) Restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution, or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents.

(xii) Restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

(xiii) Restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 306(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to a State statute, regulation, order, interpretation, or other action that is not described in subparagraph (B).

(iv) LIMITATION ON INFERENCES.—Nothing in this paragraph shall be construed to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under subsection (b)(1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the ''McCarran-Ferguson Act'');

(B) apply only to persons or entities that are not insured depository institutions or wholesale financial institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross-marketing activities; and

(D) are not prohibited under subsection (c).

(4) FINANCIAL ACTIVITIES OTHER THAN INSURANCE.—No State statute, regulation, interpretation, order, or other action shall be preempted under subsection (b)(1) to the extent that—

(A) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, insurance sales, solicitations, or cross marketing activities covered under paragraph (2);

(B) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, the business of insurance activities other than sales, solicitations, or cross marketing activities, covered under paragraph (3);

(C) it does not relate to securities investigations or enforcement actions referred to in subsection (d); and

(D) it—

(i) does not distinguish by its terms between insured depository institutions, wholesale financial institutions, and subsidiaries and affiliates thereof engaged in the activity at issue and other persons or entities engaged in the same activity in a manner that is in any way adverse with respect to the conduct of the activity by any such insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof engaged in the activity at issue;

(ii) as interpreted or applied, does not have, and will not have, an impact on depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof engaged in the activity at issue, or any person or entity affiliated therewith, that is substantially more adverse than its impact on other persons or entities engaged in the same activity that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(iii) does not effectively prevent a depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging in activities authorized or permitted by this Act or any other provision of Federal law; and

(iv) does not conflict with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law.

(c) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (b)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of an insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities providing the same products or services or engaged in the same activities that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution or wholesale financial institution, or subsidiary or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and persons and entities engaged in the business of insurance.

(d) LIMITATION.—Subsections (a) and (b) shall not be construed to affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State—

(1) to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions; or

(2) to require the registration of securities or the licensure or registration of brokers, dealers, or investment advisers (consistent with section 203A of the Investment Advisers Act of 1940), or the associated persons of a broker, dealer, or investment adviser (consistent with such section 203A).

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' includes any foreign bank that maintains a

branch, agency, or commercial lending company in the United States.

(2) STATE.—The term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

''(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.''.

SEC. 105A. PUBLIC MEETINGS FOR LARGE BANK ACQUISITIONS AND MERGERS.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)(2)) is amended—

(1) by striking ''FACTORS.—In every case'' and inserting ''FACTORS.—

''(A) IN GENERAL.—In every case''; and

(2) by adding at the end the following new subparagraph:

''(B) PUBLIC MEETINGS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Board shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Board believes, in the sole discretion of the Board, there will be a substantial public impact.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

''(12) PUBLIC MEETINGS.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the responsible agency shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.''.

(c) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended by adding at the end the following new section:

''SEC. 6. PUBLIC MEETINGS FOR LARGE BANK CONSOLIDATIONS AND MERGERS.

''In each case of a consolidation or merger under this Act involving 1 or more banks each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Comptroller believes, in the sole discretion of the Comptroller, there will be a substantial public impact.''.

(d) HOME OWNERS' LOAN ACT.—Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1463) is amended by adding at the end the following new paragraph:

''(7) PUBLIC MEETINGS FOR LARGE DEPOSITORY INSTITUTION ACQUISITIONS AND MERGERS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Director shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Director believes, in the sole discretion of the Director, there will be a substantial public impact.''.

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting '', the Financial Services Act of 1999,'' after ''pursuant to this title''; and

(2) by inserting ''or such Act'' after ''made by this title''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting ''and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting ''and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking ''and'' at the end of subclause (IX);

(B) by inserting ''and'' after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

''(XI) assets that are derived from, or are incidental to, consumer lending activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage,'';

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

''(C) any bank subsidiary of such company both—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

''(C) such overdraft—

''(i) is incurred on behalf of an affiliate solely in connection with an activity that is so closely related to banking, or managing or controlling banks, as to be a proper incident thereto, to the extent the bank incurring the overdraft and the affiliate on whose behalf the overdraft is incurred each document that the overdraft is incurred for such purpose; and

''(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a member bank, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a nonmember bank.

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

''(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.

The issuance of any notice under this paragraph that relates to the activities of a bank shall not be construed as affecting the authority of the bank to continue to engage in such activities until the expiration of such 180-day period.''.

(b) INDUSTRIAL LOAN COMPANIES AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)''.

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS, OTHER SMALL FINANCIAL INSTITUTIONS, INSURANCE AGENTS, AND CONSUMERS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact and the actual economic impact that the enactment of this Act will have on financial institutions, including community banks, registered brokers and dealers and insurance companies, which have total assets of $100,000,000 or less, insurance agents, and consumers.

(b) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit reports to the Congress, at the times required under paragraph (2), containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(2) TIMING OF REPORTS.—The Comptroller General shall submit—

(A) an interim report before the end of the 6-month period beginning after the date of the enactment of this Act;

(B) another interim report before the end of the next 6-month period; and

(C) a final report before the end of the 1-year period after such second 6-month period,''

SEC. 110. RESPONSIVENESS TO COMMUNITY NEEDS FOR FINANCIAL SERVICES.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), shall conduct a study of the extent to which adequate services are being provided as intended by the Community Reinvestment Act of 1977, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of this Act.

(b) REPORT.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Federal banking agencies, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action with respect to institutions covered under the Community Reinvestment Act of 1977.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

''(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or any of its subsidiary depository institutions or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

''(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

''(i) a broker or dealer registered under the Securities Exchange Act of 1934;

''(ii) an investment adviser registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

''(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY.—

''(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

''(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

''(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

''(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

''(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

''(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the holding company that, because of—

''(I) the size, condition, or activities of the subsidiary; or

''(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law;

''(iii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

''(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority;

''(ii) is registered as an investment adviser under the Investment Advisers Act of 1940, or with any State, whichever is required by law; or

''(iii) is licensed as an insurance agent with the appropriate State insurance authority.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

''(i) activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities; or

''(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

''(A) IN GENERAL.—In the case of any bank holding company which is not significantly

engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

''(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

''(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

''(ii) approve or disapprove applications or transactions under section 3;

''(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

''(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

''(C) AGENCY ORDERS.—Section 9 of this Act and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

''(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

''(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies;

''(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of brokers, dealers, and investment advisers required to be registered under State law; and

''(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of insurance companies and insurance agents.''.

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: ''A declaration filed in accordance with section 6(b)(1)(D) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.''.

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking ''Financial Institutions Supervisory Act of 1966, order'' and inserting ''Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

''(A) order''; and

(2) by striking ''shareholders of the bank holding company. Such distribution'' and inserting ''shareholders of the bank holding company; or

''(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

The distribution referred to in subparagraph (A)''.

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

(a) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable with respect to an entity described in subparagraph (A) if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State ; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker, dealer, investment adviser (solely with respect to investment advisory activities or activities incidental thereto), or investment company, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker, dealer, investment company, or investment adviser described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.''.

(b) SUBSIDIARIES OF DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 45. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the appropriate Federal banking agency which requires a subsidiary to provide funds or other assets to an insured depository institution shall not be effective nor enforceable with respect to an entity described in paragraph (1) if—

''(1) such funds or assets are to be provided by a subsidiary which is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; and

''(2) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, the investment company, or the investment adviser, as the case may be, determines in writing sent to the insured depository institution and the appropriate Federal banking agency that the subsidiary shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(b) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the appropriate Federal banking agency requires a subsidiary, which is an insurance company, a broker or dealer, an investment company, or an investment adviser (solely with respect to investment advisory activities or activities incidental thereto) described in subsection (a)(1) to provide funds or assets to an insured depository institution pursuant to any regulation, order, or other action of the appropriate Federal banking agency referred to in subsection (a), the appropriate Federal banking agency shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(c) DIVESTITURE IN LIEU OF OTHER ACTION.—If the appropriate Federal banking

agency receives a notice described in subsection (a)(2) from a State insurance authority or the Securities and Exchange Commission with regard to a subsidiary referred to in that subsection, the appropriate Federal banking agency may order the insured depository institution to divest the subsidiary not later than 180 days after receiving the notice, or such longer period as the appropriate Federal banking agency determines consistent with the safe and sound operation of the insured depository institution.

''(d) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the appropriate Federal banking agency under subsection (c) to an insured depository institution and ending on the date the divestiture is complete, the appropriate Federal banking agency may impose any conditions or restrictions on the insured depository institution's ownership of the subsidiary including restricting or prohibiting transactions between the insured depository institution and the subsidiary, as are appropriate under the circumstances.''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.—

(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a national bank and a subsidiary of the national bank which the Comptroller finds are consistent with the public interest, the purposes of this Act, title LXII of the Revised Statutes of the United States, and other Federal law applicable to national banks, and the standards in paragraph (2).

(2) STANDARDS.—The Comptroller of the Currency may exercise authority under paragraph (1) if the Comptroller finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the national bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Comptroller of the Currency shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Comptroller finds is no longer required for such purposes.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System may, by regulation or order, impose restrictions or requirements on relationships or transactions—

(A) between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution); or

(B) between a State member bank and a subsidiary of such bank,

which the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies or State banks (as the case may be), and the standards in paragraph (2).

(2) STANDARDS.—The Board of Governors of the Federal Reserve System may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of bank holding companies.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State member bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Board of Governors of the Federal Reserve System shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

(4) FOREIGN BANKS.—

(A) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate in the United States of such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States, and the standards in paragraphs (2) and (3).

(B) EVASION.—In the event that the Board determines that there may be circumstances that would result in an evasion of this paragraph, the Board may also impose restrictions or requirements on relationships or transactions between operations of a foreign bank outside the United States and any affiliate in the United States of such foreign bank that are consistent with national treatment and equality of competitive opportunity.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a State nonmember bank (as defined in section 3 of the Federal Deposit Insurance Act) and a subsidiary of the State nonmember bank which the Corporation finds are consistent with the public interest, the purposes of this Act, the Federal Deposit Insurance Act, or other Federal law applicable to State nonmember banks and the standards in paragraph (2).

(2) STANDARDS.—The Federal Deposit Insurance Corporation may exercise authority under paragraph (1) if the Corporation finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State nonmember bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Federal Deposit Insurance Corporation shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Corporation finds is no longer required for such purposes.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(2) PROHIBITION ON BANKING AGENCIES.—Except as provided in paragraph (3), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(3) CERTAIN EXAMINATIONS AUTHORIZED.—Nothing in this subsection prevents the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company which is registered with the Commission under the Investment Company Act of 1940.

(5) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the same meaning as in section 10(a)(1)(D) of the Home Owners' Loan Act.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—

''(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system.

''(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

''(1) a broker or dealer registered under the Securities Exchange Act of 1934;

''(2) an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(3) an investment company registered under the Investment Company Act of 1940;

''(4) an insurance company or an insurance agency, with respect to the insurance activities and activities incidental to such insurance activities, subject to supervision by a State insurance commission, agency, or similar authority; or

''(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 117. EQUIVALENT REGULATION AND SUPERVISION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on bank holding companies and their nonbank subsidiaries or that require deference to other regulators; and

(2) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to bank holding companies and their nonbank subsidiaries,

shall also limit whatever authority that a Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) might otherwise have under any statute to require reports, make examinations, impose capital requirements or take any other direct or indirect action with respect to bank holding companies and their nonbank subsidiaries (including nonbank subsidiaries of depository institutions), subject to the same standards and requirements as are applicable to the Board under such provisions.

(b) CERTAIN EXAMINATIONS AUTHORIZED.—No provision of this section shall be construed as preventing the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

SEC. 118. PROHIBITION ON FDIC ASSISTANCE TO AFFILIATES AND SUBSIDIARIES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act), or subsidiary of''.

SEC. 119. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

''(f) [Repealed].''.

SEC. 120. TECHNICAL AMENDMENT.

Section 2(o)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(1)(A)) is amended by striking ''section 38(b)'' and inserting ''section 38''.

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

''SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes of the United States shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

''(A) is not permissible for a national bank to engage in directly; or

''(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

''(2) SPECIFIC AUTHORIZATION TO CONDUCT ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—Subject to paragraphs (3) and (4), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, that is controlled by insured depository institutions or subsidiaries thereof.

''(3) ELIGIBILITY REQUIREMENTS.—A national bank may control or hold an interest in a company pursuant to paragraph (2) only if—

''(A) the national bank and all depository institution affiliates of the national bank are well capitalized;

''(B) the national bank and all depository institution affiliates of the national bank are well managed;

''(C) the national bank and all depository institution affiliates of such national bank have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such bank or institution; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(4) ACTIVITY LIMITATIONS.—In addition to any other limitation imposed on the activity of subsidiaries of national banks, a subsidiary of a national bank may not, pursuant to paragraph (2)—

''(A) engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than in connection with credit-related insurance) or in providing or issuing annuities;

''(B) engage in real estate investment or development activities; or

''(C) engage in any activity permissible for a financial holding company under paragraph (3)(I) of section 6(c) of the Bank Holding Company Act of 1956 (relating to insurance company investments).

''(5) SIZE FACTOR WITH REGARD TO FREE-STANDING NATIONAL BANKS.—Notwithstanding paragraph (2), a national bank which has total assets of $10,000,000,000 or more may not control a subsidiary engaged in financial activities pursuant to such paragraph unless such national bank is a subsidiary of a bank holding company.

''(6) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY AFFILIATED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes an affiliate of a national bank during the 12-month period preceding the date of an approval by the Comptroller of the Currency under paragraph (3)(D) for such bank, and any depository institution which becomes an affiliate

of the national bank after such date, may be excluded for purposes of paragraph (3)(C) during the 12-month period beginning on the date of such affiliation if—

''(A) the national bank or such depository institution has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(7) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) COMPANY; CONTROL; AFFILIATE; SUBSIDIARY.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

''(B) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which is a subsidiary of an insured bank and is engaged in financial activities that have been determined to be financial in nature or incidental to such financial activities in accordance with subsection (b) or permitted in accordance with subsection (b)(4), other than activities that are permissible for a national bank to engage in directly or that are authorized under the Bank Service Company Act, section 25 or 25A of the Federal Reserve Act, or any other Federal statute (other than this section) that specifically authorizes the conduct of such activities by its express terms and not by implication or interpretation.

''(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

''(D) WELL MANAGED.—The term 'well managed' means—

''(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

''(E) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—For purposes of subsection (a)(7)(B), an activity shall be considered to have been determined to be financial in nature or incidental to such financial activities only if—

''(i) such activity is permitted for a financial holding company pursuant to section 6(c)(3) of the Bank Holding Company Act of 1956 (to the extent such activity is not otherwise prohibited under this section or any other provision of law for a subsidiary of a national bank engaged in activities pursuant to subsection (a)(2)); or

''(ii) the Secretary of the Treasury determines the activity to be financial in nature or incidental to such financial activities in accordance with subparagraph (B) or paragraph (3).

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE SECRETARY OF THE TREASURY.—

''(I) CONSULTATION.—The Secretary of the Treasury shall notify the Board of, and consult with the Board concerning, any request, proposal, or application under this subsection, including any regulation or order proposed under paragraph (3), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) BOARD VIEW.—The Secretary of the Treasury shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Board notifies the Secretary in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Secretary determines to be appropriate in light of the circumstances) that the Board believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE BOARD.—

''(I) BOARD RECOMMENDATION.—The Board may, at any time, recommend in writing that the Secretary of the Treasury find an activity to be financial in nature or incidental to a financial activity (other than an activity which the Board has sole authority to regulate under subparagraph (C)).

''(II) TIME PERIOD FOR SECRETARIAL ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Board under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Secretary shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Board in writing of the determination of the Secretary and, in the event that the Secretary determines not to seek public comment on the proposal, the reasons for that determination.

''(C) AUTHORITY OVER MERCHANT BANKING.—The Board shall have sole authority to prescribe regulations and issue interpretations to implement this paragraph with respect to activities described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Secretary shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which banks compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Secretary of the Treasury shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(4) DEVELOPING ACTIVITIES.—Subject to subsection (a)(2), a financial subsidiary of a national bank may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Secretary has not determined to be financial in nature or incidental to financial activities under this subsection if—

''(A) the subsidiary reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(B) the gross revenues from all activities conducted under this paragraph represent less than 5 percent of the consolidated gross revenues of the national bank;

''(C) the aggregate total assets of all companies the shares of which are held under this paragraph do not exceed 5 percent of the national bank's consolidated total assets;

''(D) the total capital invested in activities conducted under this paragraph represents less than 5 percent of the consolidated total capital of the national bank;

''(E) neither the Secretary of the Treasury nor the Board has determined that the activity is not financial in nature or incidental to financial activities under this subsection; and

''(F) the national bank provides written notice to the Secretary of the Treasury describing the activity commenced by the subsidiary or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.

''(c) PROVISIONS APPLICABLE TO NATIONAL BANKS THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If a national bank or depository institution affiliate is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (a)(3), the appropriate Federal banking agency shall notify the Comptroller of the Currency, who shall give notice of such finding to the national bank.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Not later than 45 days after receipt by a national bank of a notice given under paragraph (1) (or such additional period as the Comptroller of the Currency may permit), the national bank and any relevant affiliated depository institution shall execute an agreement acceptable to the Comptroller of the Currency and the other appropriate Federal banking agencies, if any, to comply with the requirements applicable under subsection (a)(3).

''(3) COMPTROLLER OF THE CURRENCY MAY IMPOSE LIMITATIONS.—Until the conditions

described in a notice to a national bank under paragraph (1) are corrected—

''(A) the Comptroller of the Currency may impose such limitations on the conduct or activities of the national bank or any subsidiary of the bank as the Comptroller of the Currency determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or any subsidiary of the depository institution as such agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a national bank and other affiliated depository institutions do not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (a)(3)(A), restore the national bank or any depository institution affiliate of the bank to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the national bank (or such other period permitted by the Comptroller of the Currency); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (a)(3), restore compliance with any such subparagraph on or before the date on which the next examination of the depository institution subsidiary is completed or by the end of such other period as the Comptroller of the Currency determines to be appropriate,

the Comptroller of the Currency may require such national bank, under such terms and conditions as may be imposed by the Comptroller of the Currency and subject to such extension of time as may be granted in the Comptroller of the Currency's discretion, to divest control of any subsidiary engaged in activities pursuant to subsection (a)(2) or, at the election of the national bank, instead to cease to engage in any activity conducted by a subsidiary of the national bank pursuant to subsection (a)(2).

''(5) CONSULTATION.—In taking any action under this subsection, the Comptroller of the Currency shall consult with all relevant Federal and State regulatory agencies.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Subsidiaries of national banks.''.

SEC. 122. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities as the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 45 (as added by section 113(b) of this title) the following new section:

''SEC. 46. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.

''(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

''(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

''(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

''(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

''(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

''(3) TREATMENT OF RETAINED EARNINGS.—The amount of any net earnings retained by a financial subsidiary of an insured depository institution shall be treated as an outstanding equity investment of the bank in the subsidiary for purposes of paragraph (1).

''(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

''(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

''(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

''(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

''(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term 'financial subsidiary' has the meaning given to such term in section 5136A(a)(7)(B) of the Revised Statutes of the United States.

''(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.''.

(c) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

''(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' means a company which is a subsidiary of a bank and is engaged in activities that are financial in nature or incidental to such financial activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States.

''(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

''(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

''(B) shall not be treated as a subsidiary of the bank.

''(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

''(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

''(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term 'affiliate' shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly or which are authorized by any Federal law other than section 5136A of the Revised Statutes of the United States.

''(4) EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.''.

(d) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: ''For purposes of this section, a subsidiary of a national bank which engages in activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

SEC. 123. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

''§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates

''(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of

a subsidiary or other affiliate of the institution.

''(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' has the same meaning as in section 3 of the Federal Deposit Insurance Act and any reference in that section shall also be deemed to refer to a subsidiary or affiliate of an insured depository institution.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

''1008. Misrepresentations regarding financial institution liability for obligations of affiliates.''.

SEC. 124. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as ''(m)'' and inserting ''(m) [Repealed]''.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

''SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

''(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

''(A) is registered as a bank holding company;

''(B) is predominantly engaged in financial activities as defined in section 6(f)(2);

''(C) controls 1 or more wholesale financial institutions;

''(D) does not control—

''(i) a bank other than a wholesale financial institution;

''(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

''(iii) a savings association; and

''(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

''(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

''(b) SUPERVISION BY THE BOARD.—

''(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

''(2) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

''(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

''(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

''(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

''(II) The primary business of the company.

''(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

''(3) EXAMINATIONS.—

''(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

''(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

''(ii) inform the Board regarding—

''(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

''(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

''(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

''(i) the holding company; and

''(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

''(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

''(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

''(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

''(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

''(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

''(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

''(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

''(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

''(4) CAPITAL ADEQUACY GUIDELINES.—

''(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

''(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

''(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

''(I) is not a depository institution; and

''(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

''(iv) LIMITATION.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(I) a bank holding company; or

''(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

''(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

''(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

''(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

''(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

''(1) GRANDFATHERED ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

''(i) on the date of the enactment of the Financial Services Act of 1999, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

''(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1999, and other activities permissible under this Act.

''(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

''(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) of section 6 may engage in any activity or own any shares pursuant to this paragraph.

''(2) COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

''(B) LIMITATION.—The attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

''(3) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

''(A) any company whose shares it owns or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

''(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

''(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

''(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution, may request a determination from the Board that such bank or company be treated as a wholesale financial holding company other than for purposes of subsection (c), subject to such conditions as the Board considers appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

''(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

''(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

''(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank) has invested, directly or indirectly, and which engages in any activity pursuant to subsection (c) or (g) of section 6, comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the bank were a member bank.

''(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of subsections (c)(1)(C) and (c)(3) of section 9B of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(4) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company, except that such bank or company shall be subject to the restrictions of paragraphs (2)(A) and (3) of this subsection.

''(5) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.

''(6) APPLICABILITY OF COMMUNITY REINVESTMENT ACT OF 1977.—The branches in the

United States of a foreign bank that is, or is affiliated with a company that is, treated as a wholesale financial holding company shall be subject to section 9B(b)(11) of the Federal Reserve Act as if the foreign bank were a wholesale financial institution under such section. The Board and the Comptroller of the Currency shall apply the provisions of sections 803(2), 804, and 807(1) of the Community Reinvestment Act of 1977 to branches of foreign banks which receive only such deposits as are permissible for receipt by a corporation organized under section 25A of the Federal Reserve Act, in the same manner and to the same extent such sections apply to such a corporation.''.

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: ''The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.''.

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7) of the (12 U.S.C. 3401(7))—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) the Commodity Futures Trading Commission; or''; and

(2) in section 1112(e), by striking ''and the Securities and Exchange Commission'' and inserting '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission''.

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by inserting after subsection (p) (as added by section 103(b)(1)) the following new subsections:

''(q) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(r) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

''(s) DEPOSITORY INSTITUTION.—The term 'depository institution'—

''(1) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

''(2) includes a wholesale financial institution.''.

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

''(C) A wholesale financial institution.''.

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting ''insured bank','' after ''in danger of default',''.

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: ''This subsection shall not apply to a wholesale financial institution.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

''(A) any State member insured bank (except a District bank) and any wholesale financial institution subject to section 9B of the Federal Reserve Act;''.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

''SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

''(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

''(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

''(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

''5136B. National wholesale financial institutions.''.

(b) WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

''SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

''(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

''(1) APPLICATION REQUIRED.—

''(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a State wholesale financial institution, or to the Comptroller of the Currency to become a national wholesale financial institution, and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

''(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of, section 9.

''(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

''(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks or national banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

''(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

''(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions;

''(B) subject to subparagraph (A), all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Comptroller of the Currency, in the case of a national wholesale financial institution, and to the Board, in the case of all other wholesale financial institutions; and

''(C) in the case of wholesale financial institutions, the purpose of prompt corrective action shall be to protect taxpayers and the financial system from the risks associated with the operation and activities of wholesale financial institutions.

''(3) ENFORCEMENT AUTHORITY.—Section 3(u), subsections (j) and (k) of section 7, subsections (b) through (n), (s), (u), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks or national banks, as the case may be, and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

''(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

''(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the wholesale financial institution would be subject to such sections if the institution were a State member insured bank or a national bank.

''(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by, and with the approval of—

''(A) the Board, in the case of a State-chartered wholesale financial institution; and

''(B) the Comptroller of the Currency, in the case of a national bank wholesale financial institution.

''(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—A State-chartered wholesale financial institution shall be deemed to be a State bank and an insured State bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

''(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered

wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

''(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

''(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

''(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

''(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) LIMITATIONS ON DEPOSITS.—

''(A) MINIMUM AMOUNT.—

''(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

''(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

''(B) NO DEPOSIT INSURANCE.—Except as otherwise provided in section 8A(f) of the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

''(C) ADVERTISING AND DISCLOSURE.—The Board and the Comptroller of the Currency shall prescribe jointly regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

''(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

''(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

''(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

''(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

''(A) limitations on transactions, direct or indirect, with affiliates to prevent—

''(i) the transfer of risk to the deposit insurance funds; or

''(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

''(B) special clearing balance requirements; and

''(C) any additional requirements that the Board determines to be appropriate or necessary to—

''(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(ii) prevent the transfer of risk to the deposit insurance funds; or

''(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is consistent with—

''(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(B) the protection of the deposit insurance funds; and

''(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

''(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks or the authority of the Comptroller of the Currency over national banks under any other provision of law, or to create any obligation for any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

''(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

''(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

''(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

''(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

''(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

''(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status not later than 180 days after the date of receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board subject to such extension of time as may be granted in the discretion of the Board, divest control of its subsidiary depository institutions.

''(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(e) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) CONSERVATORSHIP OR RECEIVERSHIP.—

''(A) APPOINTMENT.—The Board may appoint a conservator or receiver to take possession and control of a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

''(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed under paragraph (1), and the wholesale financial institution for which it has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

''(3) BANKRUPTCY PROCEEDINGS.—The Comptroller of the Currency (in the case of a national wholesale financial institution) or the Board may direct the conservator or receiver of a wholesale financial institution to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the wholesale financial institution in lieu of otherwise applicable Federal or State insolvency law.

''(f) BOARD BACKUP AUTHORITY.—

''(1) NOTICE TO THE COMPTROLLER.—Before taking any action under section 8 of the Federal Deposit Insurance Act involving a wholesale financial institution that is chartered as a national bank, the Board shall notify the Comptroller and recommend that the Comptroller take appropriate action. If the Comptroller fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Board before the close of the 30-day period beginning on the date of receipt of the formal recommendation from the Board, the Board may take such action.

''(2) EXIGENT CIRCUMSTANCES.—Notwithstanding paragraph (1), the Board may exercise its authority without regard to the time period set forth in paragraph (1) where the Board finds that exigent circumstances exist and the Board notifies the Comptroller of the Board's action and of the exigent circumstances.

''(g) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.''.

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

''(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

''(1) the bank provides written notice of the bank's intent to terminate such insured status—

''(A) to the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or to the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, not less than 6 months before the effective date of such termination; and

''(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

''(2) either—

''(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

''(B) the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, has approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

''(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

''(1) an insured savings association; or

''(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

''(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

''(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(e) EXIT FEES.—

''(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

''(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

''(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

''(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

''(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

''(g) ADVERTISEMENTS.—

''(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

''(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

''(h) NOTICE REQUIREMENTS.—

''(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

''(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

''(A) sent to each depositor's last address of record with the bank; and

''(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.''.

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting '', or any wholesale financial institution subject to section 9B of this Act'' after ''such Act''.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking ''; or'' and inserting the following: '', except that—

''(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

''(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or''.

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

''(d) Only a railroad and a person that may be a debtor under chapter 7 of this title, except that a stockbroker, a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, a corporation organized under section 25A of the Federal Reserve Act, or a commodity broker, may be a debtor under chapter 11 of this title.''.

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

''(22) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or corporation organized under section 25A of the Federal Reserve Act and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer,''.

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following:

''(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.''.

(B) WHOLESALE BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

"§ 781. Definitions for subchapter

''In this subchapter—

''(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

''(2) the term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

''(3) the term 'national wholesale financial institution' means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

''(4) the term 'wholesale bank' means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act,

or a corporation organized under section 25A of the Federal Reserve Act.

"§ 782. Selection of trustee

''(a) Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

''(b) Whenever the Comptroller of the Currency or the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Comptroller or the Board, as applicable, in the same way and to the same extent that they apply to a United States trustee.

"§ 783. Additional powers of trustee

''(a) The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and Iv of this chapter.

''(b) The trustee under this subchapter may, after notice and a hearing—

''(1) sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

''(2) merge the wholesale bank with a depository institution;

''(3) transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

''(4) transfer assets or liabilities to a depository institution;

''(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (H) and (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

''(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subsection; and

''(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

''(c) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

"§ 784. Right to be heard

''The Comptroller of the Currency (in the case of a national wholesale financial institution), the Board (in the case of any wholesale bank), or a Federal Reserve bank (in the case of a wholesale bank that is a member of that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''781. Definitions for subchapter.
''782. Selection of trustee.
''783. Additional powers of trustee.
''784. Right to be heard.''.

(e) RESOLUTION OF EDGE CORPORATIONS.—The 16th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

''(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

''(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.''.

Subtitle E—Preservation of FTC Authority

SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting ''and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also notify the Federal Trade Commission of such approval'' before the period at the end of the first sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART–SCOTT–RODINO AMENDMENTS.—

(1) BANKS.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 3 of the Bank Holding Company Act of 1956''.

(2) BANK HOLDING COMPANIES.—Section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 4 of the Bank Holding Company Act of 1956''.

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas.

(c) SUNSET.—This section shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

Subtitle F—National Treatment

SEC. 151. FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(D) or receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1999, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 114 of the Financial Services Act.''.

SEC. 152. FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

''(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.''.

SEC. 153. REPRESENTATIVE OFFICES.

(a) DEFINITION OF ''REPRESENTATIVE OFFICE''.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.''.

SEC. 154. RECIPROCITY.

(a) NATIONAL TREATMENT REPORTS.—

(1) REPORT REQUIRED IN THE EVENT OF CERTAIN ACQUISITIONS.—

(A) IN GENERAL.—Whenever a person from a foreign country announces its intention to acquire or acquires a bank, a securities underwriter, broker, or dealer, an investment adviser, or insurance company that ranks within the top 50 firms in that line of business in the United States, the Secretary of Commerce, in the case of an insurance company, or the Secretary of the Treasury, in the case of a bank, a securities underwriter, broker, or dealer, or an investment adviser, shall, within the earlier of 6 months of such announcement or such acquisition and in consultation with other appropriate Federal and State agencies, prepare and submit to the Congress a report on whether a United States person would be able, de facto or de jure, to acquire an equivalent sized firm in the country in which such person from a foreign country is located.

(B) ANALYSIS AND RECOMMENDATIONS.—If a report submitted under subparagraph (A) states that the equivalent treatment referred to in such subparagraph, de facto and de jure, is not provided in the country which is the subject of the report, the Secretary of Commerce or the Secretary of the Treasury, as the case may be and in consultation with other appropriate Federal and State agencies, shall include in the report analysis and recommendations as to how that country's laws and regulations would need to be changed so that reciprocal treatment would exist.

(2) REPORT REQUIRED BEFORE FINANCIAL SERVICES NEGOTIATIONS COMMENCE.—The Secretary of Commerce, with respect to insurance companies, and the Secretary of the Treasury, with respect to banks, securities underwriters, brokers, dealers, and investment advisers, shall, not less than 6 months before the commencement of the financial services negotiations of the World Trade Organization and in consultation with other appropriate Federal and State agencies, prepare and submit to the Congress a report containing—

(A) an assessment of the 30 largest financial services markets with regard to whether reciprocal access is available in such markets to United States financial services providers; and

(B) with respect to any such financial services markets in which reciprocal access is not available to United States financial services providers, an analysis and recommendations as to what legislative, regulatory, or enforcement changes would be required to ensure full reciprocity for such providers.

(3) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this subsection, the term ''person of a foreign country'' means a person, or a person which directly or indirectly owns or controls that person, that is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(b) PROVISIONS APPLICABLE TO SUBMISSIONS.—

(1) NOTICE.—Before preparing any report required under subsection (a), the Secretary of Commerce or the Secretary of the Treasury, as the case may be, shall publish notice that a report is in preparation and seek comment from United States persons.

(2) PRIVILEGED SUBMISSIONS.—Upon the request of the submitting person, any comments or related communications received by the Secretary of Commerce or the Secretary of the Treasury, as the case may be, with regard to the report shall, for the purposes of section 552 of title 5, of the United States Code, be treated as commercial information obtained from a person that is privileged or confidential, regardless of the medium in which the information is obtained. This confidential information shall be the property of the Secretary and shall be privileged from disclosure to any other person. However, this privilege shall not be construed as preventing access to that confidential information by the Congress.

(3) PROHIBITION OF UNAUTHORIZED DISCLOSURES.—No person in possession of confidential information, provided under this section may disclose that information, in whole or in part, except for disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the confidential information of any person.

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Federal Home Loan Bank System Modernization Act of 1999''.

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(3) by adding at the end the following new paragraph:

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the 2d sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small business, agricultural, rural development, or low-income community development lending.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the 2d sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the 2d sentence, by striking ''and the Board'';

(B) in the 3d sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'rural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

(c) CONFORMING AMENDMENTS RELATING TO MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS—The 1st of the 2 subsections designated as subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(1)) is amended—

(1) in the last sentence of paragraph (1), by inserting ''or, in the case of any community financial institution, for the purposes described in subsection (a)(2)'' before the period; and

(2) in paragraph (5)(C), by inserting ''except that, in determining the actual thrift investment percentage of any community financial institution for purposes of this subsection, the total investment of such member in loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such loans, shall be treated as a qualified thrift investment (as defined in such section 10(m))'' before the period.

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution''; and

(2) by adding at the end the following new paragraph:

''(3) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 166. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking ''(d) The term'' and inserting the following:

''(d) TERMS OF OFFICE.—The term''; and

(2) by striking ''shall be two years''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking '', subject to the approval of the board''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking ''subject to the approval of the Board'' the first place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''; and

(D) by striking ''Board of directors'' where such term appears in the penultimate sentence and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the bank, or any written agreement entered into by the bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a bank or any executive officer or director of a bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

''(7) To sue and be sued, by and through its own attorneys.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''Federal Home Loan Bank Board,'' and inserting ''Director of the Office of Thrift Supervision, ''the Federal Housing Finance Board,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the 2d sentence, by striking ''with the approval of the Board''; and

(B) in the 3d sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the 1st sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) by striking the 2d sentence;

(B) in subsection (d)—

(i) in the 1st sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''; and

(C) in subsection (j)(1)—

(i) by striking ''to subsidize the interest rate on advances'' and inserting ''to provide subsidies, including subsidized interest rates on advances'';

(ii) by striking ''Pursuant'' and inserting the following:

''(A) ESTABLISHMENT.—Pursuant''; and

(iii) by adding at the end the following new subparagraph:

''(B) NONDELEGATION OF APPROVAL AUTHORITY.—Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the 3d sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the 4th sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 167. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall

select appropriate present value factors for making such determinations.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payments beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

SEC. 168. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

''SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

''(a) REGULATIONS.—

''(1) CAPITAL STANDARDS.—Not later than 1 year after the date of enactment of the Financial Services Act of 1999, the Finance Board shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

''(A) the leverage requirement specified in paragraph (2); and

''(B) the risk-based capital requirements, in accordance with paragraph (3).

''(2) LEVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the aggregate on-balance sheet assets of the bank and shall be 5 percent.

''(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock shall be multiplied by 1.5, the paid-in value of the outstanding Class C stock and the amount of retained earnings shall be multiplied by 2.0, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

''(3) RISK-BASED CAPITAL STANDARDS.—

''(A) IN GENERAL.—Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

''(i) the credit risk to which the Federal home loan bank is subject; and

''(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.

''(B) CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based standard under subparagraph (A)(ii), the Finance Board shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act), with such modifications as the Finance Board determines to be appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

''(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Finance Board under paragraph (1) shall—

''(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

''(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares;

''(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares; and

''(iii) Class C stock, which shall be nonredeemable;

''(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

''(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

''(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

''(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the capital standards established under this subsection—

''(A) permanent capital of a Federal home loan bank shall include (as determined in accordance with generally accepted accounting principles)—

''(i) the amounts paid for the Class C stock and any other nonredeemable stock approved by the Finance Board;

''(ii) the amounts paid for the Class B stock, in an amount not to exceed 1 percent of the total assets of the bank; and

''(iii) the retained earnings of the bank; and

''(B) total capital of a Federal home loan bank shall include—

''(i) permanent capital;

''(ii) the amounts paid for the Class A stock, Class B stock (excluding any amount treated as permanent capital under subparagraph (5)(A)(ii)), or any other class of redeemable stock approved by the Finance Board;

''(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Finance Board, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

''(iv) any other amounts from sources available to absorb losses incurred by the bank that the Finance Board determines by regulation to be appropriate to include in determining total capital.

''(6) TRANSITION PERIOD.—Notwithstanding any other provisions of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before the date of enactment of the Federal Home Loan Bank System Modernization Act of 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Finance Board and implemented by such bank.

''(b) CAPITAL STRUCTURE PLAN.—

''(1) APPROVAL OF PLANS.—Not later than 270 days after the date of publication by the Finance Board of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank that—

''(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

''(B) meets the requirements of subsection (c); and

''(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Finance Board.

''(2) APPROVAL OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Finance Board for approval any modifications that the bank proposes to make to an approved capital structure plan.

''(c) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

''(1) MINIMUM INVESTMENT.—

''(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

''(B) INVESTMENT ALTERNATIVES.—

''(i) IN GENERAL.—In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Finance Board.

''(ii) AUTHORIZED REQUIREMENTS.—A requirement is referred to in this clause if it is a requirement for—

''(I) a stock purchase based on a percentage of the total assets of a member; or

''(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

''(C) MINIMUM AMOUNT.—Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Finance Board under subsection (a).

''(D) ADJUSTMENTS TO MINIMUM REQUIRED INVESTMENT.—The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board, and shall require each member to comply promptly with any adjustments to the required minimum investment.

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on the date of enactment of the Financial Services Act of 1999, to come into compliance with the minimum investment required pursuant to the plan.

''(B) INTERIM PURCHASE REQUIREMENTS.—The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

''(3) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

''(4) CLASSES OF STOCK.—

''(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Finance Board in accordance with its regulations.

''(B) RIGHTS REQUIREMENT.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with Finance Board regulations and market requirements.

''(C) REDUCED MINIMUM INVESTMENT.—The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B, Class C, or any other class of nonredeemable stock, in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Finance Board.

''(D) LIQUIDATION OF CLAIMS.—The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

''(5) LIMITED TRANSFERABILITY OF STOCK.—The capital structure plan of a Federal home loan bank shall—

''(A) provide that—

''(i) any stock issued by that bank shall be available only to, held only by, and tradable only among members of that bank and between that bank and its members; and

''(ii) a bank has no obligation to repurchase its outstanding Class C stock but may do so, provided it is consistent with Finance Board regulations and is at a price that is mutually agreeable to the bank and the member; and

''(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

''(6) BANK REVIEW OF PLAN.—Before filing a capital structure plan with the Finance Board, each Federal home loan bank shall conduct a review of the plan by—

''(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

''(B) at least 1 major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

''(d) TERMINATION OF MEMBERSHIP.—

''(1) VOLUNTARY WITHDRAWAL.—Any member may withdraw from a Federal home loan bank by providing written notice to the bank of its intent to do so. The applicable stock redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

''(2) INVOLUNTARY WITHDRAWAL.—

''(A) IN GENERAL.—The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to Finance Board regulations, it determines that—

''(i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

''(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a State or Federal authority with regulatory and supervisory responsibility for the member.

''(B) STOCK DISPOSITION.—An institution, the membership of which is terminated in accordance with subparagraph (A)—

''(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

''(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

''(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

''(C) COMMENCEMENT OF NOTICE PERIOD.—With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

''(i) the date of such termination; or

''(ii) the date on which the member has provided notice of its intent to redeem such stock.

''(3) LIQUIDATION OF INDEBTEDNESS.—Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

''(e) REDEMPTION OF EXCESS STOCK.—

''(1) IN GENERAL.—A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

''(2) EXCESS STOCK.—Shares of stock held by a member shall not be deemed to be 'excess stock' for purposes of this subsection by virtue of a member's submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

''(3) PRIORITY.—A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

''(f) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Finance Board while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

''(g) REJOINING AFTER DIVESTITURE OF ALL SHARES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

''(2) EXCEPTION FOR WITHDRAWALS FROM MEMBERSHIP BEFORE 1998.—Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Finance Board and the requirements of this Act.

''(h) TREATMENT OF RETAINED EARNINGS.—

''(1) IN GENERAL.—The holders of the Class C stock of a Federal home loan bank, and any other classes of nonredeemable stock approved by the Finance Board (to the extent provided in the terms thereof), shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(2) NO NONREDEEMABLE CLASSES OF STOCK.—If a Federal home loan bank has no outstanding Class C or other such nonredeemable stock, then the holders of any other classes of stock of the bank then outstanding shall have ownership in, and a private property right in, the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(3) EXCEPTION.—Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise

receive distribution of any portion of the retained earnings of the bank.

''(4) LIMITATION.—A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.''.

Subtitle H—ATM Fee Reform

SEC. 171. SHORT TITLE.

This subtitle may be cited as the ''ATM Fee Reform Act of 1999''.

SEC. 172. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following new paragraph:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

''(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

SEC. 173. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following new paragraph:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

SEC. 174. FEASIBILITY STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic fund transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(3)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO THE CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

SEC. 175. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

Subtitle I—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: ''In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle J—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) CONCENTRATION LEVELS.—The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) MERGER ISSUES.—Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the

enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms ''Bank Insurance Fund member'' and ''Savings Association Insurance Fund member'' have the same meanings as in section 7(l) of the Federal Deposit Insurance Act.

SEC. 187. ELIMINATION OF SAIF AND DIF SPECIAL RESERVES.

(a) SAIF SPECIAL RESERVES.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) DIF SPECIAL RESERVES.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (d)—

(A) by striking paragraph (4);

(B) in paragraph (6)(C)(i), by striking ''(6) and (7)'' and inserting ''(5), (6), and (7)''; and

(C) in paragraph (6)(C), by striking clause (ii) and inserting the following:

''(ii) by redesignating paragraph (8) as paragraph (5).''.

Subtitle K—Miscellaneous Provisions

SEC. 191. TERMINATION OF "KNOW YOUR CUSTOMER" REGULATIONS.

(a) IN GENERAL.—None of the proposed regulations described in subsection (b) may be published in final form and, to the extent any such regulation has become effective before the date of the enactment of this Act, such regulation shall cease to be effective as of such date.

(b) PROPOSED REGULATIONS DESCRIBED.—The proposed regulations referred to in subsection (a) are as follows:

(1) The regulation proposed by the Comptroller of the Currency to amend part 21 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(2) The regulation proposed by the Director of the Office of Thrift Supervision to amend part 563 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(3) The regulation proposed by the Board of Governors of the Federal Reserve System to amend parts 208, 211, and 225 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(4) The regulation proposed by the Federal Deposit Insurance Corporation to amend part 326 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

SEC. 192. STUDY AND REPORT ON FEDERAL ELECTRONIC FUND TRANSFERS.

(a) STUDY.—The Secretary of the Treasury shall conduct a feasibility study to determine—

(1) whether all electronic payments issued by Federal agencies could be routed through the Regional Finance Centers of the Department of the Treasury for verification and reconciliation;

(2) whether all electronic payments made by the Federal Government could be subjected to the same level of reconciliation as United States Treasury checks, including matching each payment issued with each corresponding deposit at financial institutions;

(3) whether the appropriate computer security controls are in place in order to ensure the integrity of electronic payments;

(4) the estimated costs of implementing, if so recommended, the processes and controls described in paragraphs (1), (2), and (3); and

(5) a possible timetable for implementing those processes if so recommended.

(b) REPORT TO CONGRESS.—Not later than October 1, 2000, the Secretary of the Treasury shall submit a report to Congress containing the results of the study required by subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''electronic payment'' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tapes so as to order, instruct, or authorize a debit or credit to a financial account.

SEC. 193. GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.

(b) SPECIFIC CONFLICT REQUIRED TO BE ADDRESSED.—In the course of the study required under subsection (a), the Comptroller General shall address the conflict of interest faced by the Board of Governors of the Federal Reserve System between the role of the Board as a regulator of the payment system, generally, and its participation in the payment system as a competitor with private entities who are providing payment services.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study required under this section, together with such recommendations for such legislative or administrative actions as the Comptroller General may determine to be appropriate, including recommendations for resolving any such conflict of interest.

SEC. 194. STUDY OF COST OF ALL FEDERAL BANKING REGULATIONS.

(a) IN GENERAL.—In accordance with the finding in the Board of Governors of the Federal Reserve System Staff Study Numbered 171 (April, 1998) that ''Further research covering more and different types of regulations and regulatory requirements is clearly needed to make informed decisions about regulations'', the Board of Governors of the Federal Reserve System, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall conduct a comprehensive study of the total annual costs and benefits of all Federal financial regulations and regulatory requirements applicable to banks.

(b) REPORT REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a comprehensive report to the Congress containing the findings and conclusions of the Board in connection with the study required under subsection (a) and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

SEC. 195. STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LENDING.

(a) STUDY REQUIRED.—The Federal banking agencies shall conduct a study of banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be person-to-person contact during the course of a financial services transaction, and report their recommendations on adapting those existing requirements to online banking and lending.

(b) REPORT REQUIRED.—Within 1 year of the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress on the findings and conclusions of the agencies with respect to the study required under subsection (a), together with such recommendations for legislative or regulatory action as the agencies may determine to be appropriate.

(c) DEFINITION.—For purposes of this section, the term ''Federal banking agencies'' means each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act).

SEC. 196. REGULATION OF UNINSURED STATE MEMBER BANKS.

Section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

''(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.''.

SEC. 197. CLARIFICATION OF SOURCE OF STRENGTH DOCTRINE.

Section 18 of the Federal Deposit Insurance Act (21 U.S.C. 1828) is amended by adding at the end the following new subsection:

''(t) LIMITATION ON CLAIMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law other than paragraph (2), no person shall have any claim for monetary damages or return of assets or other property against any Federal banking agency (including in its capacity as conservator or receiver) relating to the transfer of money, assets, or other property to increase the capital of an insured depository institution by any depository institution holding company or controlling shareholder for such depository institution, or any affiliate or

subsidiary of such depository institution, if at the time of the transfer—

''(A) the insured depository institution is subject to any direction issued in writing by a Federal banking agency to increase its capital;

''(B) the depository institution is undercapitalized, significantly undercapitalized, or critically undercapitalized (as defined in section 38 of this Act); and

''(C) for that portion of the transfer that is made by an entity covered by section 5(g) of the Bank Holding Company Act of 1956 or section 45 of this Act, the Federal banking agency has followed the procedure set forth in such section.

''(2) EXCEPTION.—No provision of this subsection shall be construed as limiting—

''(A) the right of an insured depository institution, a depository institution holding company, or any other agency or person to seek direct review of an order or directive issued by a Federal banking agency under this Act, the Bank Holding Company Act of 1956, the National Bank Receivership Act, the Bank Conservation Act, or the Home Owners' Loan Act;

''(B) the rights of any party to a contract pursuant to section 11(e) of this Act; or

''(C) the rights of any party to a contract with a depository institution holding company or a subsidiary of a depository institution holding company (other than an insured depository institution).''

SEC. 198. INTEREST RATES AND OTHER CHARGES AT INTERSTATE BRANCHES.

Section 44 of the Federal Deposit Insurance Act (12 U.S.C. 1831u) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) APPLICABLE RATE AND OTHER CHARGE LIMITATIONS.—

''(1) IN GENERAL.—Except as provided for in paragraph (3), upon the establishment of a branch of any insured depository institution in a host State under this section, the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan or discount made or upon any note, bill of exchange, financing transaction, or other evidence of debt by any insured depository institution in such State shall be equal to not more than the greater of—

''(A) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction under the constitution, statutory, or other lows of the home State of the insured depository institution establishing any such branch, without reference to this section, as such maximum interest rate or amount of interest may change from time to time; or

''(B) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

''(2) PREEMPTION.—The limitations established under paragraph (1) shall apply only in any State that has a constitutional provision that sets a maximum lawful rate of interest on any contract at not more than 5 percent per annum above the Federal Reserve Discount Rate or 90-day commercial paper in effect in the Federal Reserve Bank in the Federal Reserve District in which the State is located.

''(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as superseding section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980.

Subtitle L-Effective Date of Title

SEC. 199. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any one or more of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other written arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker or dealer under the arrangement;

''(VI) bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer except as permitted under clause (ii) or (viii) of this subparagraph; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee or fiduciary capacity in its trust department, or another department where the trust or fiduciary activity is regularly examined by bank examiners under the same standards and in the same way as such activities are examined in the trust department, and—

''(I) is chiefly compensated for such transactions, consistent with fiduciary principles and standards, on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees; and

''(II) does not solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its affiliates (as defined in section 2 of the Bank Holding Company Act of 1956), if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

''(bb) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(III) ISSUER PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of that issuer's plan for the purchase or sale of that issuer's shares, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists chiefly of administration fees, or flat or capped per order processing fees, or both.

''(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

''(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1999; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate (as defined in section 2 of the Bank Holding Company Act of 1956) of the bank other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

''(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

''(II) at any time after the date that is 1 year after the date of enactment of the Financial Services Act of 1999, is not affiliated with a broker or dealer that has been registered for more than 1 year in accordance with this Act, and engages in dealing, market making, or underwriting activities, other than with respect to exempted securities; and

''(III) effects transactions exclusively with qualified investors.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law, if the bank maintains records separately identifying the securities and the customer.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) of this title and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) EXCEPTED BANKING PRODUCTS.—The bank effects transactions in excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(x) MUNICIPAL SECURITIES.—The bank effects transactions in municipal securities.

''(xi) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (x), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered broker or dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

''(D) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, immediately prior to the enactment of the Financial Services Act of 1999, subject to section 15(e) of this title; and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts as a trustee or fiduciary.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by—

''(I) the bank;

''(II) an affiliate of any such bank other than a broker or dealer; or

''(III) a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consists of mortgage obligations or consumer-related receivables.

''(iv) EXCEPTED BANKING PRODUCTS.—The bank buys or sells excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

''(I) to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer; or

''(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government

security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

''(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).''.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

''(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.''.

SEC. 204. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(t) RECORDKEEPING REQUIREMENTS.—

''(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

''(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.''.

SEC. 205. TREATMENT OF NEW HYBRID PRODUCTS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

''(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW HYBRID PRODUCTS.—

''(1) LIMITATION.—The Commission shall not—

''(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new hybrid product; or

''(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A);

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

''(2) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (1) of this subsection with respect to any new hybrid product unless the Commission determines that—

''(A) the new hybrid product is a security; and

''(B) imposing such requirement is necessary or appropriate in the public interest and for the protection of investors, consistent with the requirements of section 3(f).

''(3) CONSIDERATIONS.—In making a determination under paragraph (2), the Commission shall consider—

''(A) the nature of the new hybrid product; and

''(B) the history, purpose, extent, and appropriateness of the regulation of the new hybrid product under the Federal securities laws and under the Federal banking laws.

''(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the Board of Governors of the Federal Reserve System regarding the nature of the new hybrid product, the history, purpose, extent, and appropriateness of the regulation of the new product under the Federal banking laws, and the impact of the proposed rule on the banking industry.

''(5) NEW HYBRID PRODUCT.—For purposes of this subsection, the term 'new hybrid product' means a product that—

''(A) was not subjected to regulation by the Commission as a security prior to the date of enactment of this subsection; and

''(B) is not an excepted banking product, as such term is defined in section 206 of the Financial Services Act of 1999.''.

SEC. 206. DEFINITION OF EXCEPTED BANKING PRODUCT.

(a) DEFINITION OF EXCEPTED BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term ''excepted banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(6) a derivative instrument that involves or relates to—

(A) currencies, except options on currencies that trade on a national securities exchange;

(B) interest rates, except interest rate derivative instruments that—

(i) are based on a security or a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(C) commodities, other rates, indices, or other assets, except derivative instruments that—

(i) are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange.

(b) CLASSIFICATION LIMITED.—Classification of a particular product as an excepted banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(c) INCORPORATED DEFINITIONS.—For purposes of this section—

(1) the terms ''bank'', ''qualified investor'', and ''securities laws'' have the same meanings given in section 3(a) of the Securities Exchange Act of 1934, as amended by this Act; and

(2) the term ''government securities'' has the meaning given in section 3(a)(42) of such Act (as amended by this Act), and, for purposes of this section, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities.

SEC. 207. ADDITIONAL DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs:

''(54) DERIVATIVE INSTRUMENT.—

''(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include an excepted banking product, as defined in paragraphs (1) through (5) of section 206(a) of the Financial Services Act of 1999.

''(B) CLASSIFICATION LIMITED.—Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

''(55) QUALIFIED INVESTOR.—

''(A) DEFINITION.—For purposes of this title, the term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6) of this subsection), savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the United States Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(E) for purposes of sections 15, 15C, and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States.''.

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking ''(f) Every registered'' and inserting the following:

''(f) CUSTODY OF SECURITIES.—

''(1) Every registered'';

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

''(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.''.

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).''.

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (2) the following:

''(3) as custodian.''.

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.''.

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account over which the investment company's investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account for which the investment company's investment adviser has borrowing authority,''.

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account over which the investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account for which the investment adviser has borrowing authority,''.

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking ''bank, except'' and inserting ''bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

''(a) MISREPRESENTATION OF GUARANTEES.—

''(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

''(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

''(B) has been insured by the Federal Deposit Insurance Corporation; or

''(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

''(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

''(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

''(6) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.''.

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

''(11) The term 'dealer' has the same meaning given in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(A)) is amended by striking ''investment company'' and inserting ''investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser''.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(26) The term 'separately identifiable department or division' of a bank means a unit—

''(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

''(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.''.

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

''(3) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934.''.

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

''(7) The term 'dealer' has the same meaning given in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

''SEC. 210A. CONSULTATION.

''(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

''(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

''(A) of any—

''(i) bank holding company;

''(ii) bank; or

''(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

''(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

''(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, which is registered under section 203 of this title.

''(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any other provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking ''or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian'' and inserting ''or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

''(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: '', if—

''(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

''(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

''(i) advertised; or

''(ii) offered for sale to the general public; and

''(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law''.

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

''(g) CONTROLLING INTEREST IN INVESTMENT COMPANY PROHIBITED.—

''(1) IN GENERAL.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

''(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

''(i) transfer the power to vote the shares of the investment company through to—

''(I) the beneficial owners of the shares;

''(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

''(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

''(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

''(2) EXEMPTION.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a

trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

''(3) SAFE HARBOR.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).''.

SEC. 223. STATUTORY DISQUALIFICATION FOR BANK WRONGDOING.

Section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)) is amended in paragraphs (1) and (2) by striking ''securities dealer, transfer agent,'' and inserting ''securities dealer, bank, transfer agent,''.

SEC. 224. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking ''(A) a banking institution organized under the laws of the United States'' and inserting ''(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)''.

SEC. 225. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

''(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.''.

SEC. 226. CHURCH PLAN EXCLUSION.

Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(14)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraph (B) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting ''(A)'' after ''(14)''; and

(4) by adding at the end the following new subparagraph:

''(B) If a registered investment company would be excluded from the definition of investment company under this subsection but for the fact that some of the company's assets do not satisfy the condition of subparagraph (A)(ii) of this paragraph, then any investment adviser to the company or affiliated person of such investment adviser shall not be subject to the requirements of section 15(g)(1)(B) with respect to shares of the investment company.''.

SEC. 227. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsection:

''(i) INVESTMENT BANK HOLDING COMPANIES.—

''(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

''(A) IN GENERAL.—An investment bank holding company that is not—

''(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association;

''(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

''(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

''(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

''(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

''(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

''(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

''(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

''(A) RECORDKEEPING AND REPORTING.—

''(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

''(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

''(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

''(I) a balance sheet and income statement;

''(II) an assessment of the consolidated capital of the supervised investment bank holding company;

''(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

''(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

''(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

''(C) EXAMINATION AUTHORITY.—

''(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

''(I) inform the Commission regarding—

''(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

''(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

''(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

''(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

''(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

''(I) the company; and

''(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

''(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

''(4) HOLDING COMPANY CAPITAL.—

''(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

''(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

''(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

''(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

''(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

''(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

''(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

''(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'investment bank holding company' means—

''(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

''(ii) the associated persons of the investment bank holding company.

''(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

''(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', 'savings association', and 'wholesale financial institution' have the same meanings given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(D) The term 'insured bank' has the same meaning given in section 3 of the Federal Deposit Insurance Act.

''(E) The term 'foreign bank' has the same meaning given in section 1(b)(7) of the International Banking Act of 1978.

''(F) The terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.''.

''(j) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraph:

''(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

''(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

''(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

''(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

''(iv) the Commission in the case of all other such institutions.''.

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking ''this title'' and inserting ''law''; and

(B) by inserting '', examination reports'' after ''financial records''.

Subtitle D—Disclosure of Customer Costs of Acquiring Financial Products

SEC. 241. IMPROVED AND CONSISTENT DISCLOSURE.

(a) REVISED REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, each Federal financial regulatory authority shall prescribe rules, or revisions to its rules, to improve the accuracy, simplicity, and completeness, and to make more consistent, the disclosure of information by persons subject to the jurisdiction of such regulatory authority concerning any commissions, fees, or other costs incurred by customers in the acquisition of financial products.

(b) CONSULTATION.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consult with each other and with appropriate State financial regulatory authorities.

(c) CONSIDERATION OF EXISTING DISCLOSURES.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consider the sufficiency and appropriateness of then existing laws and rules applicable to persons subject to their jurisdiction, and may prescribe exemptions from the rules and revisions required by subsection (a) to the extent appropriate in light of the objective of this section to increase the consistency of disclosure practices.

(d) ENFORCEMENT.—Any rule prescribed by a Federal financial regulatory authority pursuant to this section shall, for purposes of enforcement, be treated as a rule prescribed by such regulatory authority pursuant to the statute establishing such regulatory authority's jurisdiction over the persons to whom such rule applies.

(e) DEFINITION.—As used in this section, the term ''Federal financial regulatory authority'' means the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and any self-regulatory organization under the supervision of any of the foregoing.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled ''An Act to express the intent of the Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the ''McCarran-Ferguson Act'' remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance activities of any person (including a national bank exercising its power

to act as agent under the 11th undesignated paragraph of section 13 of the Federal Reserve Act) shall be functionally regulated by the States, subject to section 104.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 305, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) GENERAL PROHIBITION.—No national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance.

(b) NONDISCRIMINATION PARITY EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including section 104 of this Act), in the case of any State in which banks organized under the laws of such State are authorized to sell title insurance as agency, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State, but only in the same manner, to the same extent, and under the same restrictions as such State banks are authorized to sell title insurance as agent in such State.

(2) COORDINATION WITH ''WILDCARD'' PROVISION.—A State law which authorizes State banks to engage in any activities in such State in which a national bank may engage shall not be treated as a statute which authorizes State banks to sell title insurance as agent, for purposes of paragraph (1).

(c) GRANDFATHERING WITH CONSISTENT REGULATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and notwithstanding subsections (a) and (b), a national bank, and a subsidiary of a national bank, may conduct title insurance activities which such national bank or subsidiary was actively and lawfully conducting before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in the underwriting of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate other than a subsidiary which provides insurance as principal, the national bank may not directly engage in any activity involving the underwriting of title insurance.

(d) ''AFFILIATE'' AND ''SUBSIDIARY'' DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(e) RULE OF CONSTRUCTION.—No provision of this Act or any other Federal law shall be construed as superseding or affecting a State law which was in effect before the date of the enactment of this Act and which prohibits title insurance from being offered, provided, or sold in such State, or from being underwritten with respect to real property in such State, by any person whatsoever.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FEDERAL REGULATORS.

(a) FILING IN COURT OF APPEALS.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance, as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States Court of Appeals in which a petition for review is filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under this section shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No petition may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date on which the first public notice is made of such order, ruling, determination or other action in its final form; or

(2) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action takes effect.

(e) STANDARD OF REVIEW.—The court shall decide a petition filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 307. CONSUMER PROTECTION REGULATIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 46 (as added by section 122(b) of this Act) the following new section:

''SEC. 47. CONSUMER PROTECTION REGULATIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of the Financial Services Act of 1999, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the

sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates; or

''(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iv) COERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

''(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC–INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(iv) 'NOT INSURED BY ANY GOVERNMENT AGENCY'.

''(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

''(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

''(1) establish a group within each regulatory agency to receive such complaints;

''(2) develop procedures for investigating such complaints;

''(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

''(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

''(f) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

''(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.''.

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(a)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

SEC. 309. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance

companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms ''appropriate Federal banking agency'' and ''insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms ''Board'', ''financial holding company'', and ''wholesale financial institution'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 310. DEFINITION OF STATE.

For purposes of this subtitle, the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Subtitle B—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the

National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after the date on which such uniformity or reciprocity ceases to exist, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the ''Association'').

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the ''NAIC'').

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the ''Board'') for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association shall take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) REPORT BY ASSOCIATION.—As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the NAIC shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) PROHIBITED ACTIONS.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) SAVINGS PROVISION.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) HOME STATE.—The term ''home State'' means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) INSURANCE.—The term ''insurance'' means any product, other than title insurance, defined or regulated as insurance by

the appropriate State insurance regulatory authority.

(3) INSURANCE PRODUCER.—The term ''insurance producer'' means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

Subtitle C—Rental Car Agency Insurance Activities

SEC. 341. STANDARD OF REGULATION FOR MOTOR VEHICLE RENTALS.

(a) PROTECTION AGAINST RETROACTIVE APPLICATION OF REGULATORY AND LEGAL ACTION.—Except as provided in subsection (b), during the 3-year period beginning on the date of the enactment of this Act, it shall be a presumption that no State law imposes any licensing, appointment, or education requirements on any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle.

(b) PREEMINENCE OF STATE INSURANCE LAW.—No provision of this section shall be construed as altering the validity, interpretation, construction, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute; or

(3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action,

which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term lease or rental of a motor vehicle.

(c) SCOPE OF APPLICATION.—This section shall apply with respect to—

(1) the lease or rental of a motor vehicle for a total period of 90 consecutive days or less; and

(2) insurance which is provided in connection with, and incidentally to, such lease or rental for a period of consecutive days not exceeding the lease or rental period.

(d) MOTOR VEHICLE DEFINED.—For purposes of this section, the term ''motor vehicle'' has the meaning given to such term in section 13102 of title 49, United States Code.

Subtitle D—Confidentiality

SEC. 351. CONFIDENTIALITY OF HEALTH AND MEDICAL INFORMATION.

(a) IN GENERAL.—A company which underwrites or sells annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than credit-related insurance) and any subsidiary or affiliate thereof shall maintain a practice of protecting the confidentiality of individually identifiable customer health and medical and genetic information and may disclose such information only—

(1) with the consent, or at the direction, of the customer;

(2) for insurance underwriting and reinsuring policies, account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), providing information to the customer's physician or other health care provider, participating in research projects, enabling the purchase, transfer, merger, or sale of any insurance-related business, or as otherwise required or specifically permitted by Federal or State law; or

(3) in connection with—

(A) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card or account number, or by other payment means;

(B) the transfer of receivables, accounts, or interest therein;

(C) the audit of the debit, credit, or other payment information;

(D) compliance with Federal, State, or local law;

(E) compliance with a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities as governed by the requirements of this section; or

(F) fraud protection, risk control, resolving customer disputes or inquiries, communicating with the person to whom the information relates, or reporting to consumer reporting agencies.

(b) STATE ACTIONS FOR VIOLATIONS.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, State insurance regulator, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction.

(c) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) shall take effect on February 1, 2000.

(2) SUNSET.—Subsection (a) shall not take effect if, or shall cease to be effective on and after the date on which, legislation is enacted that satisfies the requirements in section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

(d) CONSULTATION.—While subsection (a) is in effect, State insurance regulatory authorities, through the National Association of Insurance Commissioners, shall consult with the Secretary of Health and Human Services in connection with the administration of such subsection.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PROHIBITION ON NEW UNITARY SAVINGS AND LOAN HOLDING COMPANIES.

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

''(9) TERMINATION OF EXPANDED POWERS FOR NEW UNITARY HOLDING COMPANY.—

''(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after March 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2); or

''(ii) for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.

''(B) EXISTING UNITARY HOLDING COMPANIES AND THE SUCCESSORS TO SUCH COMPANIES.—Subparagraph (A) shall not apply, and paragraph (3) shall continue to apply, to a company (or any subsidiary of such company) that—

''(i) either—

''(I) acquired 1 or more savings associations described in paragraph (3) pursuant to applications at least 1 of which was filed on or before March 4, 1999; or

''(II) subject to subparagraph (C), became a savings and loan holding company by acquiring control of the company described in subclause (I); and

''(ii) continues to control the savings association referred to in clause (i)(II) or the successor to any such savings association.

''(C) NOTICE PROCESS FOR NONFINANCIAL ACTIVITIES BY A SUCCESSOR UNITARY HOLDING COMPANY.—

''(i) NOTICE REQUIRED.—Subparagraph (B) shall not apply to any company described in subparagraph (B)(i)(II) which engages, directly or indirectly, in any activity other than activities described in clauses (i) and (ii) of subparagraph (A), unless—

''(I) in addition to an application to the Director under this section to become a savings and loan holding company, the company submits a notice to the Board of Governors of the Federal Reserve System of such nonfinancial activities in the same manner as a notice of nonbanking activities is filed with the Board under section 4(j) of the Bank Holding Company Act of 1956; and

''(II) before the end of the applicable period under such section 4(j), the Board either approves or does not disapprove of the continuation of such activities by such company, directly or indirectly, after becoming a savings and loan holding company.

''(ii) PROCEDURE.—Section 4(j) of the Bank Holding Company Act of 1956, including the standards for review, shall apply to any notice filed with the Board under this subparagraph in the same manner as it applies to notices filed under such section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(3)) is amended by striking ''Notwithstanding'' and inserting ''Except as provided in paragraph (9) and notwithstanding''.

(c) CONFORMING AMENDMENT.—Section 10(o)(5) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)(5)) is amended—

(1) in subparagraph (E), by striking '', except subparagraph (B)''; and

(2) by adding at the end the following new subparagraph:

''(F) In the case of a mutual holding company which is a savings and loan holding company described in subsection (c)(3), engaging in the activities permitted for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.''.

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1999 may retain the term 'Federal' in the name of such institution if such depository institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

TITLE V—PRIVACY

Subtitle A—Privacy Policy

SEC. 501. DEPOSITORY INSTITUTION PRIVACY POLICIES.

Section 6 of the Bank Holding Company Act of 1956 (as added by section 103 of this title) is amended by adding at the end the following new subsection:

''(h) DEPOSITORY INSTITUTION PRIVACY POLICIES.—

''(1) DISCLOSURE REQUIRED.—In the case of any insured depository institution which becomes affiliated under this section with a financial holding company, the privacy policy of such depository institution shall be clearly and conspicuously disclosed—

''(A) with respect to any person who becomes a customer of the depository institution any time after the depository institution becomes affiliated with such company, to such person at the time at which the business relationship between the customer and the institution is initiated; and

''(B) with respect to any person who already is a customer of the depository institution at the time the depository institution becomes affiliated with such company, to such person within a reasonable time after the affiliation is consummated.

''(2) INFORMATION TO BE INCLUDED.—The privacy policy of an insured depository institution which is disclosed pursuant to paragraph (1) shall include—

''(A) the policy of the institution with respect to disclosing customer information to third parties, other than agents of the depository institution, for marketing purposes; and

''(B) the disclosures required under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act with regard to the right of the customer, at any time, to direct that information referred to in such section not be shared with affiliates of the depository institution.

''(3) APPLICABILITY.—For purposes of section 10 of the Home Owners' Loan Act, this subsection and subsection (i) shall apply with regard to a savings and loan holding company and any affiliate or insured depository institution subsidiary of such holding company to the same extent and in the same manner this subsection and subsection (i) apply with respect to a financial holding company, affiliate of a financial holding company, or insured depository institution subsidiary of a financial holding company.''.

SEC. 502. STUDY OF CURRENT FINANCIAL PRIVACY LAWS.

(a) IN GENERAL.—The Federal banking agencies shall conduct a study of whether existing laws which regulate the sharing of customer information by insured depository institutions with affiliates of such institutions adequately protect the privacy rights of customers of such institutions.

(b) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress containing the findings and conclusions of the agency with respect to the study required under subsection (a), together with such recommendations for legislative or administrative action as the agencies may determine to be appropriate.

(c) DEFINITIONS.—For purposes of this section, the terms ''affiliate'', ''Federal banking agency'', and ''insured depository institution'' have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(g) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a financial institution, to the extent reasonably necessary to collect child support from a person adjudged to have been delinquent in his or her obligations by a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

(1) notify the Securities and Exchange Commission whenever the Federal Trade Commission initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

(2) notify the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State

statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

H.R. 1658

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 28: Page 2, line 16, strike ''60'' and insert ''10''.

H.R. 1658

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 29: Page 3, line 24, strike ''90'' and insert ''30''.

H.R. 1658

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 30: Page 5, line 20, strike ''by clear and convincing evidence'' and insert ''by a preponderance of the evidence''.

H.R. 1658

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 31: Page 10, lines 23 and 24 strike ''30'' and insert ''10''.

SENATE—*Thursday, June 24, 1999*

The Senate met at 9:33 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Pastor Daniel Holland, Metro Church of Christ, Oviedo, FL.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Pastor Daniel D. Holland, offered the following prayer:

Our Father in Heaven, as we begin a new day, we recognize that You are God and we are Your servants. We confess that we have not always walked in the path of righteousness and ask for Your forgiveness.

May our work this day be honoring to You. Remind us today that You are a promise-keeping God.

As You gave wisdom to King Solomon, so You promise wisdom to those who ask You. We ask for the wisdom to know the difference between what is right and what is wrong.

As You were with Jesus during the difficult days of the cross, so You have promised never to leave us as we serve You. Please give us the spiritual strength to follow wherever You may lead, even when following means a personal price must be paid. As You promise forgiveness, help us forgive those who sin against us. As You promise to provide for our needs, help us to give of ourselves to others.

Father, give us faith to see Your great and precious promises and courage to govern according to them. Through Jesus Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. We will all join now in the Pledge of Allegiance to the flag.

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

FIRST PLEDGE OF ALLEGIANCE

Mr. LOTT. Mr. President, I observe that for the first time, I presume, in history we have just opened the session of the Senate with the Pledge of Allegiance led by our most esteemed President pro tempore.

I yield for some brief comments on that to the Senator from New Hampshire.

The PRESIDENT pro tempore. The distinguished Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. I thank the majority leader for his courtesy.

This is a historic day. Ironically, today, the House of Representatives is scheduled to pass a constitutional amendment protecting our flag from desecration and on this same day we are, for the first time in the history of the Senate, as far as I know, saluting the flag as we begin its proceedings.

I thank both leaders, Senator LOTT and Senator DASCHLE, for their support in bringing this resolution to the floor quickly, and also to thank Senators MCCONNELL, HELMS, DORGAN, MIKULSKI, WARNER, BROWNBACK, FEINSTEIN, ROBB, CONRAD, THURMOND, MURKOWSKI, and Senator GORDON SMITH for their cosponsorship and to thank all of my colleagues as we had a 100-to-0 agreement to do this.

I am proud to be the sponsor of this historic resolution. I stand here at a very historic desk, the desk of Daniel Webster, who was here a few years before me.

This is history being made. I want to give credit to the person who helped make this history happen. Oftentimes, we get letters and phone calls from constituents, sometimes with good ideas, sometimes they are not so good. But in this particular case a young woman, who is in the gallery today, by the name of Rebecca Stewart, of Enfield, NH, made a simple phone call to my office. She said: Why don't we salute the flag before the proceedings begin in the Senate?

I said: That's a good idea. Why didn't I think of that? But I had not.

Thanks to Rebecca, who gave us the idea—and I looked into it with the Rules Committee and everything moved quickly, thanks to both leaders—here we are. Today, Rebecca brought with her the flag that was draped over the coffin of her husband's grandfather, who was a World War II vet.

I think it is very fitting this morning that a young woman from New Hampshire, which has the Nation's first primary, was first to see that the flag of the United States will from now on be saluted prior to the proceedings in the Senate.

I say thank you to Rebecca and to my colleagues for their courtesies in making a good idea come to pass.

I thank the Chair, and I thank my colleague for yielding.

Mr. LOTT. Mr. President, I wish to express our appreciation to the Senator from New Hampshire, Mr. SMITH, for his effort. The fact is that the Rules Committee moved swiftly on the resolution. I think I should note for the record that the House of Representatives started this practice some years ago, and it was instigated by my former colleague in the House, Sonny Montgomery. They have been doing it for a number of years, and I think it is most appropriate that we begin to do the same thing in the Senate.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, I think it is important that I take a minute to sort of review the bidding as to what has been going on. There have been a number of discussions as to how to proceed with the pending agriculture appropriations bill, as well as the two pending Patients' Bill of Rights proposals. Senator DASCHLE and I talked numerous times throughout the day. At one point, beginning on Tuesday night, we talked about trying to find a way to take the Patients' Bill of Rights issues up and deal with them on Wednesday and Thursday. We could not quite get that approved.

Then a proposal was made to go ahead and go forward with the appropriations bills and maybe some other legislative issues that could be cleared and to take up the Patients' Bill of Rights issue on Monday, July 12, when we come back from the recess, and spend until the close of business that week, Thursday, July 15, on the Patients' Bill of Rights issue. Originally, I was thinking it would just be sort of a jump ball; we would get started. We would go forward, no limits on amendments, no limits on time, but understanding everybody had to be fair with each other. There should not be an attempt on this side to block a reasonable number of amendments. Neither should there be an attempt on the other side to say we have to have 18 or 26 or 35 or any requisite number of amendments but just do like we do legislative bills—we take them up and go forward.

Concerns developed on both sides of the aisle, and we modified that proposal two or three times. As of late last night, about 6, we were still exchanging ideas. So we do not have a finalized agreement.

I think progress has been made toward finding a way to complete action on the pending bill; that is, the underlying bill, the appropriations bill, as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

well as other important appropriation bills. We should be able to find a way to consider the Patients' Bill of Rights issue, because there is belief, I think on both sides, that there are some areas that need to be addressed. There are some rights that need to be protected. There should be some way to appeal decisions within HMOs. Once we make up our minds that we will get together and work through it, I think we will be able to do that. We can continue trying to negotiate, which I am always willing to do, or we can just go ahead and go forward and see what happens.

Keep in mind that this Patients' Bill of Rights issue, or pieces of it, would be on the agriculture appropriations bill, which is not the normal place we would want it. Also, I presume it won't be there when the appropriations bill comes back. So I do not quite understand why we would be doing it this way.

To enable us to negotiate, I will ask for a period of morning business, but I would like to discuss that momentarily with Senator DASCHLE and leadership on both sides.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. In order to continue working to find a way to handle these appropriation bills, particularly the underlying bill, the agriculture bill, and the Patients' Bill of Rights, I now ask that there be a period of morning business until 10:30 today, with the time equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. As always, we will notify Senators as to when votes are scheduled, and we will now have the opportunity for Senators who are on the floor and wish to speak to do so while we continue negotiations.

I yield the floor.

Mr. KENNEDY. Mr. President, as I understand, we are in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I see the Senator from California back on the floor prepared to offer her amendment on the pending legislation. It is an extremely important amendment.

I noted that she was here yesterday morning prepared to offer the amendment, and then in the midmorning, and then at noontime, and then in the early afternoon, midafternoon, and late afternoon.

I am very glad we are going to have a brief period of morning business. But, as one Senator, I hope this is really the last time we are going to have a period of morning business and that we can get on to the business and the substance of this legislation.

We went through all day yesterday with continuations of morning business, and we had some 16 Members—those who are cosponsors of the Patients' Bill of Rights—who came to the floor prepared to speak on the Patients' Bill of Rights, different features of it. Many of them—I think eight of them—are actually prepared to offer amendments but were unable to do so because we were in continued morning business. I see that the Senator from California is prepared to move ahead and move this whole process forward.

I think the American people want us to move ahead on this. I think it is enormously timely that we do, and particularly in the way the Senator from California intends to address the Senate. I know she will speak for herself in a few moments.

We can see what happened in the last few hours among the doctors in this Nation. The American Medical Association is voting to try to come together in a way to advance, one, the quality of health care for the American consumer; and, two, to be able to deal with these economic pressures they are under from the HMOs, in order to give assurance to their patients that they are going to be able to receive the best in terms of health care.

It just underlines, once again, the importance of Senator FEINSTEIN's amendment in terms of what is going to be defined as medically necessary. That is at the heart of this whole issue on the Patients' Bill of Rights. I think we ought to be about the debate on that during the course of the day.

This is a very fundamental, basic difference. I have read carefully—and it didn't take a great deal of time—the comments of those who spoke yesterday in favor of what I call the ''patients' bill of wrongs'' being submitted by the other side, which was passed out of our Human Resource Committee. There was no real focus and attention on this fundamental and basic issue. We ought to be about it; we ought to debate it and vote on it and move ahead on other pieces of legislation.

I find that it appears with the proposal—I see the Senator on her feet at the present time—I listened with great interest to the proposal made by the Republican leadership suggesting how we proceed next week on the Patients' Bill of Rights.

The way I looked at their proposal that was going to be offered by the majority leader, it would effectively permit only one Democratic amendment per day and we would have only 4 days, because under the proposal they would have a first-degree amendment, a Republican amendment, and then you could have a second-degree Democratic amendment and a second-degree Republican. That would take 6 hours. Then you would have a first-degree Democrat amendment, a second-degree Republican amendment, a second-degree Democrat amendment. That is 6 more hours. That is 12 hours with one amendment.

That is not the Senate, Mr. President. I don't believe that offer deserves to be accepted. We were tied up in morning business for a full day because they did not want to vote on a single proposition of whether the insurance company accountants or the medical profession ought to make the medical decisions. That is a very basic and fundamental one. This body ought to make a judgment and decision on that issue.

I see the Senator from California on her feet now, and I hope that after she makes a presentation on this, we will be able to just have the opportunity to commend our colleagues to her position. I have reviewed both her statement and her amendment; it is an excellent one. With the acceptance of her amendment, it will mean that every insurance policy in this country, virtually, will establish a higher standard of treatment for the American patients, for every child, for every member of a family, and that will be the basic standard that will be used.

I don't believe that the American families ought to have any less than the best. The Senator from California has an amendment to address that issue. We should listen carefully to it, and then we should move to let the Senate make a judgment on this decision. I look forward to the discussion and debate, and hopefully we can have some resolution of it.

I thank the Chair and yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts for his remarks. I don't think anyone in the Senate has ever done more to advance the cause of responsible medical reform than Senator KENNEDY from the State of Massachusetts. He also has been here day after day, with comment after comment, in speech after speech, trying to urge this body to act.

My general style is probably not as forceful as that of the distinguished Senator from Massachusetts. But about this particular issue I am going to be persistent, and I am going to be here for as long as it takes, until there

is an opportunity to have a vote on this amendment.

Today, this morning, another arrow in the quiver of reform was played out above the fold in the Washington Post—something, as a doctor's daughter and a doctor's wife for many years, I never thought I would see in the United States of America—and that is, the American Medical Association voting to unionize doctors. The subhead under the headline reads: ''Group Acts in Response to Managed Care's Effect on Rights, Duties of Physicians.''

I want to quote two brief things from the article:

> In setting up what they are calling a ''national negotiating organization,'' AMA officials contended that only through collective bargaining can doctors win back control over which drugs they may prescribe for patients and how much treatment they can provide.

Mr. President, it is a disturbing day when physicians have to unionize to be able to prescribe and treat patients as they see fit. I can't believe that this day has come in the United States of America.

Let me end on this subject, with one quote from the AMA president, Dr. Nancy Dickey. She said:

> Traditional unions are there primarily to care for their employee's needs. We are looking for a vehicle that will allow us to carry out the covenant we have with our patients.

That is the reason I am proposing this amendment—or hope to propose the amendment. I hope to have an opportunity to offer an amendment that represents the heart of HMO reform.

This amendment will prevent managed care plans from arbitrarily interfering with or altering the physician's decision of what is a medically necessary service. The term medically necessary, or appropriate, is defined as ''a service or benefit which is consistent with generally accepted principles of professional medical practice.'' That is something none of us can be opposed to. If this amendment were in fact the law, it would not be necessary for the American Medical Association to vote to unionize physicians. Physicians would have that right guaranteed by this amendment. Let me prove that by reading the actual wording of the amendment:

> A group health plan, or health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with, or alter, the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnose to the extent that such treatment or diagnosis is otherwise a covered benefit.

The amendment is saying that if an individual buys a policy which specifies treatment for certain illnesses, the physician will be free to treat that patient as medically appropriate with respect to both the treatment and the setting.

That is what physicians at the AMA meeting yesterday just voted, to unionize to be able to care for their patients. Why do they need to have a union to achieve something which is self-evident, which is a part of medical training, which is the history of medicine in the United States of America, and has been the history of medicine in this country, up to the growth of managed care, which again could change and alter that history rather dramatically?

The terms ''manner'' and ''setting'' mean the location of treatment and the duration of treatment. That means, whether the treatment is in the office or the hospital, the physician has the right to determine the type of treatment and the length of, for example, the hospital stay. The physician would have the right to determine these things.

Physicians today are going to unionize in order to get that basic right, a right which we, the Congress, the Senate of the United States, could, if we chose, give them legislatively.

The term ''medically necessary or appropriate'' is defined in the amendment as a service or benefit which is consistent with generally accepted medical practice—a very standard definition, a very well-accepted definition.

This amendment is intended to restore the physician to medical care. Very simply stated, I agree with the American College of Surgeons, which said:

> Any health care system or plan that removes the surgeon [or doctor] and the patient from the medical decision-making process only undermines the quality of the patient's care and his or her health and well-being.

Our system today has done just that. And the action taken by doctors to unionize strongly suggests that.

Medical providers today are feeling kicked around, arm twisted, ''incentivized,'' and compromised when they try to provide good care to sick people.

I am compelled to offer this amendment because I have no other choice. Yes, I want to pass an agriculture appropriations bill, but I have been trying for almost 3 years now to pass legislation like this to restore medical decisionmaking to medical professionals. As Congress dawdles, the complaints keep rising, people get poor care, and people die.

Let me talk a little bit about managed care.

Managed care is a growing form of health insurance in America. I support managed care. I believe it can in fact be a cost-effective way of delivering good health care to large numbers of people. But it can't do that if accountants and the ''green eyeshade'' personnel make the decision for the physician. The physician has to make the decision as to what is appropriate medical care.

Today over 160 million Americans—or 75 percent of the insured population—have managed care plans. My State of California—this is the reason I have decided to be so persistent—has the highest penetration of managed care of any state. Eighty-five percent of insured Californians are in some form of managed care.

As managed care has grown, so have the complaints. There seems to be a steady stream of them into my offices, and into other Congressional offices and in the media.

A Kaiser Family Foundation and Harvard University study found the following:

First, a majority—actually 59 percent of Americans—say managed care plans have made it harder for people who are sick to seek medical specialists.

Second, three out of five—61 percent—say managed care has reduced the amount of time doctors can spend with patients.

Third, a majority of people in managed care—55 percent—say they are worried that if they are sick, their health plan would be more concerned about saving money than about what is the best medical treatment.

In Sacramento, a survey of managed care enrollees found that of those consumers experiencing problems, the most common problems were:

One, delay, or denial of care, or payment, 42 percent;

Two, limited access to physicians, 32 percent, such as difficulty getting an appointment, or limited access to specialists;

Three, concerns about quality of care, 11 percent, including inappropriate treatment, facilities, or diagnosis.

As managed care has grown, the pressures on doctors and other professionals to control costs have come at the expense of people's health. In other words, as the plans grow, the pressures on doctors to cut treatment, to prescribe cheaper drugs, to cut hospital stays also increase.

Doctors report to us that they have to spend hours on the phone with insurance accountants and adjusters justifying medical decisions. That should not happen. They tell me they have to provide mountains of paperwork documenting patients' problems. This is a real change.

When my father was chief of surgery at the University of California Medical Center, he had one secretary. He saw patients in his office at the University of California. He taught surgery in the medical school. And there was very little paperwork. Today, walk into virtually any surgeon's office, and there is a mound of paper, there are rooms full of staff, there are accountants, and there is a huge stream of paperwork.

Medicine has changed dramatically in the United States. Not all of that is bad. I am the first one to say it. Many people have good coverage. The problem is the cost of that coverage and

whether that coverage is providing for timely and appropriate diagnoses and treatments, which are the finest, as Senator KENNEDY said, that people can expect.

I am also told that physicians are spending increasing time having to fight insurance companies that try to impose rules on their medical practices—rules that are not considered to be the best medical practice or may not even fit an individual's illness. They tell me they have to exaggerate illnesses to get coverage. They tell me they have to struggle to balance medical necessity against insurance company bottom lines.

One survey of California doctors by the California Medical Association found that fewer than 10 percent of doctors had good experiences with managed care. That is what is leading to this headline, ''AMA Votes to Unionize.'' That is what this amendment can change.

Another study reported in the November 1998 New England Journal of Medicine found that 57 percent of primary care doctors in California felt pressure to limit referrals, and 17 percent said that this actually compromised the care of their patients.

Doctors are trained to diagnose and treat based on the best professional medical practice. They know that every individual brings to their office a unique history, unique biology, and unique conditions. And they know that people vary tremendously. What works in one person may not work in the next.

The point I am trying to make is that people vary tremendously. The drug that works in one and has no side effects may work differently in another person. A 70-year-old with the flu or pneumonia is very different from a 30-year-old with the flu or pneumonia. A person with high blood pressure or anemia may need an extra day or two in the hospital after surgery.

This is why the physician should determine the treatment, the length of treatment, the length of hospital stay. That is what my amendment attempts to accomplish.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

PATIENTS' BILL OF RIGHTS PLUS

Mr. GRAMS. Mr. President, I wish to talk this morning about health care. I find it ironic we are trying to get to a very important agricultural appropriations bill, and the Democratic side of the aisle is preventing the Senate from moving on that. Hopefully we can work out an agreement on these health care issues and discuss and debate them openly. I look forward to the debate.

I find it humorous when Senator KENNEDY calls our bill the ''Patient Bill of Wrongs''. It seems that if it is not his way, it is the wrong way. Our bill is the Patients' Bill of Rights Plus, which I think goes further in trying to encourage people to get health insurance and to have coverage, rather than leading America toward a government-type system of national health care.

I am looking forward to the debate. I hope the agreement can be worked out and we can discuss the different views on health care reform, listen to Senator KENNEDY on his Patients' Bill of Rights, and also to have adequate time to fully debate the Republican plan, Senator NICKLES' bill, the Patients' Bill of Rights Plus. I think we must have time to compare and contrast those two plans. I think the American people are going to get a good idea where both parties stand on the direction of health care and health care reform in the near future.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1274 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I ask unanimous consent at the conclusion of my remarks that the Senator from North Carolina, Mr. EDWARDS, be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Mr. President, once again my Democratic colleagues in the Senate have joined this week in a discussion of the overwhelming national need for reform of managed health care. Once again, Senators from States across the Nation have shared the experiences of their constituents, the frustrations of their families at being denied the treatment and care through managed care for which they are paying.

Once again, it has been a one-sided discussion. We have been talking about the need for reform of managed care while our friends and colleagues across the aisle have been preventing any real debate. The American people have waited long enough for a basic and fundamental reform of the managed health care system in America. We have allowed weeks, months and even years to pass while recognizing American families are in jeopardy and not receiving the care they need, deserve, or have even paid for. There is simply no further excuse for delay.

During this session of the Congress, this Senate has spent 7 days considering 38 amendments on the relatively simple concept of educational flexibility. The Senate had 8 days available for 52 amendments on juvenile justice; 4 days for 159 amendments on defense authorization; 13 days to consider 51 amendments on the Y2K problem. These were all important issues, all legitimate. But in each and every instance time was not an issue; the available amendments by Members of the Senate were fully considered. On this single issue, which affects as many or more Americans than any of these others, the Senate does not have time; it cannot give its attention.

Like other Members of the Senate who have come to the floor to discuss the experiences of their constituencies, I want to share the experience of one of mine: A young woman from Spotswood, NJ, Kristin Bolinger. Kristin suffers from a unique condition that causes seizures and scoliosis, but it can be managed with proper treatment. The genius of medical science in America, the care of her doctors, can prevent these seizures that are interrupting her life. Her family is enrolled in an HMO. She was denied access to a specialist, the one with the knowledge to treat her illness. The procedure was deemed unnecessary. She was denied critical home nursing, denied physical therapy, denied reimbursement. The fact of the matter is, the care her parents were paying for, she was paying for, the benefit of the genius of American medical science, was denied to her.

There are 161 million Americans just like Kristin, covered by managed care, who simply cannot wait any longer for this Senate to find their problems, the tragedies of their families, relevant. In my State, in New Jersey, 3.8 million people who are part of health maintenance organizations have no legal protections. Like their fellow citizens across America, they believe it is time for us to act. The American people have been polled and 79 percent are in favor of and demand some reform in the management of health care in America. They believe, as I believe, that doctors, specialists, people trained to care, should be making these medical judgments; not accountants, not financial managers. People should be making decisions to provide care who know what care is required.

There is a lot that has changed in American health care through the years. The family doctor who in the middle of the night knocked on your door to help may be gone. By necessity, it may all have changed. But we do not have to abandon that one principle that has always been at the foundation of private health care in America—doctors make health care decisions.

Mr. President, 30 percent of the American people, an extraordinary number, claim they personally know someone who needed health care, who had a problem, and was denied that care although they were enrolled in and had paid for a managed care plan.

Here is the answer. Here is the legislation we would like to bring to the Senate that addresses these problems—it is overwhelmingly supported by the American people—but we are denied the opportunity to do so.

No. 1, ensure that doctors, not the HMO, determine what is ''medically necessary.''

No. 2, guarantee access to a qualified specialist for those who need one, even if that specialist is not part of the HMO.

No. 3, ensure independent medical appeals for treatment denied by the HMO, so when you are denied treatment, there is someone else to whom you can make your case to get care for yourself, your family, or your child.

No. 4, guarantee wherever you are in America, if you need to get access to an emergency room, you can get into that emergency room.

In sum, what this would provide is some new sense of security in health care in American life. Americans with cancer would be guaranteed access to an oncologist, not just a family doctor. If their HMO denied access, they could go on and appeal to ensure the right judgment was made, and the oncologist, not the HMO, would decide their treatment. In substance that is what this means. This is important for all Americans.

Let me conclude by saying there is a category of Americans for whom these reforms are the most important. Mr. President, 75 percent of all the medical decisions in families in America are made by women, for themselves and for their children. One of the things that is required in our legislation is that an OB/GYN can be a primary health care provider, can make the necessary judgments on first impression. It is, perhaps, one of the most important reforms in the Democratic Patients' Bill of Rights. It is overwhelmingly supported by American women. But we also prohibit drive-through health procedures like mastectomies and guarantee access by children to pediatric specialists.

From American children to American women to all American families, there is an overwhelming need to begin these reforms. It can be postponed for another year, another few years, maybe another decade. The only thing the Senate guarantees by postponement is that the list of millions of Americans who are not getting to specialists, who are denied access to emergency rooms, whose medical doctors are not allowed to make the ultimate determinations—that list is growing. It is growing, and so is the frustration of the American electorate.

I hope in this session, in this year, in this Senate, the need for a Patients' Bill of Rights finally comes to be recognized and accepted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Chair.

Mr. President, I appreciated and enjoyed the remarks of my distinguished colleague from New Jersey. I come again to the Senate Chamber to talk about what I believe is a crisis in America today, which is the issue of health care and the desperate need for a Patients' Bill of Rights.

If we need more glaring evidence of that, all any American needs to do today is open the front page of their newspaper and find that the American Medical Association is supporting doctors being allowed to form unions. Nothing can better exemplify the crisis with which we are confronted.

Here are medical professionals, the last group anyone would imagine, forming a union or finding the need to form a union, who now find, in order to do what they believe is right—to make medical decisions about the patients they care so much about, to be allowed the autonomy to make those decisions and not have those decisions made by health insurance bureaucrats sitting behind a computer screen or a desk somewhere—it necessary to talk about the need to form unions.

I listened to my colleague from California earlier this morning. I agree with everything she said. Only the most skeptical of us would have ever thought this was a possibility. The root cause for the doctors' need to form a union is that they want to make medical decisions about the care of their patients and, more specifically, they want to decide when a procedure is medically necessary and when a procedure is not.

If I can use two examples which I think glaringly show the problem doctors in this country and patients are confronted with today, they are two I have mentioned before on the floor of the Senate. One involves a young man named Ethan Bedrick who developed cerebral palsy as a young child. One of the problems associated with cerebral palsy is the development of what is called muscle contractures. We have all seen adults with cerebral palsy who are all balled up, their arms held up against their bodies. They have little or no control over their limbs. The reason that happens is because, as children and as young adults, these patients do not receive physical therapy to extend their limbs on a regular basis to give them their best use.

What happened with Ethan Bedrick is every single doctor who was treating him for his cerebral palsy—and there were myriad doctors—said it was absolutely essential he receive physical therapy. This was a group of doctors who had seen him every day and was responsible for his care.

Then some insurance company doctor, sitting behind the desk looking at a piece of paper, who had never seen Ethan Bedrick, never examined him and, I will add, unlike all the doctors who were treating him, had absolutely no expertise in treating kids with cerebral palsy or the issue of physical therapy for those kids, made the decision this was not medically necessary. Therefore, the insurance company decided it was not going to pay for any physical therapy for this boy.

After some 2 odd years of going to court and going through a lot of litigation procedures which absolutely should never have been necessary, the U.S. Fourth Circuit Court of Appeals determined the obvious, which is that the treating doctors were correct, that Ethan desperately needed this physical therapy for the purpose of keeping him from becoming like so many adults with cerebral palsy who we have seen all balled up and unable to control their limbs in any way.

They reversed the insurance company decision and said they had to provide this treatment. It took over a year after that decision before the insurance company actually began to do something.

It is a perfect example of insurance company bureaucrats and accountants making health care decisions. That is the reason doctors feel the need to unionize, so they can make these decisions instead of insurance companies.

A second example is a man named Steve Grissom from Cary, NC, who developed leukemia as a young man. As a result of his leukemia, he had a blood transfusion. During the course of his blood transfusion, he acquired AIDS. He became sicker and sicker with his AIDS to the point a pulmonary specialist, a leading authority in the world at Duke University Medical Center, prescribed oxygen for him 24 hours a day, 7 days a week.

What happened was during the time he was being treated, his HMO was providing coverage for him because the pulmonary specialist, the real expert, determined it was necessary. Then his employer changed HMOs. The new HMO—again with some person sitting behind a desk somewhere, not a medical doctor—decided based on a chart that he did not quite meet the numbers for oxygen saturation that were necessary and, therefore, cut off all coverage for the oxygen that his world-renowned specialist had ordered for him.

Now Steve is working desperately—in fact, he is coming to Washington this week to see me and other Senators—to pay for the oxygen that keeps him alive. It is one of the reasons he is alive and able to be with his family, which he loves and cherishes so much.

These are terrific examples of what is fundamentally wrong with our health care system in this country today. The judgments of what is medically necessary have to be made by people who are trained to do it. They have to be made by doctors who are seeing the patients, who have the clinical judgment to make those determinations.

It is critically important for our doctors to do their job. It is critically important for the children, adults, and families they treat. In our Patients' Bill of Rights, we specifically provide that doctors make those decisions. Our opponents' bill does not do that, and that is why the bills are so dramatically different.

One last thing I want to mention is the issue of financial incentives that

are sometimes created in HMO contracts either explicitly or implicitly. I know specifically of an example in North Carolina where a mother was in labor. The doctor who was responsible for taking care of her had too many patients to care for. As a result of complications during labor, she needed her doctor. The nurse called for the doctor. The doctor did not come. She did not understand why.

The reason was the doctor had other patients he could not leave. Instead of calling for a backup, the doctor continued to allow this woman to labor with her complications without a doctor by her bedside.

The result of this was a child born severely brain injured. We later learned the reason this is done, the reason no backup doctor is called is because there is enormous pressure, financial and otherwise, put on these physicians by the HMO, by the health insurance company, not to call a backup doctor because it costs them money. It costs the health insurance company and the HMO money, and, further, that they can actually receive bonuses if they prescribe the least expensive treatment for patients, no matter what the patient needs, and if they fail to call backup doctors even though one may be needed. In other words, the HMOs have been putting doctors in the position of having to provide the cheapest treatment, not call other medical personnel who are necessary, solely so they could save a dollar.

These things are what are fundamentally wrong with the way health care is being conducted in this country today. There is a fundamental difference between our bill and our opponents' bill. Our bill specifically provides that these kinds of financial incentives are absolutely prohibited; they cannot occur. Our opponents' bill is silent on that issue.

We cannot continue to allow the American people to be subjected to this. It is the reason we have this crisis. It has gotten to crisis proportions because we have gone this long and done nothing about it. Medical care should be about patients and not about profits.

I say this, in a most nonpartisan way, to my colleagues on both sides of the aisle, for whom I have tremendous respect and who I know want to do the right thing for the people they represent and the American people.

This is not a partisan issue for me. It was an important issue to me in being elected to the Senate. It is an issue I want to talk about while I am here. But I want to talk about it in an ongoing, meaningful dialogue. I am not interested in fighting about it. I am not interested in political bickering. What I am really interested in is what is done in the best interests of the people of North Carolina and what is in the best interests of the people of America.

With that, I yield the floor.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I note the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued with the call of the roll.

Mr. DORGAN. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Since I hope we have debate, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, as much as I like my colleague from Arkansas, I am going to put in this request. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued with the call of the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued to call the roll.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so we can have debate.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, so we can debate health care, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded so we can debate health care, a matter that is very important to the people in Minnesota.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request.

Mr. WELLSTONE. Mr. President, so we can speak as Senators, Democrats and Republicans, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting, as in the past, in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask, please, unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I regrettably must object to the unanimous consent request.

Mr. WELLSTONE. Mr. President, I know you regret that because you like debate. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so we can have a full-scale discussion on the Family Protection Act on the floor of the Senate as opposed to being gagged.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, even though I know Republicans don't want to debate this, I ask unanimous consent that the order for the quorum call be rescinded so we can debate.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, so I can debate my colleague from Oklahoma and other Republicans, I ask

unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. On behalf of the Senator from Minnesota, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, on behalf of the Senator from North Dakota and all Senators who believe we should honestly debate issues, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, so we can debate the Patients' Protection Act, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. The Senate is in a quorum call.

The assistant legislative clerk continued with the call of the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:30, at which time there will be a period of morning business not to exceed 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, my understanding is there is a conference occurring on the other side that the two Members of the majority party in the Chamber wish to attend. We want to allow that to happen.

I point out, under my reservation, it is my hope that when we reconvene with the hour of morning business, whatever transpires beyond that will be an agenda that allows Members on the floor of the Senate to come and discuss the issues they want to discuss. I will not object with that caveat.

Mr. REID. Mr. President, reserving the right to object, I ask the Senator from Oklahoma to amend the unanimous consent request to allow the Senator from Minnesota, Mr. WELLSTONE, to have 10 minutes during our block of time.

Mr. INHOFE. Before amending my request, I ask the Chair, would the Senator from Minnesota be entitled to 10 minutes of the half hour that they already have under my request?

The PRESIDING OFFICER. Only if he were recognized.

Mr. INHOFE. I so amend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 10:58 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HUTCHINSON).

ORDER OF PROCEDURE

The PRESIDING OFFICER. Who seeks time?

Mr. BROWNBACK. Mr. President, might I inquire, where are we parliamentary-wise?

The PRESIDING OFFICER. We are in morning business for 60 minutes equally divided.

U.S. POLICY TOWARD INDIA AND PAKISTAN

Mr. BROWNBACK. Mr. President, I rise to address the Senate on an issue regarding an amendment which we have recently passed on this floor: U.S. policy toward India and Pakistan. I want to address the Senate on that issue.

We passed an amendment on a defense appropriations bill that would allow the President to waive certain sanctions we have against India and Pakistan and also suspend economic sanctions we have against India and Pakistan. That passed this body and has gone over to the House. This is something the House is going to be considering, and it is important U.S. policy in a number of regards.

Our relationship toward India has been one where we have been willing to sanction them rapidly and readily, in spite of the fact that they are a democracy and we share a number of institutional values and we have worked together sometimes in the past. But it seems as if we are very willing to sanction them. Yet, at the same time, we are willing to go toward China and say: China, you may steal our weapons technology, you may have human rights abuses, you may be shipping weapons of mass destruction to countries that are opposed to our interests; you have forced-abortion policies in place. Yet we are going to overlook all of those things because we want to have a good, open relationship with you, a good trade relationship. But, India, you tested here and you broke into these areas, so we are going to put economic sanctions on you, put these other sanctions on you, and we are going to hit you hard. It is the same with Pakistan.

I think we have the wrong policies in place, and I don't understand it. I want to draw that to the attention of my colleagues because it appears as if we are putting these on with different balances, that we are saying in the case of China we are going to overlook the problems, overlook the situation, all these abuses, and with India we are going to smack you no matter what you do. They have a democracy, a vibrant democracy and a free press. The same with Pakistan, as far as their issues go, but we are willing to hit them so hard.

So I don't understand why we are doing that, why the Clinton Presidency looks at the two countries differently,

and lets China get away with virtually anything, if you look at the record that has built up over a period of time. Toward India, we say we are going to smack you.

Senator ROBERTS and I have put forward an amendment that has passed this body and is going to the House. It would suspend these sanctions, the economic sanctions, toward India and Pakistan.

I think it is high time that the United States aggressively build its relationship with India and aggressively build its relationship with Pakistan. We need to do this. We need to have a broad-based relationship and not one that just has very narrow sanctions associated with it. For instance, as well, the administration is pushing that to lift these sanctions on India, they are telling the Indian Government, basically, they have to agree to CTBT, the Conventional Test Ban Treaty, in spite of the fact that the Senate may never pick this up. They are saying unless they agree to this, we are not going to lift these sanctions. It is a very narrow discussion point that they have with India, instead of having this broad-based discussion about how can we expand trade relationships, expand diplomatic relationships, and work together on issues of key concern.

We should be asking: How can we expand relationships in the broad set of fields that we have? Instead, it is they have to agree to the CTBT, or we are not going to lift these economic sanctions on them, period. That is too narrow of a relationship for us to build with a great nation. India will be the largest nation in the world in the next 10 years, population-wise. It has an extraordinarily large middle class. It has a number of people in a very poor situation, as well, but it has a large middle class.

Look also at Pakistan. It is in the amendment where we suspend economic sanctions for 5 years and have a waiver on others. Pakistan sits in a difficult spot, right next to Afghanistan. They have had a lot of problems with Afghanistan. Pakistan seeks to be a friend of the United States. It is partly, obviously, an Islamic country and has been a key ally of ours in defeating the Soviet Union in Afghanistan. After Afghanistan, the Soviets backed off and we pulled out altogether. We not only sanctioned them under the Glenn amendment, we also had the Pressler amendment that basically removed our relationship with Pakistan, an Islamic country that seeks to be our friend, and we just nail them.

It makes no sense to me why we do these sorts of things, and why the President, the Clinton administration, seeks to sanction a country that seeks to work with us, and closely with us, while with China we have had all this theft of technology, shipment of weapons of mass destruction, all the human rights abuses, and we are willing to look the other way.

I think we ought to have trade relationships with China. I think it is important that we have a broad-based relationship with China. But at the same time we need to be expanding our relationships with India and Pakistan. These are countries—particularly in India's case—that share a lot of our traditions. I think it is wrong for us to have a double standard, particularly against a country that should be a very valuable future partner.

I chair the Foreign Relations subcommittee that deals with both India and Pakistan, and it has been beyond me to understand the difference in U.S. policy toward these giant Asian countries. I think it is wrong of the administration to have this different policy. I think we really need to be much more aggressive and engaged and be a vibrant, broad-based partner with India. I think it can be a good future relationship. It is something we can use as an offset toward China, in some respects, and our large dependency on China. I think it can be a future growth market for States such as mine and many others that have agricultural and aircraft products that we export. I think it can be a growing, vibrant market for us, one that shares a lot of our relationships and views and needs.

I wanted to bring to the attention of my colleagues what is really happening in foreign policy. We also had a hearing yesterday on the issue of Iraq. I wanted to mention this tangentially because I think it is appropriate. We had people testifying from the Iraqi National Congress—a representative of the INC, Mr. Chalabi—and we had other witnesses testifying that Saddam Hussein is probably at his weakest point since the United States was engaged with Iraq. They are having daily reports of insurrection in the southern part of Iraq, and the northern part of the country is no longer in the control of Saddam Hussein.

There are other factions that are controlling much of this Kurdish region. Yet the United States, in the Iraq liberation, provided $97 million of drawdown authority and support for the opposition movement, and all we are giving the opposition movement is file cabinets and fax machines. Why aren't we really supporting this opposition movement that seeks to meet inside Iraq to set up more of a civil society in the region that Saddam doesn't control? Why aren't we really supporting these guys?

I asked the administration witness yesterday—Under Secretary Beth Jones, a bright and good person—Do you think Saddam Hussein is going to outlast another U.S. President? Is he going to outlast President Clinton?

She says: I really don't know.

I said we know how to aggressively push and prosecute these issues in Kosovo. Why is it that we can't do this in Iraq? Why can't we support the opposition groups and give them lethal and nonlethal assistance that we can find truly necessary? Why can't we help them have a meeting of the Iraqi National Congress inside Iraq where they want to meet? It would send a powerful statement across the world that the INC, a potential opposition government, is meeting within Iraq.

Yet the administration is not willing to step forward and is saying they are not so sure about whether or not we should do this. We are willing to give the opposition file cabinets and fax machines, but we won't give them training and lethal technology or the ability to fight. This is an extraordinary situation. It is one on which the Congress needs to speak out more.

We need to aggressively move forward now on Saddam Hussein. We need to do that by supporting the opposition. This isn't about sending in U.S. troops. This is about supporting an opposition that wants to fight with Saddam Hussein, that wants to put the parts together to have a democratic Iraq, that wants to be an ally—not just that but wants the Iraqi people to be proud of and pleased with their government, instead of constantly harassed and killed by their leadership.

Why on earth are we not pushing this and stepping forward and being more aggressive? I fail to get adequate answers from the Clinton administration on why. We know how to push forward aggressively on Kosovo. Why can't we deal in such a manner with Iraq? We know how to build a relationship with China. Why can't we build relationships with India and Pakistan? I really don't understand what is taking place. I ask these questions, and we are going to continue to hold hearings on these issues. We need to move forward in building a better relationship with India and Pakistan and dealing with the situation in Iraq.

I yield the floor.

Mr. WELLSTONE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. We have 18 minutes on the Republican side and 30 minutes remaining on the Democrat side. Ten minutes have been reserved for the Senator from Minnesota.

The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am not going to take my time at this moment. Senator KERREY will precede me.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Alexis Rebane and Sofia Lidshog, two interns, be allowed floor privileges for the debate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Senator CLELAND be allowed to be in order as the Democrat to speak after I speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

READING SCORES

Mr. KERREY. Mr. President, I am here to take a couple of minutes to point out a success story that appeared in the Lincoln Journal Star.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Lincoln Journal Star, June 23, 1999]

READING SCORES RISE AGAIN

(By Joanne Young)

Right before his eyes, Steven Hladik saw his daughter's life change.

''She's just happy. She went from being a sad little girl to totally loving life,'' Hladik said of his third youngest child, Nikyle, 6.

He attributes the change to Reading Recovery, one program Lincoln Public Schools has used to improve first-graders' reading skills. A dramatic decline over 15 years in reading scores of elementary- and middle-school students prompted LPS to focus on bringing those scores up.

Metropolitan Achievement Test reading scores are up for the second straight year for grades 2–8, according to a report to the Lincoln Board of Education. This snapshot of 1999 achievement showed that since 1997, second-graders have improved 16 percent. Third-graders are up 12 percent, fourth- and fifth-graders up 8 percent. Only ninth-grade scores have held about the same.

Math scores, which had declined along with reading scores, are up in all grades, with six of eight grades working at 70 percent or better of their peers nationwide.

LPS Associate Superintendent Marilyn Moore delivered the good news Tuesday at a school board meeting.

Board member Shirley Doan said the improvements came because of commitment by teachers, principals and students.

''I think we have giants standing on the shoulders of giants here,'' Doan said. ''Can we do it again? It would be very unusual, but I think we can.''

About the same number of students were tested in 1998 and 1999. More special education and English as a Second Language students were given accommodations this year, such as more test time and help with instructions. But a second analsis of '98 and '99 scores that excluded all special education and ESL students verified that scores improved, Moore said.

Leslie Lukin, LPS assessment specialist, pointed to several reasons for the reading improvement: Teachers have changed the way they teach reading in kindergarten through third grade, with different teaching plans for each grade. They also are familiarizing students with the format and type of questions on the achievement tests.

But Reading Recovery may have produced the most dramatic results.

Aimed at the 20 percent of first graders having the hardest time learning to read, the program offers one-on-one help with letters, sounds, sentence structure and reading methods. Kids spend half an hour a day with Reading Recovery teachers and special books. Then they read at home with parents.

Jeanette Tiwarld, the LPS Reading Recovery teacher leader said Reading Recovery builds on children's strengths—what they already know—to accelerate their learning and improve their confidence.

The number of children in the program have gone up as more teachers have taken the rigorous Reading Recovery training and more schools have added the curriculum. In the 1994 school year, 78 children passed through the full program. Last year, the number jumped to 527.

Questionnaires from parents of this year's Reading Recovery students sang the praises of the program. Their children were much more confident, they said, far happier after catching up with their schoolmates in reading.

For Nikyle, it was a godsend.

She had changed schools three times in kindergarten, just as she was starting to learn, because her mom and dad were splitting up, her dad said. She started first grade at McPhee Elementary and then when her father got custody of her and three brothers and sisters, she moved to Calvert Elementary.

All the while, because of everything going on in his own life, Steven, Hladik didn't realize the effect on Nikyle. She was being in learning, and she was miserable.

''She hated to go to school. It was hard to get her up and make her go,'' her father said. ''She was insecure and really quite.''

Now she loves school. And her confidence has soared.

Not only has her reading improved so have her math and other subjects, her friendships, her self-esteem.

She's making sure what happened to her doesn't happen to her 4-year-old sister, Stephanie.

''Every night she sits and reads books to her,'' her father said.

Mr. KERREY. Mr. President, this is about the success of a Federally funded program that was implemented by heroic people in Lincoln, NE—they include principals, schoolteachers, and the Lincoln school board. I am talking about Title I. One of the reasons I talk about it a great deal is that, in Nebraska, there are 17,000 students that are eligible for Title I, but because we don't appropriate enough money, they are not funded. They don't get the benefits of this kind of effort.

What this article talks about is a program called Reading Recovery that has been implemented in the Lincoln public school system over the last 3 years—and it's a very rigorous program. The teachers had to train themselves; they had to make a commitment to acquire the skills necessary to implement this program. The article starts off with a parent talking about the exhilaration of seeing his daughter learn how to read and make progress—be successful, in other words. What they have done is quite remarkable. It needs to be observed because citizens need to know that success indeed is possible.

Second graders have improved their reading scores 16 percent; third graders, 12 percent; fourth and fifth graders are up 8 percent. These are dramatic increases. They have achieved the increases by starting at a very early age, using Title I moneys, using this Reading Recovery program, and going after young people who are at risk, who are falling behind, who have come into the school system without these reading skills.

They have said if you want to lift the overall test scores, quite correctly, you have to help those who are most likely to fail if we don't intervene. That is what Title I is. It is not the Federal Government telling these local schools what to do. We recently passed an Ed-Flex bill that provided increased flexibility. I support that. But unless we provide resources, it is impossible for local heroes to take the money and make something of it.

I will point out, in addition to the necessity of an early effort, an additional challenge we face. It's explained in one little paragraph here. Those of us born in 1943 sort of remember schools in the 1950s and 1960s and think, gee, why can't we do it the way we did it? Things have changed. In this article, one little paragraph says the following about this young girl who was given the benefit of this program:

> She had changed schools three times in kindergarten, just as she was starting to learn, because her mom and dad were splitting up, her dad said.

She ended up caught in the middle of a custody battle, a transfer occurred, and as a consequence of the transfer, she fell behind. That is what happened. What Title I enabled her to do was catch up. It is quite a miraculous thing that happened as a consequence, as I said, of significant local commitment and the help of teachers who trained themselves and a principal who was committed. One of the principals is Deann Currin at Elliott Elementary. The Lincoln school board supported Reading Recovery. They used title I money. Again, it is not the Federal Government telling them what to do, but providing them the resources.

I regret to say that in Nebraska, there are 17,000 children eligible for Title I programs that simply are not able to benefit because we are not providing a sufficient amount of resources.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

CHILDREN AND EDUCATION

Mr. WELLSTONE. Mr. President, first of all, I thank Senator KERREY for talking about children and education. It is truly a good news/bad news story. The good news is we have heroes and heroines right in our own communities

that, with these resources, can really give children a chance to develop their full potential. If there is anything we should do as a Senate, it is to make sure each child has that chance. The bad news is, I say to my colleague, in Minnesota so many students could be helped, but we don't have the resources. There are schools in Minnesota with up to a 65-student population that don't receive a cent because by the time it is allocated in the cities, the schools aren't eligible, and those kids don't receive the help. It is just as big an issue in rural areas.

Mr. KERREY. Mr. President, this is not a situation where we don't know what to do. This is a situation where there is an answer and we simply are not doing it.

Mr. WELLSTONE. That is correct. This is really just harping on the complexity of it all is the ultimate simplification. We know what to do, and it has worked. We need to make more of a commitment.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

ORDER OF PROCEDURE

Mr. THOMAS. Mr. President, I ask unanimous consent to follow Senator CLELAND for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, my understanding is that we have not reached an agreement with my colleagues on the other side of the aisle about how we can have a serious, substantive, and important debate about health care, about patient protection in our country. The latest proposal as I understand it from the Republicans basically would amount to Democrats having an opportunity to maybe introduce four amendments. That would be it. Again, I challenge my colleagues on the other side of the aisle, as I said yesterday, to debate this.

The evidence is irrefutable and irreducible: When it comes to who is covered, the Republican plan covers 48 million people, the Democratic plan covers 163 million people. That is a huge difference.

Republicans argue that we rely on States for the coverage, once we deal with what is called the ERISA problem. Our argument is that a child, a family, regardless of where the child lives, where the family lives—be it Mississippi or Minnesota—ought to have some protection. People ought to have the right, or the assurance, that if their child has a serious illness, they will be able to have access to the best care. That assurance for a family should extend to all citizens in our country. It shouldn't be based upon what different States decide or where a family lives.

I repeat, 163 million people with some protection versus 48 million people. It is no wonder my colleagues on the other side of the aisle don't want to debate patient protection.

In the Health Committee, where we wrote this bill, I had an amendment that dealt with the Republican ''gag'' clause. This amendment would prohibit retaliation by a health plan when a doctor advocates for a patient. There were two parts: First, it said that plans can't penalize doctors who advocate for patients during an appeal process; and, second, it protected licensed and certified health care professionals from retaliation if they reported some problems with the actual quality of care being provided in a hospital or by a plan. Presenting this information to a regulatory authority or private accreditation organization is called whistleblower protection. This amendment was defeated, I think, on an 10–8 vote. It is no wonder the Republicans in the Senate don't want to debate patient protection.

The front page story today says doctors are going to unionize. The American Medical Association announces doctors are going to unionize. No wonder, when doctors don't have protection if they advocate for a patient during an appeal process, when one of these managed care plans, owned by one these insurance companies practicing bottom-line medicine, and the bottom line is the only line, and the plan decides the patient is not going to be able to see a pediatrician who specializes in oncology.

If a child is ill with cancer and that family makes an appeal, if the doctor is there for that family and says, yes, that child needs to see this expert, there is no protection in the Republican plan. There is no whistleblower protection for doctors who say, I have to speak out, I have to say this plan, or this hospital, is not providing the kind of care that people deserve. I don't blame my Republican colleagues for not wanting to debate patient protection.

This chart shows whether or not you will have guaranteed access to specialists. The Republican plan has a little bit of access; the Democrats' plan makes it clear that people will have access.

When it gets to the question of who is going to define medical necessity—that is a critical issue—we make it clear that the provider defines medical necessity, not a 1–800 number you call where you have utilization review by people not necessarily qualified, working for insurance companies that are just trying to keep costs down.

When it comes to the issue of choice of doctor, points-of-service option, being able to find a doctor outside your plan, and making sure your child who needs to see that doctor can see that doctor, we are clear: Families should have that option. The Republican plan doesn't support that. No wonder they don't want to debate.

When it comes to whistleblower protection for providers who advocate for their patients to make sure they don't lose their jobs, the Republican plan doesn't provide the protection. The Democrat plan does. No wonder my colleagues don't want to debate.

When it comes to the concerns and circumstances of women's lives vis-a-vis a health care system that has not been terribly sensitive and responsive to women, or with special emphasis on children and access to pediatric services, or making sure that people who struggle with mental health problems or substance abuse problems are not ''defined'' out and are not discriminated against, I don't see the protection in the Republican plan. We try to make sure there is that protection.

These are two plans, two proposals, two pieces of legislation where the differences make a difference.

I say one more time to my Republican colleagues, I have been trying to engage people in debate for 2 days. I will yield for any Senator who wants to debate, on my time, so I can ask questions. That is what we should be about. The Senate should be about deliberation and debate. It shouldn't be about delay and delay and delay and delay.

It may be that we will not get the patient protection legislation on the floor today, Thursday, but we will get this legislation on the floor. We will continue to bring up these problems that the people we represent have with this health care system right now. We will continue as Senators to advocate for families, to advocate for consumers, to advocate for children, to advocate for women, to advocate for good health care for people.

If I had my way, the Democratic Party would be out here on the floor also calling for universal health care coverage. We will get there. At the very minimum, let's make sure there is decent protection for consumers.

I say to my colleagues, I have carefully examined your patient protection act. I think it is the insurance company protection act. We went through this in committee. We went through the debate in committee. I see a piece of legislation that pretends to provide protection for people, but once we have the debate and once we get into specifics, I think people in the country are going to be furious. They will say, don't present us with a piece of legislation with a great title and a great acronym that has no teeth in it, that has no enforcement in it, and that will not provide the protection we need.

That is why the majority party, the Republican Party in the Senate, doesn't want to debate this. Republicans in the Senate right now—I hope

this will change—do not want to have to come to the floor and debate amendments. They don't want to have to argue why they don't cover a third of the eligible people. They don't want to have to argue why they don't want to make sure families have access to specialized services. They don't want to argue why they don't want to provide doctors with whistleblower protection. They don't want to argue a whole lot of issues that deal with patient protection.

When you want to debate is when you really believe you are right. When you want to debate is when you really think you have a piece of legislation that will lead to the improvement of lives of people. When you want to debate is when you have a piece of legislation that is consistent with the words you speak and you know you are not trying to fool anybody; you know it is authentic; you know it is real.

When you don't want to debate, I say to my Republican colleagues, is when you have a whole set of propositions you cannot defend. When you don't want to debate is when you know in the light of day, with real debate, with people challenging you, you can't defend your proposal. When you don't want to debate is when you are worried you will get into trouble with the people in the country because you haven't done the job.

That is what is going on.

One final time, I come to the floor of the Senate to urge my Republican colleagues to be willing to debate this question.

Let me make a connection to what Senator KERREY said earlier, because it is so important to me. If there is anything we should be about as Senators, it should be about focusing on good education, opportunities for children, good health care for people, making sure families don't fall between the cracks. These are the issues that people talk about all the time in our States. That is what we ought to be focusing on right now.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I thank my distinguished colleague from Minnesota for his remarks today on the subject of health care and HMO reform, and particularly his strong advocacy for what has become known as the Patients' Bill of Rights.

I would like to report to my colleagues in the Senate the most recent Kaiser Family Foundation/Harvard University survey reports that problems with managed care are, indeed, growing and that Americans are increasingly worried about how their health care plan will treat them. The survey found that in 1998 as many as 115 million Americans either had a problem or knew someone who had a problem with a managed care plan.

A number of provisions have been included in the Patients' Bill of Rights to maintain the sanctity of the provider-patient relationship, basically known as the doctor-patient relationship. We used to think that was sacrosanct. Unfortunately, it is not today under many HMO plans. Health plans frequently impose restrictions on that relationship by taking it upon themselves to determine the most appropriate treatment. These determinations are often made on the basis of costs rather than what is in the patient's best interest. The fact that health plans are now making medical decisions that were traditionally made by the treating physician really causes me great concern. I think it concerns a number of Members of this body.

If health plans continue to arbitrarily define medical necessity, patients will be ultimately denied the health care they were promised. In this HMO debate, this debate on reforming health maintenance organizations, I do not think there is any more pressing issue than ensuring that patients are protected against the practice of some health plans of having insurance bureaucrats determining medical necessity rather than trained physicians. I think that is an incredible abuse of the system. I think it is terrible when we treat people based on financial necessity rather than medical considerations.

Health plans, I don't think, should interfere with decisions of treating physicians when those decisions concern a covered benefit that is medically necessary, according to that physician, and appropriate based on generally accepted practices and standards of professional medical practice. It seems to me that is common sense.

The Patients' Bill of Rights protects the sanctity of the doctor-patient relationship by allowing physicians, not accountants, to make medical necessity determinations. I think that is critical. In addition, some managed care organizations use improper financial incentives to pressure doctors to actually deny care to their patients—incredible. The Patients' Bill of Rights, I think, will go a long way to stopping this practice.

I would like to share one personal experience. I am glad that when I was wounded in Vietnam I was not covered by a HMO. I am glad I was covered by the full faith and credit of the U.S. Government. I could see myself laying there after the grenade went off, trying to call an insurance bureaucrat, being told my conditions were not covered by what was in the plan and, second, I was not cost effective.

I am afraid more and more Americans are experiencing that, which is why I personally support the Patients' Bill of Rights. Many of my colleagues do as well.

I appreciate the opportunity to discuss this important issue in the Senate. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS

Mr. THOMAS. Mr. President, I rise today to talk for a few minutes about agriculture appropriations. That is the bill that is before us. It is one I believe is particularly important. But I want to talk, really, about the need for us to be doing the necessary work of the Congress to be moving forward with our appropriations bills to keep the Government operating. These are the things we have before us. We have to pass 13 bills before this Congress is adjourned, before the 30th of September. We have to do this to keep the operations of the Government moving, particularly in the area of agriculture where we are having one of the toughest times we have had in the economics of agriculture, all over the country. It has been very difficult. Of course the appropriations bill for agriculture will be there to help. There will be other things done as well, but this is the basic effort we will have to make.

I am very sorry to say our colleagues on the other side of the aisle have seen fit to delay this bill by using stalling tactics and bringing up unrelated amendments that have caused us not to be able to move forward. This is not a question of which issue is most important. We believe, with all of these issues, it is a question of an orderly process of moving forward to do the things that we have to do to accomplish our assignments.

I am sorry to say we are not able to do our job. It has been derailed by what I believe is simply an effort to bring partisan political issues to this debate which really do not have a place in this situation.

One, we need to move forward with the appropriations bills; there is no question about that. Two, we are dealing with patients' rights, which we have dealt with before and with which we continue to deal. It is not a question of being willing to do it. We have a Republican bill for patients' rights.

Are there some disagreements, some differences? Of course. We have been talking about this for more than a year. It is completely inappropriate to bring it up now and use it as a stalling tactic.

The unfortunate part is this is not the first time we have had it happen. We had it happen just 2 weeks ago when we were talking about Social Security, and we were unable to move

forward with the lockbox legislation. We are finding an unusual amount of disruption in moving forward with the business of this Congress.

I commend the Subcommittee on Agriculture Appropriations for their hard work in putting this bill together. The lion's share of funding, $47 billion, is designated for mandatory programs. Domestic food programs, food stamps, and child nutrition programs account for more than half of the agriculture appropriations bill.

Certainly, the subcommittee faced difficult challenges in crafting this bill. Industry is struggling. The requests for financial assistance are escalating. Those types of things are very real, and we are prepared to deal with them. All we need to do is have the opportunity to move forward.

Unfortunately, the stalling tactics have stopped us. For those of us who are primarily from agricultural States, passage of this bill is fundamental to our economy and fundamental to those agricultural producers.

Recently, I heard several of my colleagues describe the financial problems in agriculture, and I do not disagree with any of them. We are feeling those in my State of Wyoming.

I am very frustrated we cannot take action on a bill because it has been bogged down. We should focus on this bill. We should get this one done. We can do it. There is general agreement on it. We can deal with the disagreements and move forward.

There are a number of programs in this agriculture bill that are particularly important. In addition to the domestic food programs, it contains funding for activities that are essential to an industry that employs more people in this country than any other industry, and that is agricultural producers. It has to do with land grant universities. It has to do with our rural citizens.

Of particular importance to Wyoming, a State where 50 percent of the State belongs to the Federal Government and is managed by the BLM and Forest Service, there are funds for predator management which is particularly important, even important in places like Hawaii. It has to do with decreasing livestock losses and crop losses. It has to do with research and extension.

We have the most efficient agriculture in the world because we have had land grant colleges and we have had the extension service. We have been able to produce more efficiently than anyone else. It is one of the largest exports we have.

There are conservation initiatives. Mr. President, $800 million is provided in this bill to assist farmers and ranchers to be stewards of the land, to be environmental stewards, to reduce soil erosion, to reduce nonpoint water pollution. The list of positive programs in this bill goes on and on.

For food safety, there is $638 million, an increase of $24 million over the fiscal year 1999 level.

Also in the bill are agricultural credit programs—the Presiding Officer is one of the experts with a background in agriculture and has worked on this problem—loan authorization for rural housing, and assistance for rural communities to develop waste disposal and solid waste management programs.

To brush this off and say we have other things to do, we should not undertake to deal with this agricultural appropriations, is distressing to me. I want us to move forward with it.

It is important, of course, not only to producers but to all of us as citizens of this country when we talk about safe food.

When we are finally able to debate the agriculture appropriations bill, there will be numerous amendments, as there should be. Some will be controversial which will further delay the passage of the bill.

We ought to also keep in mind that in order to go forward with the programs of this country, we need to move forward. We have about four appropriations bills that have been passed. Our goal should be to pass at least 11 of them by the end of July. We do not want to find ourselves in this business of having political problems that shut down the Government, as we did several years ago, and trying to blame each other.

Instead, we ought to move forward and do the things we ought to be doing. We have a process and we ought to move forward with it. There is much to be done, and I urge my colleagues to end their tactics of derailing and allow us to move forward on this very important spending bill.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, is the Senate still in morning business?

The PRESIDING OFFICER. The Senator is correct. The majority has 9 minutes and approximately 30 seconds. The minority has 5 minutes 5 seconds.

Mr. CRAIG. Mr. President, I join my colleague from Wyoming who has expressed a frustration that I think many of us in the Senate hold and that a growing number of Americans hold as to the current tactic being used by Democrats to block an ag appropriations bill or to force an issue that is separate and apart from it.

We do have a responsibility in the Senate and in the Congress, and that is to pass 13 appropriations bills on an annual basis to fund the workings of our Government. And the one before us today is agriculture.

There is some $60 billion to be spent in many of the areas outlined by the Senator from Wyoming. They are critical to all our States, not just the agricultural community but for those people who are less fortunate, for their very nutrition—nutrition for women, infants and children, the Food Stamp Program, certainly the School Lunch Program. All of those programs are embodied in this appropriations bill. A tactic to push what now rapidly appears to be a raw political point for the purpose of upcoming campaigns against the normal and necessary workings of our Government is a bit frustrating to me.

I have made that assumption at this moment. Let's assume that I am wrong, that clearly the other side is dedicated to a concern on the part of the average citizen as it relates to his or her health care, and in being so concerned they have offered a Kennedy bill that some call a Patients' Bill of Rights. If I take it at face value, it is a bit of a frustration, and in the next few moments let me express that.

Chairman PATRICK KENNEDY in the House, a Democrat, of the Congressional Campaign Committee, was recently quoted and the national media is saying that ''we have written off rural areas.'' He means that Democrats politically have written off rural areas.

Is it by coincidence the Senator from Massachusetts chooses the ag bill on which to place his political agenda? There seems to be a unique coincidence that PATRICK KENNEDY, Congressman KENNEDY on the other side, says, ''We have written off rural areas,'' and Senator KENNEDY on this side says, ''I'm going to attach it to the ag approps bill; I'll bring the ag bill down if I can't have my political agenda for a Patients' Bill of Rights.''

Let me look at the substance of what may be offered today, because it is my understanding that there may be an attempt, in an amendment, to offer a portion of the Kennedy health care mandates.

What would that do? That talks about what we now call medical necessities. It is a portion of the bill that I think offers the illusion of the patients being in control, by requiring health care plans and employers to pay for whatever care a physician recommends—without question. If that is what the physician recommends, without peer review or any observation of the total situation, it is paid for.

If that were the case, in today's medical climate, here is the reaction of the Barnitz Group. Who are they? They are an economic consulting firm that deals with health care and health care costs. They evaluate them. They make judgments as to how a given policy would affect the payment for health care for the individual.

Here is what they suggest this particular portion of the Kennedy bill would do. It could cost nearly $60 a year per covered household, per insured household. It could cost employers $180 a year per covered employee. In other

words, it shoves the cost of health care up. Arguably, it might improve health care—I cannot debate that—by requiring that anything a doctor suggests gets funded. But it would cost more, or at least that is the observation.

In that cost—this is a marketplace we are dealing with out here—it could result in the loss of 191,000 jobs or it could result in the cancellation of coverage for 1.4 million Americans. That is a provision in an amendment that might be offered this afternoon.

Isn't it unique—I made some of this argument yesterday—that as we deal with ag appropriations, at a time when the chairman of the National Democratic Campaign Committee says, We write the rural areas off, that the Senator from Massachusetts would be offering a bill that would dramatically impact the uninsured by forcing more to be uninsured.

It just so happens that a very large number of the uninsured live in rural America. It just so happens, according to the Employees Benefit Research Institute, nearly half, or 43 percent, of all workers in agriculture, in forestry, and in the fishing sector of our economy have no health insurance. In other words, they have to provide for themselves. Now we are suggesting that we will drive the cost of insurance up for those who are uninsured instead of doing things that bring the cost of that insurance down so that the uninsured can find insurance more affordable.

Is this a coincidence or is there a relationship? I am not sure. But there is one thing that is for sure: The other side has decided to target ag appropriations with a bill that they think is extremely valuable politically. It is also an issue that we have come together on to say that there are some real needs and we are willing to address those needs in a bipartisan and timely fashion.

But let us allow the work of the Congress to go forward in the appropriations area. We will deal with health care, as we should deal with health care, but we cannot deal with it by driving people from it, creating a greater dependency on government programs, as inevitably will happen, as shown by every research institute that has looked at the Kennedy bill.

The Kennedy bill, without question, shoves possibly 2 million people out of insurance; I will be conservative and say at least 1 million, or 1.4 million by conservative estimates.

So let us get on with appropriating money for women, infants, and children for their nutritional needs, for the school lunch program, for food stamps, for ag research, for those things that are important to rural America.

I do not care if Congressman KENNEDY on the House side has written off rural America. This Senator will not write it off. We will pass an ag approps bill. We could do it today. We could finalize it this week and send a very important message to American agriculture that your work and your interests are important to us; that we will deal with you on a timely basis; that we will respond to your needs as best we can; and we will say to those less fortunate, we will feed you, and we will not use it as a political issue. We will do it in a right and responsible and timely way.

I hope our colleagues on the other side of the aisle can agree with that. It is what they ought to be agreeing with. There is enough politics to go around. Let's take politics out of the ag bill. They put it in with the injection of the Patients' Bill of Rights. They now have the opportunity to remove it.

Our leaders have been negotiating for some time to establish a time certain so we can handle this issue and all sides can debate its fairness, its equity, or its lack thereof. We will have a lot more detail. But obstructionist attitudes, blocking the activity of the Senate, gain very few of us anything. And the American public scratches its head and says: What are they doing back there? Why can't they do the work of the people? Pass the ag appropriations bill. Deal with health care in a timely fashion. Move the other appropriations bills and complete the work of Government.

That is what the American people expect of us. That is what they should expect of us. I hope the other side will ultimately agree with that.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

PATIENTS' BILL OF RIGHTS AND THE AGRICULTURE APPROPRIATIONS BILL

Mr. DORGAN. Mr. President, I take this opportunity to respond just a bit to some of the discussion that has occurred with respect to both the Patients' Bill of Rights and also the agriculture appropriations bill.

I just heard the discussion about the Kennedy position in the House and the Kennedy bill this and the Kennedy bill that. It is not what this issue is about. This is about a Patients' Bill of Rights. It is about the kind of health care the American people get when they show up with a disease or with an injury and need health care treatment, what kind of treatment do they get under current circumstances, and what kinds of protections are reasonable protections for them to expect in this system.

We have been pushing, for a long while, to try to get a Patients' Bill of Rights enacted by this Congress and by the previous Congress, but our efforts have not met with great success. I will tell you why. Because as health care has reorganized, and the largest insurance companies have herded people into HMOs, they have decided they do not want Congress to pass a Patients' Bill of Rights. They want to be making health care decisions in their insurance offices, often 1,000 miles away from a hospital room or a doctor's office. They do not want Congress, in any way, to pass a Patients' Bill of Rights. They have gotten enough folks here in this Congress, and here in this Senate, to decide that they would block it. And it has been blocked forever.

So it does not matter that it was the agriculture appropriations bill. It would have been any bill. The Democratic leader last week said to the majority leader: We intend to offer it. If you don't give us an agreement and an opportunity to decide that we're going to have a fair and free and open debate on the Patients' Bill of Rights, we're going to offer it.

We are going to pass the agriculture appropriations bill. Before we pass the agriculture appropriations bill, we are going to have a debate on responding to the emergency of the farm crisis. That is not in this bill at the present time. We tried to put it in the bill in the subcommittee and were defeated in our attempts to do so.

But we are going to have a debate that is much larger than just this bill. This bill deals with the funding of USDA programs, research, food stamps—a range of things—but it does not address the farm crisis that exists out there today that deals with income: The fact that farmers go to a grain elevator someplace and the grain trade decides that their food is not worth much, they do not get a fair price for it. Family farmers are in desperate trouble. We are going to debate that bill, but we are also going to debate a bill to try to respond to the farm crisis.

Mr. CRAIG. Will the Senator yield?

Mr. DORGAN. I will in a moment.

But let me point out, we are also going to debate the Patients' Bill of Rights. It is not going to be some gatekeeper who is going to tell us what our rights are on the floor of the Senate. Someone will stand over there and say: Well, we have reviewed this amendment. We think we'll allow you to offer that. We are not going to do that. That is not the way the Senate rules exist. The Senate rules exist in a way that says to every Senator: You have a right to offer amendments.

I understand that we are not in the majority and we do not set the agenda. The other side sets the agenda. But when they decide that the agenda will be to enhance all of their interests and shut off any debate of interests on the other side, they miss, in my judgment, the history of the Senate. That is not what this body is about.

We have rights. We intend to exercise those rights. We are going to talk about education. We are going to talk about health care. Yes, we are going to

talk about the farm crisis. And we are going to insist on it. The debate at the moment is our insistence that we be able to have a fair opportunity to offer amendments with respect to our Patients' Bill of Rights, that we have a full debate on them, and to have them voted on. We insist on that.

I am happy to yield for a question.

Mr. CRAIG. Very briefly, I was a bit surprised last week when the Senator came to the floor and offered the Patients' Bill of Rights to the ag bill, because I know of his commitment to agriculture. I know of our joint belief about the farm crisis and the reality of it.

What this Senate has not done yet with the Department of Agriculture is shape the size and the scope of the farm crisis. We agree that crisis exists. You and I agree that it exists. The Presiding Officer comes from a farm State. We agree it exists. But we don't know the magnitude of it yet.

We have asked the President and the Secretary of Agriculture to engage with us. That is why it is not attached to this appropriations bill. We are not going to start legislating into a vacuum. We have to legislate because we are dealing with billions of dollars. And the Senator is right about farmers' and ranchers' incomes. That has to be done accurately.

But I am a bit confused. Being the farm State Senator that he is, he seems to be offering the Patients' Bill of Rights to this ag approps bill.

Mr. DORGAN. Reclaiming my time, I offered the amendment the other day on behalf of the Senate Democratic leader. It was an amendment that we said last week we would offer to any bill on the floor of the Senate. This is not going to delay the agriculture appropriations bill. The Senator from Idaho well knows that.

The PRESIDING OFFICER. The time of the distinguished Senator has expired.

Mr. DORGAN. Mr. President, I ask unanimous consent for 10 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I will not object, if there is an additional 10 minutes for our side.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. DORGAN. That is my request.

Mrs. BOXER. When the Senator finishes his thought, will he yield for a question?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Let me just make this point: We are going to pass an agriculture appropriations bill. The Senator from Idaho says: Well, we all agree there is a problem. We need to understand the scope and the depth.

I understand the scope and the depth of this problem. I sat in the Appropriations Committee conference in the basement of this building at midnight one night, when nobody said we needed to understand the scope and depth of the Defense Department issues. The Pentagon asked for $6 billion to prosecute the airstrikes needed to replenish their funds, and the Congress said: Well, you don't know what you are doing. We want to add another $6 billion. You didn't ask for enough money for the Pentagon. We demand that we give you $6 billion more.

Nobody was sitting around saying we need to understand the scope and the depth of that. They said: We demand you take $6 billion more money. That night, about 1 in the morning, Senator HARKIN and I said, if there is an extra $5 or $6 billion around, we demand a debate on the priority of its use. We have people going broke in farm country. We demand that some of it be used for that.

So we offered an amendment. By 14 to 14, we lost on a tie vote; I suppose, because some didn't know the scope and the depth. The Senator from Idaho cares a lot about family farming, as do I. It is mixing, in my judgment, a concoction of bad meals here to suggest that by adding a Patients' Bill of Rights to this particular bill it does something to agriculture or somebody isn't committed to agriculture. That is all fog.

We wouldn't be here talking about this had someone, some long while ago, said, yes, we will give you your rights on the floor of the Senate to bring a bill to the floor and to offer amendments. Yet we have been systematically denied that opportunity. That is why, whether it is this bill or any other bill, you are going to find these kinds of amendments.

As soon as those who are in charge allow the Senate to operate the way it ought to operate and function, you will not see these amendments.

In my judgment, we are here on the Patients' Bill of Rights because we have been told: We don't want you to be able to offer your amendments on the Patients' Bill of Rights dealing with scope, dealing with emergency room treatment, and so on. That is why we are here.

Mrs. BOXER. Will the Senator yield?

Mr. DORGAN. I am happy to.

Mrs. BOXER. I find it quite interesting. I ask my friend, do the people who live in farm country need health insurance? Do the people who live in farm country have problems if they need to go to emergency rooms? Do the people in farm country have problems when their child needs a specialist?

I wonder whether or not we segment things too much. I think people who live in farm country also need health care. If we could reach agreement so we could offer our amendments and give the people in farm country and in suburbia and in urban America the right to decent health care—my friend from Idaho said: Oh, my God, what you are doing will cost so much. We have a letter from GAO. It is $2 a person a month to get decent health care in this country.

I ask my friend, because he is such a stalwart supporter of family farmers, do they not have a problem as well as all the rest of us?

Mr. DORGAN. The answer to that is, of course, they do. This issue is not an issue of urban versus rural. The issue of health care and medical treatment exists all around this country. We have talked on the floor at great length about the specifics of it.

Yesterday I told the story—I will tell it again, because it describes something more than a Patients' Bill of Rights—does someone who was taken a 40-foot fall and has been helicoptered to a hospital and thrown into an emergency room unconscious with fractured bones in three parts of her body, does that person have a right to emergency room treatment? Or does the HMO have a right to say: We won't cover your emergency room cost because you didn't get prior approval to get to an emergency room?

How do you get prior approval when you are unconscious on a gurney being wheeled in from a helicopter, medivac'ed from the mountains where you were hiking? Does a patient in this country who has health care coverage have a right to expect emergency room treatment in those circumstances? Of course.

That is what the Patients' Bill of Rights is about. Not just that, but the right to keep the same doctor, and cancer treatment, a whole series of issues like that. Does that affect rural America? Of course, it does.

But I want to go back to the point made by my colleague. The agriculture appropriations bill does not come to the floor of the Senate with an ag crisis response because it was not deemed appropriate by those who decided they didn't want to put it there. We are going to try to put it there at some point. I hope perhaps we can do that on a bipartisan basis.

I know the scope and the depth of the problem in rural America. The problem is that it costs about $4.50 to produce a bushel of wheat. They drive to the country elevator and the grain trade says wheat is only worth $2.70 a bushel. That is a quick way to go broke. We have a lot of families who are experiencing broken dreams of being able to continue in family farming because the hungry world and the grain trade of the hungry world have said: Your food doesn't have value.

It is not in the bill now, so don't be in such a hurry about the underlying bill. We need to add to the underlying bill the farm crisis package that Senator HARKIN and others are going to push. In the meantime, we will insist on our rights to try to offer a Patients'

Bill of Rights on the floor of the Senate.

Mrs. BOXER. One final question. The Senator from Idaho chastised my friend and said: You are from farm country, yet you are supporting a Patients' Bill of Rights and want that debate now, when the underlying ag bill is so important. What my friend is saying is that this bill, the underlying bill, comes up short for America's farmers.

Mr. DORGAN. Absolutely.

Mrs. BOXER. I watched at 1 in the morning. I saw the Senator, with Senator HARKIN, offer a package that addresses the emergency needs of America's family farmers. It was turned down pretty much on a partisan vote. Is that correct?

Mr. DORGAN. It was a partisan vote except for one.

Mrs. BOXER. So pretty much a partisan vote.

We basically had the Republicans—who are out here saying, oh, bring on this bill, our poor family farmers—voting down an emergency package for those very same farmers and fighting us so those farmers and everyone else in America can't get decent health care.

Lastly, I wonder if my friend sees a connection, because I am thinking about it. I saw my friend from Idaho come out and, instead of debating us on the bill, scare America by saying: Oh, my God, with this Patients' Bill of Rights, 1 million, 2 million people are going to lose their insurance. It sounds like scare tactics.

It reminded me a little bit of the debate we had on the juvenile justice bill, when all we were saying on our side of the aisle was that we wanted to do background checks on criminals and mentally disturbed people before they get a weapon. They said: Oh, my God, they are trying to take everyone's guns away.

America knows that is not the case. When you fight for sensible things, you hear scare tactics from the other side.

I wonder if my friend notices this kind of desperation deal going on, every time we try to do something, of trying to scare the people of this country.

Mr. DORGAN. The only reason I stood up to respond is because there is information from the GAO and elsewhere that suggests that the Patients' Bill of Rights may actually encourage more health care coverage. You may have more people buying health insurance understanding that in their HMO they have rights. They have the right to demand information on all the potential treatments available to them, not just the cheapest, for example. They might well believe that is a pretty good thing.

The GAO and others say this may well increase the coverage. The assumption that a couple million people will opt out, I do not believe that.

The second thing is, we are going to need to solve the farm problem with folks around here from both sides of the political aisle. The Presiding Officer is from Kansas, a big State in dealing with the farm issue. I would never suggest that somehow he doesn't care about farmers. I have served with him in the House and the Senate and know too well how much he cares about family farmers. We need, at some point, to get together on a solution to deal with the farm crisis. I understand that. I have not said—and I could, I suppose—all right, you took $6 billion that you created someplace and gave it to defense.

So my contention is this: You gave the Defense Department money they didn't ask for that should have gone to farmers. I could come out here and make that case, I suppose. But I am not doing that. I have said I thought if there was $6 billion, we should have a debate about the priorities. We didn't. The Defense Department got it, and I am sure they will use it for security needs, readiness, and other things.

My point is, on the underlying bill, I don't think we should be too quick to pass it, because it doesn't have the fundamental resources to deal with the farm crisis.

In any event, last week the Democratic leader informed the majority leader: If you don't give us the opportunity that we insist upon as Senators, to bring these issues to the floor, such as the Patients' Bill of Rights, then we intend to offer it as an amendment to whatever vehicle is on the floor. Anybody who is surprised by that simply wasn't awake last week.

So we will get through this. I think the way we will do it is to have a full debate on the Patients' Bill of Rights at some point, with the ability to offer amendments, as we should, and I hope we will also have a robust debate on the issue of the farm crisis response.

The PRESIDING OFFICER. The time requested by the Senator has expired.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that the period for morning business be extended until 3 p.m. and that the time be equally divided between the minority and majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. GREGG. Mr. President, I think it is appropriate to respond to some of the commentary from the other side about the Patients' Bill of Rights—the Republican plan versus the Kennedy bill, the proposal that the other side has put forth.

The American public should know and recognize that a majority in this Congress is for moving on an effective proposal and for addressing the needs of the American citizens relative to dealing with HMOs, and that is the Republican Patients' Bill of Rights. It is a very good package of ideas put together after a long and serious amount of consideration. It came out of the committee of jurisdiction with a majority vote, is now on the floor, and has received a majority vote in the Senate. It would significantly improve the situation of patients as they deal with doctors and HMOs across this country.

I think, however, that it also ought to be noted on the other side of the coin that what Senator KENNEDY's proposal does is to continue the Clinton health care plan that we saw about 5 years ago—I guess it was 5 years ago now—''Hillary-Care,'' as it came to be known. This is sort of the daughter of ''Hillary-Care'' or son of ''Hillary-Care,'' as put forth by the Senator from Massachusetts. Essentially, if you are going to be honest about the practical effect of the proposal of the Senator from Massachusetts, it is to increase the premiums for private health insurance in this country by at least 4 percent potentially; other estimates have been as high as 6 percent.

When you start raising the premiums for health insurance—especially on self-insured individuals—the impact of that is that people drop out of the health care insurance system. Why is that? Because they can't afford it. If you are a small business of five or six employees, if you are running a restaurant, or if you are running an auto shop or a small software company, and your costs go up 4 percent on your health care premium, that can amount to a significant cost increase, and in many instances that is going to be the difference between making it and not making it in some of these small companies. So you have a situation where people drop the insurance.

The Congressional Budget Office has estimated that the practical effect of the Kennedy health care plan will be that well over 1 million people will drop their health insurance. Why is this important? Why does this tie into ''Hillary-Care''? Because, if you will recall, back in the days when we were debating the issues of ''Hillary-Care,'' the basic proposal was to create a nationalized system where the Federal Government would come in and take over all insurance carriers in this country, for all intents and purposes, with the logic behind that being that there were too

many uninsured people in the health market to date, too many Americans simply did not have health care insurance, and therefore we needed to have ''Hillary-Care.''

Nationalization of the health care industry was proposed at that time, and the Kennedy bill was introduced by Senator KENNEDY on behalf the First Lady, and the proposal was, let's nationalize the system so all the uninsured in this country will have a system of insurance.

Of course, it failed miserably, because it was incredibly complex, it was incredibly bureaucratic, and it was extraordinarily expensive for the American taxpayer. The cost increase and the tax burden for the American taxpayer would have far exceeded any savings in premium that would have occurred, and the cost in bureaucracy and the loss of effectiveness in the administration of health care in this country would have had a major impact on the quality of health care.

So out of common sense, good sense, and good politics, the program was rejected out of hand, and in fact it never came to a vote in the Senate because, quite honestly, a majority on the other side of the aisle was embarrassed by the proposal and they decided to walk away from it.

What we have here is essentially is an extension of that, because what we have is a back-door proposal to health care. Unhappy with the fact that they were unable to nationalize the health care system, in order to cover those folks who do not have enough health insurance, they have now decided, by bits and pieces, through small slices—this one is a very large slice but through smaller slices of the pie—to slowly uninsure Americans. So there is such a large pool of uninsured Americans that we will have to come back to a ''Hillary-Care'' system so there will be justification for nationalization of the health insurance industry, because there will be all these uninsured people out there who have been created and, because of a lack of insurance, we will have to create legislation.

Because of all of these different actions taken—proposals such as we are seeing today on ''Kennedy–Care,'' which will create another 1 million-plus people who are uninsured—next year we will have another proposal which will create another group of uninsured and there will be another proposal to increase the cost of insurance. And they will add something else to private insurance costs—some new benefit, or initiative—that will have all sorts of trappings of nice political sounds so that they will need to raise the cost of insurance premiums. So more people will step off of insurance, and more and more people will end up being uninsured over a period of time, and we will end up with just more people becoming uninsured as we continue down the road of adopting these initiatives which are put forward by the Senator from Massachusetts.

I will tell you, I think the basic game plan here is to create such a pool of uninsured people in this country that we have to turn the corner and come all the way back so that the Senator from Massachusetts and the First Lady can come to us again and say, now, we really need to nationalize the health care system because we have all of these uninsured people.

I think there is a bit of a cynical game plan behind the Democratic proposal, the Kennedy plan. Maybe I am being too suspicious, but, as a practical matter, I think I am being accurate and I am observing what the factual events will be.

The fact is that because of the premium costs that will increase, which are going to be driven by ''Kennedy–Care,'' as proposed by this bill, we will end up with more people uninsured, and the more people that become uninsured in this country, the greater the demand from the other side of the aisle will be for a nationalized system of health care.

I will tell you, if a nationalized system of health care was a bad idea 5 years ago, it would be a bad idea today, and it will be an idea 5 years from now when we hear from the other side of the aisle how important it is because so many people had to drop off the health care system, because they increased the premiums on the health care system by passing their proposed Kennedy health care bill.

I just wanted to make some of those comments in response to some of the comments from the other side.

I think it is ironic that we are holding up agriculture appropriations over the issue of the Patients' Bill of Rights. I have never been a great fan of the way we fund agriculture in this country, as the Senator in the Chair knows. We have been discussing this issue for a number of years both in the House and in the Senate. I recognize that the farmers in this country are a critical part of our economy and that this agricultural appropriations bill is the reasonable, responsible way of addressing those farmers' needs.

We have heard about the crisis in the farm community from the other side of the aisle ad nauseam now for 3 months, and suddenly we are about to pass the agriculture appropriations bill, and on the other side of the aisle Senators from farm States come forward and say, no, we can't do the agriculture appropriations bill.

As someone who is not from a farm-community State—I have a few farmers, but they are not the dominant culture in New Hampshire. We wish they were. They are certainly wonderful, hard-working people. But as somebody who is not from a farm-culture State, I have to scratch my head and say, is the crisis real? If these folks on the other side of the aisle, who for months have been telling us about the severe crisis in farm country, come forward when we are about to do the agriculture appropriations bill and delay it for weeks and weeks, and potentially even months, I ask, is the crisis real in farm country? Should I, when we get another supplemental appropriations bill which has another few billion dollars for the farm crisis, take that seriously, or are we being ''gamed''?

I think they put into serious jeopardy the reasonable arguments that have been put forward from our side of the aisle by the Senator from Kansas and the Senator from Montana, who understand the farm issue and who make good arguments on behalf of the farm issue. Those folks who are credible on the farm issue on our side of the aisle are having their credibility undercut by this type of action from the other side of the aisle, which really plays games with the farm crisis and really dilutes the arguments on the farm crisis when they are willing to delay the funding of the farm bill for what is clearly a political initiative undertaken for the purposes of trying to generate a higher polling rate than some poll taken in some political election.

To me, there is a fair amount of cynicism in this Senate today, and most of it is being promoted by the actions brought forward by Members on the other side of the aisle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, there is strong bipartisan support to address the problem of unequal quorum call time charges. We simply cannot let this injustice go on. Let us take action. So to rectify this situation, I now suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, may I inquire about the state of business?

The PRESIDING OFFICER. The Senator may speak for 25 minutes. We are still in morning business.

AGRICULTURE APPROPRIATIONS

Mr. ASHCROFT. Mr. President, I yield myself as much of the 25 minutes as may be necessary to make my point.

I rise today with substantial concern and significant frustration. The pending business before the Senate is the agriculture appropriations bill. But for the second day in a row, it appears that we will not work on this important legislation. Those on the other side of the aisle have said they will not let any legislative work get done until they are able to have, apparently, an unlimited debate on a so-called Bill of Rights for health care patients.

Those on the other side claim that they must have a debate on their bill, but that is not the point. What they are really doing is thwarting this body, the Senate, in its constitutional duty to pass appropriations bills so that we can make sure that important components of our Government remain viable and continue to do their job.

The agriculture appropriation bill is a very important measure, not just in one State in America but in every State in America. Let me remind all Senators that our responsibility to pass appropriations bills is defined by the U.S. Constitution, which requires ''appropriations made by law''—that means we have to pass them—''prior to the expenditure of any money from the Federal Treasury.'' That is article I, section 9.

I see nothing in my reading of the Constitution that says the Senate must have unlimited debate on some other issue of interest or that the Senate even has the authority to speak on all the issues between a patient and a doctor.

Granted, we have until October 1 to conclude the appropriations process. That seems like a long way off, summer having just started. But I am not sure exactly why we would be dragging our feet now, because I am sure I do not have to remind anybody of what happened last October when we did not do our work early. Congress did not complete its job on time, and the American people are the ones who ended up paying for our irresponsibility with a $20 billion-some so-called emergency appropriation that came when, instead of constitutionally addressing our responsibility on appropriations, the President and a few Members of this body combined to invade the Social Security trust fund for about $22 billion in emergency spending.

Members on both sides of the aisle complained bitterly for months about the process and the outcome. Members from both sides pledged to work together to make sure that history did not repeat itself this year.

I commend the leadership and the Appropriations Committee for the wonderful start that has been made on the appropriations bills. It is June 24, and the Senate has passed four appropriations bills and has five more ready for the floor. If those on the other side ever allow us to return to our duties, we can do the job and do it well.

Let me caution all of us that summer will pass quickly. We should not put off our responsibilities. We are sent here by our constituents to do our jobs for them, not to sit in endless quorum calls and have days of morning business because some group wants a special interest measure to be addressed and demands unlimited debate without any end in sight.

In addition, I am concerned that certain Senators are holding this agriculture appropriations bill hostage at a time when many in our farm communities are undergoing great hardship. America may be in the midst of great prosperity, but it is not a prosperity that has reached the farms. Many of our farmers are working harder and harder, and times are tougher and tougher, not better and better.

Just a few months ago, we passed an emergency supplemental appropriations bill that dealt, in part, with the crisis in the agriculture sector. Members on both sides of the aisle agree that farm families are not enjoying the prosperity that other Americans have recently been enjoying. So this is not the time for the Senate to deal another blow to those who are already hurting. It is not the time for the Senate to kick agriculture while it is down. We need to stand up for our farmers, and we need to stand up for our ranchers, not to try to make political hay out of an issue unrelated to agriculture on the agriculture appropriations bill.

Since we are not on the agriculture appropriations bill, and I am not sure when we will return to it, I want to spend a few minutes talking about an amendment I plan to offer to the agriculture appropriations bill. It is an amendment that will help farmers by opening, and keeping open, foreign markets to their goods.

I want to discuss a commitment the Congress made to America's farmers and ranchers when we passed the Freedom to Farm bill 3 years ago. Then, we promised that as the Government reduced farmer price support programs, we would ensure that farmers had ascending opportunities to be competitive in international markets. As we withdrew the Government involvement in farming, we would expand the opportunities for farmers in markets overseas. This was a promise to open new markets. However, in order to do so, we had to not only remove foreign barriers to U.S. farmers and ranchers, we needed to remove our own barriers to U.S. exports of farm goods. Removing U.S. barriers means agricultural sanctions reform, which is important to America's farmers and ranchers, and especially important to me as a Member who represents a farm State.

For more than 200 years, farmers and ranchers have been vital to the growth and the economic prosperity of the United States. We were an export country, agriculturally, from the beginning. We always responded to challenges in our competitive free market system. I believe the United States has the best farmers in the world—first class in production, processing, marketing, both abroad and at home. However, we are now seeing the effects of depressed farm prices across the Nation. No doubt, we need to face the crisis head on, but while we are passing multiple spending bills this year, there are some basic questions we should answer:

Have we done everything we can to allow farmers to be independent, to allow farmers to have the freedom to compete, to give them opportunities and not just send them money, to consider the long-term well-being of family farms? In the absence of us fulfilling our promise to open markets, is our spending merely keeping farms solvent this year only to be lost in the future?

We have had 3 years to answer these questions, and the answer to all of them is still a resounding no.

The administration and the Congress have many words about open markets and more export opportunities, but our actions have been to bog ourselves down with turf battles and procedural maneuvering. How can we explain this to the agricultural community across America? How can we tell our family farmers in the Midwest, in Missouri, in the Far West, or in the East and the South, that we really want to give them increasing opportunity in world markets, and then thwart our own goal with institutional barricades, and tell them we want to sell abroad but forbid them to sell abroad by having embargoes of our own products, sanctions against countries that are unnecessary and counterproductive, so it makes it impossible for them to have the same markets they would otherwise enjoy?

I believe we must enact reforms that give farmers and ranchers the opportunity both to be productive and to be competitive. Such reforms will strengthen farm families. I believe these policies are ones rooted in the American tradition of increasing opportunity.

One-hundred-plus years ago, my grandfather, John M. ''Cap''—they called him Cap—Larsen left northern Norway as a 13-year-old to sail the high seas. He changed his name and, with all his earthly endowment contained in a duffel bag, he switched ships and boarded one destined for the United States as a crew member. He could not speak the language, but he knew that America was a place of ascending opportunity, and he came here.

We have a responsibility to America to keep our opportunity growing. We can't keep our opportunity growing if

we are closing the markets in which American farmers can sell their produce. So, clearly, our opportunity is to say to American farmers—and I would like to say to Missouri farmers—we want you to have an opportunity to sell your goods in as many places as is possible.

The agricultural industry is the backbone of my State's economy, accounting for more than $4 billion annually.

While the United States can produce more food than any other country, we account for only 5 percent of the world's consuming population. That leaves 95 percent of the world's consumers outside of our borders. This is an astounding statistic when we put it in terms of creating opportunities. Exports account for 30 percent of the gross cash receipts for America's farmers, and nearly 40 percent of all U.S. agricultural production is exported. However, with the consuming capacity of the world largely outside our borders, our farmers and ranchers need increasing access to foreign demand.

Farmers and ranchers tell me repeatedly that they want more of our help abroad and less of our interference on their farms. They need us to open foreign markets, and they need us to keep those markets open.

Our first task—opening foreign markets—looms before us like a brick barricade. With the same will and authority of President Reagan before the Berlin Wall—when he said, ''Mr. Gorbachev, tear down this wall''—we must face head-on the barricades before our farmers and ranchers. It is not an easy task, but then again neither was dismantling the Evil Empire.

The Europeans are standing on their massive wall of protectionism built across the trail of free trade and simply rejecting U.S. beef. For example, May 13 was the last date for them, according to the orders from the World Trade Organization, in which they had exhausted every appeal. That was the last day for them to finally say they will accept U.S. beef. They refused to do so.

We have to blaze a trail. The Europeans cannot be allowed to make a mockery of our competitive spirit, especially that of our cattle ranchers.

Our second task—keeping markets open—is why my colleagues and I are here on the floor today. The picture of ascending opportunity for farmers is incomplete without a view of foreign markets unimpaired by U.S. embargoes.

We have gone from the idea of trade barriers on the part of the Europeans to embargoes on the part of the United States. We keep a number of our farm products from being sold around the world, and unnecessarily.

I might add that using food and medicine as weapons creates a cumbersome trail, an environment of descending opportunities. Agricultural embargoes amount to a denial of much-needed food and medicine for the innocent people of foreign lands with whom we have no quarrel and to a unilateral disarmament of the farmers in a competitive world market. We have simply pulled our farmers out of competition in a number of areas where we need not. We must not use our farmers or innocent people as pawns of diplomacy or allow our embargoes merely to add bricks to the walls of protectionism that other countries have erected.

Our farmers have jumped through all the hoops of foreign trade barriers and redtape to establish trusted relationships with foreign buyers. That has happened. And the U.S. Government should be extremely cautious about interrupting their sales by imposing trade sanctions.

Many farmers' livelihoods depend on sales overseas. For instance, in the mid-1990s, more than one-fourth of Missouri's farm sales were made to overseas consumers. But because the U.S. Government has sanctioned agricultural trade, there has been an estimated $1.2 billion annual decline in the U.S. economy during these years.

In other words, our whole country suffered to the tune of an annual decline of $1.2 billion as a result of agricultural embargoes. This translates into 7,600 fewer U.S. jobs. Even one-third of those 7,600 jobs lost translates into the loss of a family farm. So we have lost about 2,500 family farmers in each of the last several years because of agricultural embargoes.

Sometimes I think we need to ask ourselves: Who are we hurting? We think we are hurting other countries that go into the world market and buy from other suppliers. I don't think we are hurting them badly—perhaps not nearly as badly as we hurt America when we lose 2,500 family farms a year. That is 50 family farms a week. That is a tradition that they no longer pass on—a tradition of resourcefulness, a tradition of independence, a tradition of providing food and fiber to a hungry world.

Additionally, this debate on agricultural sanctions reform is broader than the effect sanctions have on America's farmers. In addition to hurting our sales and damaging our farmers' credibility as suppliers, embargoes deny food and medicine to those who need it most—citizens who have to live under the rule of some of those who are most oppressed.

Also, the United States, by imposing unilateral agricultural embargoes, can actually end up benefiting instead of punishing foreign tyrants. For instance, one of the little-known aspects of the Soviet grain embargo concerns how much money the Soviets saved as a direct result of the United States ''punishing'' them with an embargo. There may be a number of people who do not remember the U.S. grain embargo with the Soviet Union in the late 1970s, I believe it was. We thought, well, they are not doing things the way we want them to, so we will make it tough on the Soviets. We will embargo exports from the United States to the Soviet Union. The Soviet Union, when we said we would no longer trade with them, was able to cancel 17 million tons of relatively high-priced purchases from the United States. So they wouldn't buy these quality well-produced items from American agriculture. They replaced those purchases they were going to get from American agriculture with purchases from other countries. What do you know? They even bought from other countries at lower prices.

The U.S. embargo unilaterally canceled private contracts and drove the world market prices down by sending our grain into the world market, and at the same time it was estimated that the embargo saved the Soviets about $250 million. In an effort to hurt the Soviets, we saved them $250 million, and we cost the American agricultural community 17 million tons of agricultural sales to a market for which the contracts had already been signed.

That is not exactly the intended result. But all too frequently when we keep our farmers from selling to countries overseas as a result of these sanctions and embargoes, we end up hurting ourselves, and not the other country. We end up destroying family farms in America—not something in the other jurisdiction. We end up making it tough on American farmers.

I agree that in some instances the United States needs to use trade sanctions. They can be a foundation for the protection of our national security interests and to the promotion of our foreign policy goals. However, because I believe agriculture and medicine should rarely be used as a unilateral weapon—they aren't things that really are going to win wars for us generally, especially if the agriculture production that we cut off is really replaced just by production brought on line in other cultures—I think we should be very serious about any effort to use agriculture or medicine as a weapon.

I think both the Congress and the administration need to consider it very carefully, and that they ought to combine their authority to lift most of the remaining restrictions on American farmers and ranchers. We ought to give them a chance to sell to a hungry world.

That is why a number of Senators and I—Senator HAGEL, Senator BOXER, Senator KERREY, Senator ROBERTS, and Senator DODD—are working on this amendment which I would otherwise be offering if we weren't in morning business. I hope many other Senators will join.

We want to be involved in discussing what is good for America—yes—what is

good for our farm communities, and our home States, and discuss why sanctions, which really hurt us more than they hurt the other fellow, are really counterproductive to American farmers. If there are costs to be borne in our culture as a result of our antagonism with others, those costs should not be focused solely on the agricultural communities in a way that makes our farmers less competitive, because we narrow in a significant way the markets that they would otherwise have in the world marketplace.

The theme of the amendment I would have proposed is that sanctions should rarely, if ever, be imposed against food or medicine, and, if they need to be imposed, both Congress and the President should be involved. Our farms should not be sanctioned without serious deliberation about the effects. If food and medicine for the world is important—and the Food and Medicine for the World Act should be passed—it is this: That in order to use agriculture or medicine as a part of a sanctions regime, there would have to be an agreement between the administration and Congress.

Let me make this clear. We don't want to tie the hands of the President. We merely want to require the President and Congress to shake hands in agreement, if we are going to ever use food and medicine as a part of a sanctions or an embargo regime.

That is the thrust of the amendment, which I am proposing; and here is how it would happen. Under the amendment, agriculture is carved out of a sanctions package when any new sanctions are imposed. The President would still be able to use his broad sanctions authority, but agriculture and medicine would be treated a little differently.

When any new unilateral sanction is announced by the President, the sanctions he imposes may go into effect, except they would not affect agriculture or medicine unless the President submits a report to the Congress asking the sanctions include agriculture, and Congress approves, by joint resolution on expedited review, his request to sanction agriculture and/or medicine.

Additionally, sanctions on agriculture and medicine that are put in place by the new procedure would sunset after 2 years unless the President made a new request for sanctions and the Congress extended that particular item.

There are certain instances in which the President would not have to get approval from Congress to include agriculture and medicine in a sanctions regime. First of all, we want to make sure we are not aiding terrorists in any way. It is one thing for terrorists to use their money to buy our food. At least they aren't using their money to buy bombs and weapons. However, we need to make sure we don't somehow subsidize our sales to terrorists. That is why we have included an exception in the bill for terrorist governments. In no instance would we extend credit or credit guarantees to governments of state-sponsored terrorism. This is an important point to me: We are not going to be giving tax dollars of the American people to terrorist governments so they can buy our food and, having gotten credit from us, then buy munitions to carry out their terrorism. That is not possible under this act.

Second, we will not give terrorists any dual-use items. This sanctions amendment specifically carves out items on the commerce control list, items on the munitions list, and any item that would be used to manufacture chemical or biological weapons. This is the strongest belt-and-suspenders approach possible. We honor the commerce control list, the munitions list, and we would make sure there were no credit extensions to terrorist regimes.

Finally, if Congress has declared war, the President would be able to include agriculture and medicine in a sanctions regime against the country of which we are at war. If we have declared war, obviously we are not going to be aiding or trading with the enemy in any way. Congress would not have to again provide ratification of the President's sanctions in that setting.

My colleagues and I are genuinely of the belief that this bill is in the best interests of American agriculture. It is the best approach to agricultural sanctions reform. We do not have to balance national security interests versus farm exports because we do not limit the ability of the United States to protect its national security interests. When the national interests are clearly at stake, the Congress and the President should be able to agree.

For the most part, I do not think we should use items such as wheat and soybeans as weapons for foreign policy. However, if the need ever arises to embargo agriculture, Congress and the administration can impose sanctions that would affect the flow of our agricultural goods to nations abroad; we just need to have a deliberative process set in place, and we need to ensure that both the President and the Congress are in agreement.

The food and medicine for the world amendment is fair and it is constitutional. The food and medicine for the world amendment, which is the amendment I would propose today if we were actually on the bill, sends a message to overseas customers that U.S. farmers and ranchers will be reliable, that people can depend on our produce and our production, and we will honor our contracts.

The food and medicine for the world amendment also sends a message to U.S. farmers and ranchers. It says we will not tamper with their capacity to have good, open markets around the world without due deliberation. Also, it begins to fulfill a definite promise made to our farmers and ranchers a little over 3 years ago.

Not only would we be assuring U.S. farmers and ranchers, I think we would be sending a signal to poor citizens around the world who need the food, the produce, the fiber that we produce, the medicines that we have, that we have a heart in America that respects their heart, that they are not subscribing to tyranny because they have to live under it, and that we are not unwilling to provide needs to individuals as long as our provision of needs doesn't sustain the oppression of individuals.

It is time to enact a policy that supports our farmers' efforts to reach their competitive potential internationally, a policy that makes food and medicine available around the world. We must create ''ascending'' opportunity for our farm families. This measure would provide for that. It also understands that there are times when we need to curtail the flow of our goods overseas, but it requires both the administration and the Congress to come to an agreement in order for that to happen.

I believe the food and medicine amendment which I would be proposing, were those on the other side of the aisle not thwarting our capacity to move forward in addressing the pressing needs of agriculture today, is essential to the well-being of the farmers and ranchers in America, also essential to our well-being and our reputation as a reliable producer and provider of food, fiber, and medicine around the world.

I ask unanimous consent two pertinent letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 23, 1999.

Hon. JOHN D. ASHCROFT,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ASHCROFT: We are pleased that you and other supporters of sanctions reform are preparing to offer an amendment to the Agriculture Appropriations bill today.

The amendment, ''Food and Medicine for the World,'' would exempt agricultural and medical products from unilateral sanctions unless the President submits a report to Congress asking that the sanctions include agriculture and Congress approves his request by joint resolution. If a sanction is imposed on agricultural exports following joint resolution approval, it would sunset in two years unless the process is repeated at that time.

We strongly support this amendment and believe it would result in true sanctions reform for U.S. farmers and ranchers. As you know, unilateral sanctions inflicted the most damage on U.S. producers. They often result in no change in the target country as these nations simply source their agricultural purchases from our competitors. The end result is that our producers are branded unreliable

suppliers and lose access to important markets for decades to come. This amendment would begin to restore the U.S. reputation as a reliable supplier of agricultural products.

Access to export markets is more important than ever given the decline in projected exports for 1999 and depressed commodity prices worldwide. We endorse your efforts to keep our export markets open.

American Cotton Shippers Association; American Farm Bureau Federation; American Soybean Association; American Vintners Association; Animal Health Institute; Archer Daniels Midland Company; Biotechnology Industry Organization; Cargill; Central Soya Company, Inc.; Cerestar USA; ConAgra, Inc.; Continental Grain Company; Corn Refiners Association; Farmland Industries, Inc.; Florida Phosphate Council; Independent Community Bankers of America.

National Association of Animal Breeders; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Beef Association; National Chicken Council; National Corn Growers Association; National Council of Farmer Cooperatives; National Food Processors Association; National Grain Sorghum Producers; National Grange; National Oilseed Processors Association; National Pork Producers Council; National Renderers Association; North American Millers' Association; Philip Morris Companies Inc.; Sunkist; USA Rice Federation; United Egg Association; United Egg Producers; U.S. Wheat Associates, Inc.

MISSOURI FARM BUREAU FEDERATION,
Jefferson City, MO, June 17, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate,
Washington, DC.

DEAR SENATOR ASHCROFT: Missouri Farm Bureau, the state's largest general farm organization, strongly supports the Ashcroft-Hagel-Baucus-Kerrey amendment that provides U.S. agricultural producers with much-needed protection from unilateral trade sanctions. Furthermore, I commend the sponsors of the amendment for recognizing the damage inflicted upon our nation's farmers when food is used as a weapon.

This amendment is especially important given the current weakness of the U.S. farm economy. Ill-conceived trade policy that prevents U.S. agricultural exports not only has financial ramifications for our farmers but also provides new market opportunities for our competitors.

This amendment exempts agriculture from unilateral trade sanctions, yet recognizes there may be instances where such drastic action is warranted. When a situation arises where the President feels it is necessary to include agriculture, the amendment provides a procedure to obtain this authority.

Unilateral trade sanctions have proven to be a tool best to avoid. I commend your efforts and urge other Senators to support this important amendment.

Sincerely,

CHARLES E. KRUSE,
President.

Mr. ASHCROFT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business, and I also ask unanimous consent that Senator DORGAN be allowed to follow me when I have finished.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS EMERGENCY SERVICES PROVISIONS

Mr. BAUCUS. Mr. President, I join my Democratic colleagues in their fight to have an open and unrestricted debate on the Patients' Bill of Rights. Over the past several days, we have heard the Republican leadership say they are interested in having an up-or-down vote on their bill, followed by a vote on the Democratic bill. We all know this is not how the Senate is supposed to work. We are a deliberative body, and as such, we should have debate on important issues that affect the lives of Americans.

The Patients' Bill of Rights addresses one of the most important issues the Senate can debate: the rights of Americans to have access to quality health care.

Our health care system essentially relies on three important factors: First is access to health care; second is the quality of our health care; and third is cost controls, that is, the cost of our health care.

The problem is it is extremely difficult, if not impossible, to have the best in all three areas. If we concentrate on two of the areas, that usually results in sacrifices in the third area. The whole reason we are trying to have this debate is that this trio of access, of quality, and of cost control has shifted out of balance. Our market-driven health care system has become too focused on controlling costs and protecting corporate profits. Although predictable, this, unfortunately, has led to sacrifices in access to health care and quality health care.

It is important to point out we do need to be concerned about cost control in our health care system, no doubt about it. In fact, managed care has done many of the things we hoped it would do. For example, it has improved the efficiency of health care delivery, it has slowed down the growth in health care costs, and it has enhanced the collection of data to assess the quality of care. It has done all that, and that is good.

The message of this debate is not that managed care is the enemy. As I said, managed care has done a lot of things which are very important. This debate, rather, is about restoring a balance in our health care system.

We certainly could design a health care system that is only concerned about money, but that would miss the point. Unfortunately, though, we are headed in that direction. We need to stop and ask ourselves what we value in our health care system and what it means to have health insurance in America. That is why we want this debate so we can find answers to those questions.

I stand with my Democratic colleagues who have called for an open debate. One of the reasons an open debate would be helpful is there is room for compromise. In fact, I am a cosponsor of a bipartisan patient protection bill that I think strikes an important balance between the two sides which we have heard about in the last few days.

We need to come out of our corners and debate the issues because I believe there is an important middle ground, one that many Senators can support, if we simply have the courage to debate the provisions of these bills and let the votes fall where they may.

I want to address an important area in the Patients' Bill of Rights; that is, the provisions that address coverage for emergency services. Both the Republican and Democratic bills provide coverage for emergency services using a prudent layperson standard. Unfortunately, the Republican version of the prudent layperson standard falls short of the standard that Congress has already enacted for the Medicare and Medicaid programs in the Balanced Budget Act of 1997.

This means that under that bill, hard-working Americans with private insurance will have less protection for emergency services than beneficiaries in Medicaid and Medicare programs. The bipartisan bill that I cosponsor and the Democratic Patients' Bill of Rights contain the real prudent layperson standard for emergency services.

What is the problem with the other version, that is, the Republican version of the prudent layperson standard? There are two important weaknesses in that standard.

First, that standard provides an inadequate scope of coverage for emergency services. We have heard a lot of discussion about the scope of coverage in the two bills over the last 2 days. The best example of why we need to have uniform protections for patients throughout the country is the prudent layperson standard.

The Federal Government is already involved in every emergency room visit in this country. We have strict Federal standards to protect patients with medical emergencies. These standards are embodied in the Emergency Medical Treatment and Labor Act or EMTALA. It is hard to argue that the Federal Government should not be involved in protecting patients with medical emergencies when the Federal Government already is involved.

The prudent layperson standard in the Republican bill only applies to 48 million people. Both the bipartisan bill and the Democratic bill apply this important protection to all 180 million people with private health insurance. We need to realize in the Senate, again, we have already mandated that anybody who goes to an emergency room should receive health care. That is mandated. We now have an opportunity to ensure that patients are not held financially hostage for the decisions they make in an emergency. There is broad bipartisan support for the patient-centered concept of the prudent layperson standard. Now we need to extend this scope of coverage so that it parallels the Federal statutes that are already on the books.

The other major weakness in the prudent layperson provisions in the Republican bill is the lack of provisions for poststabilization services. I want to point out what the debate about poststabilization services is all about. It simply boils down to two questions.

First, is poststabilization care going to be coordinated with the patient's health plan, or is it going to be uncoordinated and inefficient?

Second, are decisions about poststabilization care going to be made in a timely fashion, or are we going to allow delays in the decisionmaking process that compromise patient care and lead to overcrowding in our Nation's emergency rooms?

We have heard a lot of rhetoric about how poststabilization services amount to nothing more than a blank check for providers. If these provisions are a blank check, then why did one of the oldest, largest, and most successful managed care organizations in the world help create them in the first place?

Kaiser-Permanente is a strong supporter of the poststabilization provisions in our bill for a simple reason: They realize that coordinating care after a patient is stabilized not only leads to better patient care, it saves money.

Let me give an example of a case which took place in the past 2 months. It illustrates the problem quite nicely.

A woman came to an emergency department after falling and sustaining a serious and complex fracture to her elbow. The emergency physician diagnosed the problem and stabilized the patient. The stabilization process took less than 2 hours. Unfortunately, the patient's stay at the emergency room lasted for another 10 hours while the staff attempted to coordinate the care with the patient's health plan.

The plan was unable to make a timely decision about the care this patient needed. The broken bone in her elbow required an operation by an orthopaedic surgeon. The patient's health plan did not authorize the operation in the hospital where the patient was located. They denied this care because the hospital was not in its network, even though there was a qualified orthopaedic surgeon available.

After several phone calls, a transfer was arranged to another hospital. Unfortunately, the patient did not leave the hospital emergency room for almost 12 hours.

When the patient arrived at the second hospital, the orthopaedic surgeon looked at the complexity of the broken bone and decided he could not perform the operation. The patient, therefore, had to be transferred to a third hospital, where the operation was finally performed.

Let's look at the extra costs involved in this case. The patient had two ambulance rides and two extra evaluations in hospitals. The patient also laid in the emergency room with a painful broken bone for 12 hours before being transferred. During this time, the emergency room was very busy and the staff had to continue to care for new patients as they arrived.

So why did this occur? In this case, the problem occurred because the plan was unable to make a timely decision about the poststabilization care this patient needed.

This should not be how we in this country take care of patients with a medical emergency. I hope Republicans will join with us to pass a really prudent layperson standard for emergencies.

I urge my colleagues to allow us to have an open debate on the Patients' Bill of Rights. We need to have this debate. Americans want protections in their health plans. Americans want a system that balances the needs for access, quality, and cost control in their health care.

Before I close, I just want to mention how delighted I am to hear my colleagues talk about the needs of the uninsured in America. If they are serious about working to address the problem we have with 43 million uninsured Americans, I obviously look forward to working with them. Once we have established basic, uniform rights in health care, we should return to the equally important task of providing access to health care for the uninsured in America.

It seems important that universal access to adequate health care should be our goal. But unless we recognize the importance of rights in health care, our constituents may end up with access to a system that is indifferent to both their suffering and their rights.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE CRIMINAL JUSTICE SYSTEM IN THE DISTRICT OF COLUMBIA

Mr. DORGAN. Mr. President, I want to call the attention of the Senate to a couple of items that relate to an appropriations bill we will be marking up this afternoon in about half an hour in the Senate Appropriations Committee.

We are going to mark up three bills. I will be there as a member of that committee. One of the bills deals with the District of Columbia. I have spoken on the floor in recent weeks about an issue dealing with the criminal justice system in the District of Columbia. I want to comment on it again in light of a news story in today's paper, this Thursday morning's Washington Post.

Some while ago, a young boy was rollerblading in the District of Columbia—a matter of weeks ago—and he was hit and killed by a car that then sped away. That car allegedly was driven by a man who was arrested, Shane DeLeon. He was arrested and put in jail and then, of course, let out of jail, as is so often the case these days.

Shane DeLeon, it says in the paper today, walked away from custody. It says:

> The man charged in the hit-and-run death of an American University student walked away from a District halfway house Tuesday and remained free last night. . . .

I want to read a couple of paragraphs because it describes, I think, the chronic problem in the criminal justice system in the District of Columbia and, I should say, elsewhere as well.

> Shane Simeon DeLeon failed to return to the Community Correctional Center on New York Avenue NE by his 11 p.m. curfew, according to D.C. Department of Corrections officials. [He] was allowed out of the facility from 7 a.m. to 11 p.m. to remodel the basement of his girlfriend's home on MacArthur Boulevard in Northwest Washington. . . .
>
> This is the third time [this fellow] has broken curfew. The first two times, he was under home detention.

Now he walks away again, this fellow who is facing second-degree murder charges.

I have spoken on the floor a lot about a case that was in the news a couple of weeks ago. I spoke about this case some years ago on a number of occasions and then again a couple of weeks ago. It is the case involving the murder of a young woman, Bettina Pruckmayr. Bettina Pruckmayr was a young attorney here in Washington, DC. She was abducted late at night and forced to go to an ATM machine and forced to withdraw money; and then her murderer, Leo Gonzales Wright, stabbed her over 30 times in a brutal murder.

It turns out, a couple of weeks ago, after this murderer was sentenced to Federal prison—3 years later, they discovered he had not been put in Federal prison, he was still out at Lorton. The Federal judge was justifiably angry, wondering, why couldn't they even get that right to send this murderer to Federal prison? My understanding is, he is in Federal prison now.

But the story in today's paper about a fellow facing second-degree murder charges simply walking away—he was

allowed, by the way, while facing second-degree murder charges, to go help remodel the basement of his girlfriend's house from 7 a.m. to 11 p.m.—why is a fellow facing murder charges walking around, remodeling his girlfriend's basement?

It is the same story as that of Leo Gonzales Wright. What was he doing walking around on the evening that he eventually murdered Bettina Pruckmayr? Here is a man who robbed a convenience store and shot the convenience store owner; he robbed a cab driver and murdered the cab driver; and then he was sentenced to prison for a minimum of 20 years—not to be let out before 20 years—and he was let out nearly 5 years early, despite the fact that in prison he had 33 different violations for assault and drugs and weapons. Then he was let out on the streets 5 years before his sentence ended, and, while on the streets, he committed theft and tested positive for drugs. When he was brought before the parole board, this fellow, who was a twice-convicted murderer, was told: No; you can stay out on the streets on parole. Taking drugs as a violent offender is not serious enough to put you back in prison. Theft is not serious enough to put you back in prison.

So the message is: The authorities say that a violent offender can commit a theft, can take drugs, can remain on the streets, and remain on the streets in a manner that allowed him, on that fateful evening, to kill this young attorney named Bettina Pruckmayr.

A couple of weeks ago, 3 years after this man was sentenced to Federal prison, the Federal judge found out he was not in Federal prison at all—he was in Lorton—and the judge said: What on Earth is going on?

I looked into it in order to find out what happened. It is a mess. At every step along the way, this inspector's general report—which is some 50 pages long—shows one massive problem after another. This system is completely devoid of common sense. It is a system that says to the fellow who was up for second-degree murder: You go ahead and fix your girlfriend's basement. We'll give you every day, all day, from 7 a.m. to 11 p.m. to do that. Then he walks away on them, and they are surprised. Or a system that says to another fellow: Yes, we know you are violent, we know you are a murderer, but it is fine if you are on the streets taking drugs, and it does not matter if you are convicted of theft or charged with theft. That is a system, in my judgment, that is defective.

I intend to raise some questions at the markup today with respect to the District of Columbia. I notice my colleague from Illinois has come to the floor. He has raised questions that go directly to these issues.

This is the District of Columbia that says: We have a lot of money we want to offer for tax cuts. They do not have enough money, apparently, to have prison space to keep people convicted of murder in prison.

The Senator from Illinois has asked the questions now a good number of times publicly: What about that? What about your priorities? What about your responsibility to the memory of Bettina Pruckmayr, who was murdered by someone who should have never been on the streets to murder anybody? He should have been in prison, but he was let out early.

This fellow Leo Gonzales Wright was in Lorton Prison. Do you know why he was let out early from there? Because he apparently was allowed into the prison system to change his own records; so when they looked at his records, they had all been altered to say he was a good guy when, in fact, he was a bad guy. It is just unforgivable what is happening on the streets in this country, especially in the District of Columbia. And one additional point: It is not just there. There is a county adjacent to the District of Columbia in which two fellows are, I believe, on trial to be convicted for the murder of a couple people in a Mr. Donut shop. I asked my staff to look at the backgrounds of those folks. It seems the same two people carjacked a fellow on the interstate around this beltway, the same two people just months ago carjacked someone in a violent carjacking out on the streets so they could murder a couple people at a Mr. Donut late at night.

Day after day we read this, especially in the District of Columbia. I am sick and tired of it.

I will offer a couple amendments. I will consult carefully with my friend from Illinois, who is the ranking member on that subcommittee. One of the amendments is, if you are on parole in the District of Columbia for a violent crime and you are picked up on the streets as having taken drugs, you ought to find that your next address is back in that same jail cell. We ought not have violent criminals on parole taking drugs and then have parole officers say that is alright; that it is a minor infraction.

If you are a violent offender on parole taking drugs, my friend, your address ought to be a jail cell, once again, to the end of your full term.

I intend to offer that amendment. I hope that is the sort of thing we can get passed.

I yield to the Senator from Illinois.

Mr. DURBIN. I thank the Senator for raising this.

In just a few moments, we will go to the Appropriations Committee and consider the D.C. appropriations. I ask my friend from North Dakota to follow with me for just a moment on some of the facts that we will face.

I do love the District of Columbia. I went to college and law school here, and it is a beautiful city. I think anyone who has been here more than 15 minutes knows that it has serious problems when it comes to the crime rate, when it comes to the status in schools. The District of Columbia has an annual budget of about $5 billion; $1.8 billion comes directly from the Federal Government. We are big players when it comes to the District's budget.

The District of Columbia's city council has decided that things are going so well in this city, when it comes to crime and schools, they have $59 million that they are going to give back to the residents in tax cuts.

To a staffer of mine the other day, at the end of the day, I said: Do you need a ride home?

He said: I only live 5 blocks from the Capitol Building of the United States. I ordinarily walk, but last week a woman was stabbed to death in my neighborhood 5 blocks from the United States Capitol Building.

I said: Do you know what you need in your neighborhood, according to the D.C. city council? You need a tax break.

Let's get serious about it. The first thing the residents of the District of Columbia want is safety in the streets and quality schools. This D.C. city council has turned its back on that. They said: We are going to acknowledge the fact that we are the worst in the Nation when it comes to infant mortality, the worst in the Nation when it comes to the basic standards of judging children, and yet we are going to stop spending money and helping these kids. We are going to give it back in a tax cut.

Then they turn around, wanting an additional $17 million for a scholarship program, money that is going to be taken out of the Labor-HHS appropriations.

What could that money do? It is money that goes to the National Institutes of Health for medical research. They want $17 million of that to spend on a scholarship program, while they give away $59 million.

I concur with the Senator from North Dakota. I have never felt it was my congressional responsibility to be the mayor of this town or a member of the city council. But when they are absorbing Federal money, we have the right to say: You have done something which is shameful. To give away $59 million worth of problems that this city faces is just unconscionable.

If you walked into any Senate office or any House office and asked the staff members: Has anybody here been mugged, has your home been broken into or your car? You would be shocked. It is a common occurrence in this town.

We have to do something about it. I salute the Senator from North Dakota. I hope that he is aware of the debate we are about to have in a few moments.

Mr. DORGAN. I am fully aware of that debate and in full support of the statements the Senator from Illinois has made.

Let me put up a chart that shows what has sparked my ire. I am not someone who comes to the floor to beat up on the District of Columbia, nor is the Senator from Illinois. I have simply had a bellyful of this behavior by folks in the criminal justice system in the District of Columbia.

This headline ran a couple of weeks ago: Killer Sent to Wrong Prison after Second Murder. This headline is referring to Leo Gonzales Wright who murdered Bettina Pruckmayr. Three years after he was sentenced by the Federal judge, they still couldn't get him in the cell that he was supposed to be in.

The point is, the inspector general report—I urge all my colleagues to read it—shows a system that is totally corrupt. It portrays a system that says to a violent murderer: You are out on parole. You are out early. You can take drugs. You can be charged with theft, and we don't care. You get to stay on America's streets.

A city that can't keep violent offenders off its streets and behind bars is a city that can't keep its streets safe. American citizens deserve better, especially in America's Capital, Washington, D.C.

The recommendations of the inspector general are really interesting. I read this at home the other night. When I finished reading it, I shook my head and said: This is such an incompetent system. It doesn't take rocket science to know what you have to do. When someone holds up a convenience store and shoots the owner, when the same person then decides to rob and murder a cabdriver, and then when that person is let out of prison early and decides to take drugs and steal, does that person belong on our streets so that this wonderful young attorney Bettina Pruckmayr can show up at an ATM machine one night, only to be savagely murdered by this animal? Does this person belong on the streets? Of course not.

Who was responsible for putting this person on the street? The criminal justice system. Person after person after person failed, and the result is a dead woman, a dead, innocent, young woman, full of promise, who met a killer on the streets of our Nation's Capital.

I say again, when we come to the floor—I will go to the Appropriations Committee in 15 minutes—I will offer two amendments, one of them dealing with drugs. I would have thrown this man back in prison immediately, and he wouldn't have been anywhere near Bettina Pruckmayr to be able to murder her that evening. I would have said: If he is found with drugs, as he was repeatedly, having been a formerly convicted murderer, that man goes back to a prison cell. That is just common sense.

Do you know, the policy of the District of Columbia was that drug use by someone on parole was not a serious enough offense to put them back in prison? What on earth can they be thinking? They are going to give a tax cut, but they don't have enough money for prison cells to keep violent people behind bars.

Shame on those people. Shame on those people who make those judgments. The murder of a young woman and so many others are on their shoulders.

Mr. LEAHY. Will the Senator yield.

Mr. DORGAN. I am happy to yield.

Mr. LEAHY. We represent, I believe, the two States with the lowest crime rates in the country. Our States are about the population of the District of Columbia. I expect either one of us could pick out a 2- or 3-day period last year or in this past calendar year in the District of Columbia where more murders occurred than our States put together for the year.

Without sounding like a poster child for the gun lobby or something else, I express one frustration, also watching what has happened in this recent tragic killing of a grandmother, when what appears to be, at least if the news accounts are accurate, people arguing over whose car bumped into whose car, and suddenly there is a gang on the street armed like the marines landing in Kosovo, and now with the nationwide spotlight on this crime, the police go into action and suddenly start confiscating guns.

I ask the Senator from North Dakota: Is it not his understanding, as it is mine, that the District of Columbia has virtually the toughest gun laws in the country? The carrying of these weapons or possession of them is a crime. Yet have you seen an awful lot of people go to prison for carrying these weapons, even though they are found with them all the time?

Mr. DORGAN. In answer, I think there is a leniency here in this system that is unforgivable. The case that the Senator from Vermont just mentioned is referenced in the newspaper today. That case is the grandmother who was trying to grab these children and get them off the streets as the bullets began to fly last Monday. It says in this same story this morning that Derrick Jackson, age 19, has been charged with the first-degree-murder death of Helen Foster-El by stray bullets on Monday night. He had walked away from a juvenile home in April. He had been placed there in connection with juvenile drug and stolen vehicle charges. I will bet you that if you and I take the time to try to get this person's record, we will find a record as long as your arm and that person ought not to have been anywhere near that neighborhood to be able to fire a gun.

I will bet you that the record would justify, by any standard of any reasonable person, that this young man ought to have been in jail. But he was out on the streets with a gun. I don't have the record, but this is a guy who walked away from a halfway house or a juvenile home in April. Now it is almost the end of June.

Mr. LEAHY. If the Senator will yield further, since he has already read that, if he will look at some of the numbers of unclosed cases, or the number of times when leads are not followed up, the number of complaints I have received in my office, and people making complaints to police departments that have never been followed up, witnesses never sought—we spend an awful lot more in law enforcement in this city than they do in the whole States of North Dakota and Vermont. There are a lot more people, a lot more officers available. I know many of them do excellent work, and they put their lives on the line, and some lose their lives. But I also know there are a lot of areas in this city where drug selling is out in the open and a matter of public knowledge, and where illegal possession of weapons is a matter of open knowledge, and nothing happens until the spotlight of one of these terrible tragedies occurs.

So I appreciate the Senator's comments.

Mr. DORGAN. Let me make one final point. There is one other part of this, the case I have described, the Leo Gonzales Wright case.

I have always thought that in this country, in our criminal system, we ought to have two standards, one for violent offenders and one for nonviolent offenders. In every State, violent offenders should never get time off for good behavior. Your prison cell ought to be your address until the day your sentence ends, period, no time off. Leo Gonzales Wright earned nearly 5 years of time off for good behavior despite 33 violations in prison for assault, weapons, and drugs—5 years off for good behavior. He should not have been on the streets.

I have a bill that is simple. I have never been able to get it passed. It says this: If any jurisdiction in this country lets a violent offender out of prison early and that person commits a violent crime during the time they would have been serving a sentence, then the government—the city, county, or State that let him out—is responsible to the victim or the victim's family and doesn't have immunity from a lawsuit. This bill would force them make a calculation before sending a violent offender back to the street as to, what might this cost us in terms of what that offender might do to a potential victim? I would like to see Congress pass that at some point. I am going to continue to try.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS

Mr. COVERDELL. Mr. President, there is no community in America that is suffering more difficulty today than rural America in agribusiness. My State is a very large agriculture-based State, and ever since I have been in the Senate, we have been struggling with drought, flood, low commodity prices—you name it. It has been very unsettling to families that have been in agribusiness for over a hundred years, that are facing very difficult personal decisions about their ability to stay in business.

Now, to be candid, by now we should have passed S. 1233, a $60.7 billion budget authority for agriculture, rural development, and nutrition programs. The bill contains provisions for food stamps, child nutrition, payments to the Federal Crop Insurance Program, Commodity Credit Corporation, and discretionary spending for agricultural purposes. It is the people's business because agriculture is the cornerstone of our national security, our quality of life, and our economy. In our State, agriculture is one-third of the economy, and across the Nation it approaches 30 percent.

We are stalled for political purposes. We ought to be doing the Nation's business. We ought to be proceeding with this agriculture bill. This is not the time to have a debate between two very different views about how to deal with the Patients' Bill of Rights. I am stunned that those on the other side of the aisle would choose agriculture—which, as I said, is so terribly stressed—and use that as a vehicle to try to create a political debate in the Senate. I have letters from our school of agriculture, I have documentation of the massive losses that have occurred in agriculture in our State, and we look to this legislation to be a part of the relief, a part of stabilizing agriculture in our State.

Last year alone, we lost $700 million in agriculture interests in the State of Georgia. I will tell you what this reminds me of. It is an uncaring kind of way of dealing with this legislation. It reminds me of the way the administration handled disaster relief. In the omnibus bill of 1998, we gave the Department of Agriculture $3 billion for disaster payments, and October went by, and November went by, December, January, February, March, April, May, and June; and finally, 9 months later, we got disaster payments into the hands of people who have long since passed financing requirements and planning decisions and the like. And here we are once again trying to deal with this critical bill, and we have basically a political filibuster underway that can do nothing but add to more anxiety and worry in this very important economic sector of our country dealing with thousands upon thousands of families every day.

We ought to be on with the business of getting this agricultural appropriations bill handled. We will find the right time to handle these other issues. But right now, it is time for the people's business, and it happens to be a group of people who are in deep trouble in America.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 737

(Purpose: To prohibit arbitrary limitations or conditions for the provision of services and to ensure that medical decisions are not made without the best available evidence or information)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mrs. FEINSTEIN) proposes an amendment numbered 737.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

QUORUM CALL

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I don't believe there was objection.

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 7]

Coverdell	Kennedy	Nickles
Feingold	Kohl	Schumer
Feinstein	Lott	Sessions
Fitzgerald	Murkowski	Voinovich

Mr. LOTT. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. The motion is in order since a quorum is not present.

Mr. LOTT. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—97

Abraham	Conrad	Hagel
Akaka	Coverdell	Hatch
Allard	Craig	Helms
Ashcroft	Crapo	Hollings
Baucus	Daschle	Hutchinson
Bayh	DeWine	Hutchison
Bennett	Dodd	Inhofe
Biden	Domenici	Inouye
Bingaman	Dorgan	Jeffords
Bond	Durbin	Johnson
Boxer	Edwards	Kennedy
Brownback	Enzi	Kerrey
Bryan	Feingold	Kerry
Bunning	Feinstein	Kohl
Burns	Fitzgerald	Kyl
Byrd	Frist	Landrieu
Campbell	Gorton	Lautenberg
Chafee	Graham	Leahy
Cleland	Grams	Levin
Cochran	Grassley	Lieberman
Collins	Gregg	Lincoln

Lott	Robb	Specter
Lugar	Roberts	Stevens
Mack	Rockefeller	Thomas
McCain	Roth	Thompson
McConnell	Santorum	Thurmond
Mikulski	Sarbanes	Torricelli
Moynihan	Schumer	Voinovich
Murkowski	Sessions	Warner
Murray	Shelby	Wellstone
Nickles	Smith (NH)	Wyden
Reed	Smith (OR)	
Reid	Snowe	

NAYS—1

Breaux

NOT VOTING—2

Gramm Harkin

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. LOTT. Mr. President, the Senate has a responsibility, obviously, to do the people's business. Up until a couple of days ago, we were doing pretty good this year. We had already moved four appropriations bills. We had taken up a number of important issues including the Y2K liability bill, the financial services modernization, the national missile defense bill, education. We were moving right along. But all of a sudden a couple of days ago that stopped.

Why is that? It is because the Democrats—Senator KENNEDY, Senator DASCHLE, Senator FEINSTEIN, and others—want to offer an unrelated bill to agriculture appropriations. That bill is the Patients' Bill of Rights.

Going back to last fall, we have talked many times about finding a way to have that legislation considered, trying to come up with some timeframe that is fair to all. Consistently we have had requests for many amendments. I don't know, I think it started off with the Democrats saying they had to have 40 amendments. I believe at some point it got down to 20, although it is not clear to me they would even agree to limit it to 20.

On the other hand, we have argued we have a good Patients' Bill of Rights bill, one that was developed by a task force chaired by Senator NICKLES which included Senator COLLINS, Dr. BILL FRIST, Senator SANTORUM, Senator JEFFORDS, and Senator ROTH. A really good group worked very hard to come up with a good bill, with some provisions for protections of patients' rights, with provisions for an appeals process when there is a disagreement with a decision within a managed care facility, both internally and externally. It is a good bill. We are prepared to vote on that.

The Democrats, on the other hand, have a bill of their own that takes a very different approach, and a big part of it is lawsuits will be the final arbiter on how these health decisions will be made.

We say if you have a good package, let's vote on yours. We will vote on ours. This week we, in effect, did that. We voted not to table our proposal, and we voted to table the underlying Kennedy amendment.

We have tried very hard to come up with a way for this to be considered without it becoming an obstruction to the people's business.

What is the people's business? The bill pending is the agriculture appropriations bill, $60.7 billion for the farmers in America. But it goes beyond just farmers. It also includes such programs as food stamps, women, infants, children, school breakfast, and lunch programs. It is a broad bill and an important bill. At a time when our farmers have lost markets and are having a tough time, we are tied up and delaying the agriculture appropriations bill with an unrelated measure.

In addition to that, we have ready for consideration the transportation appropriations bill, the State-Justice-Commerce appropriations bill, the foreign operations appropriations bill, and I believe in short order the Treasury-Postal Service appropriations bill.

In addition to that, we have very important legislation such as the intelligence authorization bill we need to have considered, now that we have passed the defense authorization and appropriations bills. We have the very critical question of how are we going to deal with the nuclear espionage at our labs around the country. We have an important proposal pending on that. We have several very important appropriations bills that we need to move. They are the people's business.

The point is, we want to have our other measure considered. We have gone back and forth. Senator DASCHLE and I have worked through the last 36 hours or so. We have gone back and forth with alternative suggestions. We started out 2 nights ago saying maybe we can do it this Wednesday and Thursday and be through with it Thursday night. That did not get very far.

Then we said, how about if we take it up July 12 when we come back from the recess and we will spend that Monday, Tuesday, Wednesday, Thursday and by the close of business on Thursday we will have completed this debate.

Maybe some people say that is not enough time. That is a pretty long period of time for debate on a legislative measure, and it is a long period of time when you take into consideration the other work that we really must do for the people in passing appropriations bills, in complying with the budget resolution, and the reconciliation bill to allow us to return some of the tax overpayment to the working people of this country. That is a long period of time in the middle of the summer when our focus really needs to be on considering the appropriations bills that provide what the people in this country need from their Government, if you are convinced these appropriations bills do that.

We talk about agriculture and transportation. You can certainly argue that. Foreign operations, here is a time when we have very delicate relations around the world. We just passed the State Department authorization bill after about 3 years of trying. It seems now we need to provide the funds that go along with that. So we went back and forth.

I want to read the latest iteration as of 6:30 last night, June 23, of what we offered to try to get this matter considered by itself and in a reasonable period of time. Apparently, for a variety of reasons, we have not been able to get this agreed to or worked out:

I ask unanimous consent——

I am not asking this, I am just reading the consent request because it is obvious there would be objection to it——

that the text of amendment No. 703, as modified, or 702—

That would be either the Kennedy version or the Republican version—

be introduced by the majority leader, or his designee, and become the pending business at 1 p.m. on Monday, July 12, 1999, with a vote occurring on final passage at the close of business Thursday, July 15, and the bill be subject to the following agreement: That all amendments in order to the bill be relevant to the subject of amendment No. 703 or 702 or health care tax cuts, and all first-degree amendments be offered in an alternating fashion, and all first and second-degree amendments be limited to 2 hours each to be equally divided in the usual form.

Two hours for the first-degree amendment; 2 hours for the second-degree amendment. I don't know quite what that adds up to over a period of a week, but a lot of amendments could be considered under that period of time. I think 2 hours is a reasonable period of time when you take into consideration the significance of some of the issues that would be debated. In some instances it would not take 2 hours; it might not take 30 minutes.

I assume that somebody is going to offer an amendment both sides will like, and we will say: Yes, we'll take that. So it would not take that long.

I further ask consent that second degree amendments be limited to 1 second degree amendment per side, with no motions to commit or recommit in order, or any other act with regard to the amendments in order, and that just prior to third reading of the bill, it be in order for the majority leader, or his designee, to offer a final amendment, with no second degree amendments in order.

I further ask consent that following passage of the bill, that should the bill, upon passage, contain any revenue blue slip matter that the bill remain at the desk and that when the Senate receives the House companion bill, that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of the Senate passed bill be inserted in lieu thereof, the bill as amended be passed, [and] the Senate insist on its amendment. . . .

Very simply, that is to avoid the blue slip problem with the House of Representatives of a measure we pass that has revenue in it and to make sure this matter does not just die aborning here.

I further ask consent that no other amendments relative to the Patients' Bill of Rights be in order, for the remainder of the first session of the 106th Congress.

Once again, let's have the debate, have the amendments. Let's have a vote—win or lose, whichever side. Then you move on.

I further ask consent that at any time on Thursday, July 15, it be in order for the Majority Leader, if he deems necessary, to offer a comprehensive amendment containing several provisions, that the amendments/titles therein be considered en bloc and a vote occur on or in relation to that amendment, with no second degree amendments in order, prior to 3rd reading and the offering of the last amendment by the Majority Leader.

That is traditionally the way it has happened. The majority leader—the majority gets to offer the last amendment or substitute, for that matter.

Finally, [we] announce . . . the two Leaders [will work together to agree] to pass three to five of the remaining appropriations bills available, prior to the July 4th Recess.

And we listed the appropriations bills.

I wanted to make sure everybody knew that—both the Democrats and Republicans, and members of the media, and our constituency—because I think it is a fair proposal. Basically, it is 4 days on this subject, with designated periods of time, with an end date involved—Thursday, July 15.

Amendments could be offered. I do not know how many that would provide for, but I presume as many as 16, maybe more, depending on how long it takes on some of them and how much time would be yielded back.

Let me just say, there is not 100-percent agreement on our side of the aisle that we should do this. But at some point you have to come to an agreement of how you proceed and how you get an issue considered, how you get it voted on. This seemed fair to me.

Frankly, I do not even like the idea of putting time limits on these amendments. I think we ought to have a jump ball, call it up on Monday, the 12th, and offer amendments. Let's debate them and vote and, when we get to the 15th and have final passage. But there was a feeling, to some degree on both sides, that we ought to have some time limit specified in that agreement.

I think we are dealing here with sort of a Molotov minuet. Everything we have tried to do, we are being met with: No. Nyet. We can't do that. No. We can't do something else.

I began to wonder, do we want to address this issue or do we just want the issue? I have been through that before.

I can remember we had the Kennedy–Kassebaum bill a few years ago—3 years ago—and as long as everybody was all dug in and saying, we are not going to consider that, we are not going to do this and not going to do that, nothing happened. Once we finally said, we are going to do it, we did it and moved on.

I think that is what we ought to do—move on here, have a focused debate, have some amendments, vote on them, and be done with it.

Where are we at this particular time?

We do have pending, I guess, an amendment by the Senator from California, Mrs. FEINSTEIN, that she feels very strongly about. I would like to get a time agreement on that amendment and have it considered and vote on it and move on.

We have a Frist second-degree amendment by Senator FRIST from Tennessee that will be offered.

But I also should make this point: All of this is legislating on appropriations bills. All of that is possible under the rules because of a ruling that occurred a few years ago which allows this sort of legislating on appropriations bills. I have been heckled in the past: ''We ought to change that,'' on the Democratic side and on the Republican side. And I think we should.

People on both sides of the aisle might say: Wait a minute, that is the only way I can get my legislation considered. Look, that is why we have authorization bills. We—both sides—abuse this. We ought to stop it. That is what contributes to the difficulty we have in passing appropriations bills now every year, because we are busy legislating things on appropriations bills that we might not be able to get through a committee or might not be able to get on an authorization bill.

Somebody said: Well, how would we do it? A novel idea: Go back and do it the way we always did it, on authorization bills, not on appropriations bills. I think you could argue back and forth whether that benefits the majority or the minority. I do not think we ought to get into that on something such as this. It is the right thing to do in eliminating this procedure. We should not be having legislation, a whole bill, put on the agriculture appropriations bill.

So that is sort of where we are.

I propose we go forward and try to get some indication of where the votes are, have some debate on the point of order or legislation on appropriations bills, have the debate on the Feinstein amendment, have some debate on the Frist amendment, and then let's have some votes and see where we are. But I think we need to make up our minds: Are we just going to say no or are we going to move forward?

We could still do a lot of work next week that would be in the people's interests. Last week we passed six bills and made a big start on State Department authorization. We can do that next week. We could go out next week having passed three or four appropriations bills, perhaps the intelligence authorization bill, and several nominations.

We are now beginning to have some nominations come on to the calendar out of the Commerce Committee and out of the Judiciary Committee and out of the Foreign Relations Committee. In fact, I saw we had about 8 or 10 that came on last night, and more have come on. We could wind up with a burst of activity that would serve the Senate well. It would serve the American people well.

Quite frankly, Senator DASCHLE and I like to do that, because we agreed a long time ago, when you do your work, everybody wins, but when you dig in and just find ways to continue the Molotov minuet and say no, everybody loses.

So I think we ought to move forward. I urge my colleagues on the Democratic side to consider how we can get this done. Let's get this agreement worked out, and let's move on with these very important appropriations bills.

Mr. DASCHLE addressed the Chair.

Mr. LOTT. Mr. President, I do have some things I need to do. I know Senator DASCHLE would like to respond.

Does the Senator wish to ask a question or to respond on his own time or I should just yield and keep the floor and wait for you to finish?

Mr. DASCHLE. Mr. President, certainly the majority leader can——

Mr. LOTT. I do have some work I need to do.

Mr. DASCHLE. I do want to respond. If you want to finish —go ahead.

Mr. LOTT. Why don't I do this because I think it would be more appropriate. Let me just yield to Senator DASCHLE so he can respond. When he finishes, I will go back and do this procedural work.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DASCHLE. I thank the majority leader.

Mr. President, let me respond to a number of the comments made by the distinguished majority leader.

He certainly is right in that we have attempted to work our way through this for some time now. But I will say, if this is a Molotov minuet, there is only one side dancing. And in the Senate, both sides have to dance to make progress. In the Senate, if we are going to have a dance, it takes both sides to make it work. We are getting shut out.

That is what this is about. We are shut out. We want to see progress, and there are colleagues on the other side who want to continue to shut us out. We are left with no recourse. We will minuet with anybody so long as there is somebody there to dance with.

Let me just talk about the lament of our distinguished majority leader that this is an amendment to an unrelated bill. Just last week, Senator MURKOWSKI offered the Glacier Bay legislation to the steel bill, and I listened very carefully to see if there was one Senator on the other side who would object to bringing up a glacier amendment on a steel bill. It was a cold steel bill, but it was not a glacier bill.

Yet there we were, unrelated legislation offered with no objection.

The majority leader understandably talked about the ruling on the energy appropriations supplemental. Just for the RECORD, he made mention that it was a ruling. It actually wasn't a ruling. It was the majority overturning the ruling. Fifty-four Republicans, actually 57 people, but 54 Republicans, 100 percent of the Republican caucus, overruled the Chair when the Chair ruled, on March 16, 1995, that you couldn't legislate on appropriations. One hundred percent of the Republican caucus said: Yes, we can, and we are going to say to you, Mr. President, we are overruling you.

Now we hear our colleagues saying: Oh, my goodness, we are legislating on appropriations.

I ask unanimous consent that the text of the amendment and the rollcall be printed for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE VOTING RECORD—NO. 107

[104th Congress, 1st Session, March 16, 1995]

Emergency Supplemental Appropriations, 1995

(Endangered Species)

Amendment No.: 336

Bill No.: H.R. 889.

Title: ''Supplemental Appropriations and Rescissions Act, 1995.''

Subject: Hutchison appeal of the Chair ruling that the Hutchison, et al., amendment, which rescinds $1.5 million from amounts appropriated for the Fish and Wildlife Service to make determinations regarding whether a species is threatened or endangered, and whether a habitat is a critical habitat under the Endangered Species Act; prohibits any remaining funds designated for Resource Management, under the Fish and Wildlife Service, from being used to make a final determination that a species is threatened or endangered, or that a habitat constitutes a critical habitat; and provides that any court order requiring the Fish and Wildlife Service to make determinations relating to species or habitat by a date certain, shall not apply to the Service if funds are not available to make those determinations by the date required in the court order, violates Rule XVI of the Standing Rules of the Senate. (Subsequently, the amendment was agreed to by voice vote. See also Vote No. 106.)

Note: Rule XVI of the Standing Rules of the Senate prohibits the inclusion of new or general legislation in any appropriations bill. H.R. 889: Vote Nos. 101–103, 105–108.

Result: Decision of Chair not sustained.

YEAS (42)

Democrats (42 or 93%)

Akaka, Baucus, Biden, Bingaman, Boxer, Breaux, Bryan, Bumpers, Byrd, Daschle, Dodd, Exon, Feingold, Feinstein, Ford, Glenn, Graham, Harkin, Heflin, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Mikulski, Moseley-Braun, Moynihan, Murray, Nunn, Pell, Pryor, Reid, Robb, Rockefeller, Sarbanes, Simon, Wellstone.

Republicans (0 or 0%)

None.

NAYS (57)

Democrats (3 or 7%)

Conrad, Dorgan, Hollings.

Republicans (54 or 100%)

Abraham, Ashcroft, Bennett, Bond, Brown, Burns, Campbell, Chafee, Coats, Cochran, Cohen, Coverdell, Craig, D'Amato, DeWine, Dole, Domenici, Faircloth, Frist, Gorton, Gramm, Grams, Grassley, Gregg, Hatch, Hatfield, Helms, Hutchison, Inhofe, Jeffords, Kassebaum, Kempthorne, Kyl, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Santorum, Shelby, Simpson, Smith, Snowe, Specter, Stevens, Thomas, Thompson, Thurmond, Warner.

NOT VOTING (1)

Democrats (1)

Bradley (necessarily absent)

Republicans (0)

None.

ANALYSIS OF ISSUE

Party Cohesion

Democrats—93%
Republicans—100%

Measure of Party Support on this Vote

For (42)

Democrats—42 or 100%
Republicans—0 or 0%

Against (57)

Democrats—3 or 5%
Republicans—54 or 95%

Mr. DASCHLE. The majority leader has also said this is a good bill; the Republican Patients' Bill of Rights is a good bill. We don't think so. But if it is such a good bill, what is wrong with just putting it before the Senate and having a good debate about a good bill? That is what we are supposed to do here. We are supposed to put legislation down and have at it.

I have lamented several times that there are those in this Chamber who believe that a good bill ought to be accompanied by a good rule. The rule is, we will allow amendments if we like them. If you want that kind of an environment, run for the House of Representatives because they have all kinds of rules like that. If you want to do it the way we do it here, have at it. Let's have some good debate. Let's not say we are going to have to approve every amendment offered by our colleagues prior to the time we even agree to go to the bill. If it is a good bill, it ought to have a good debate.

The majority leader also read the unanimous consent request agreement. I will not in any way denigrate the effort that the majority leader has made to try to accommodate both sides. He has worked diligently to make that happen. But let me just explain what is wrong with that agreement as we see it.

First of all, it requires an end date. That, perhaps, is the most significant concern we have all had. I dare ask, could somebody come back and tell me when was the last time we said we will take up a bill with an absolute guarantee that we will have an end date? We haven't even talked about—and it is murky—whether we are talking about final passage. I think we are, but we haven't agreed to that. There is just an end date. We would have to quit debating this at a time certain.

Well, in a body such as this, when we agree to consideration of a bill without any other rules than that, if we just say we are going to end this debate at a time certain, guess what happens? Anybody can take the floor and monopolize the floor for days, if they want to. That is the first problem.

The second problem is, as the distinguished majority leader indicated, under this proposal, each amendment would have 2 hours. That is right. He also noted that each amendment would have 2 second-degrees, subject to 2 hours. By my calculation, sophisticated as it is, that is 6 hours per amendment. One first-degree, 2 second-degrees, 2 times 3 is 6. If the majority leader were good enough to allow the Senate to go for 12 hours, that means 2 amendments per day. There are 3 days. Two amendments per day, 2 times 3, ironically, once again, you get 6. It is amazing how this math works out. It always comes down to 6. That is our problem.

Mr. NICKLES. Will the Senator yield?

Mr. DASCHLE. Let me finish, and I will be happy to yield.

Six amendments. I know our colleagues on the other side say: Certainly, we wouldn't use all that time.

With that end date, who knows? As difficult as it has been to bring up amendments with second-degrees and with tabling motions, who knows how long and how many amendments we will be able to bring up. That is the problem.

Here are the concessions we have made in this agreement. In the Senate, you are able to bring up a farm bill on a peace treaty. But we said on this bill it has to be relevant. We will agree to relevancy. We said we may even agree to an end date.

Now, the majority says: We also are insisting, and it was in this agreement, we are insisting that you never talk about the Patients' Bill of Rights until the next millennium. That is in here. What it says is, you can't bring it up in this entire Congress, but this entire Congress goes into the next millennium. So it is a gag rule until the next millennium on the Patients' Bill of Rights.

Now, they did change it. They would acknowledge a willingness to change it to the end of this session, but we couldn't talk about it anymore this session.

Then, of course, we have the question of how we resolve the outstanding issues on amendments. I have suggested that we leave it to the two leaders to offer amendments without debate at the end. Say we run up to the end of the time and somebody unfortunately has used all of the time and we are stuck here with 20 amendments and we have only debated one, let's take

the worst case scenario. I am stuck here with my colleagues demanding that I protect them, and I have got 19 amendments in my hands. I said: At least let us have a vote on that. No debate; we will just have a vote. They wouldn't agree with that. No debate. No votes.

Then the ultimate power the majority has are the two things that the majority leader made reference to. The first is the power of the second-degree. Anything we lay down, they get to second-degree. And because they have 55 votes, usually they win. Second-degrees are powerful, and they have them. We have agreed to that.

The other thing they have, probably the most powerful of all, is the majority leader's right of first recognition. Let's assume we have worked through all of this and we have won more than our share of amendments. Well, the majority leader, as is his right—and it will certainly be my right when we are in the majority—has the opportunity to say at the end: Well, I am going to lay down an amendment to wipe out everything we have done. That is my right as a majority leader. I am going to offer an amendment to wipe it all out.

He can do that, and that is in this agreement.

I must say, I have to ask, what are they afraid of? What is it about these amendments they don't want to vote on? What is it about a procedure that is so extraordinary if all we want to do is be able to offer the amendments and we will agree with most of everything that has been listed here?

I can't figure it out, but that is for them to share with the rest of us.

We have tried. I think my colleagues have given me a pretty clear indication where they are, as a result of a caucus this afternoon. They weren't very wild about this. I can understand why. We have 48 amendments listed here that my colleagues have all said are important and ought to be determined in debate and in a vote.

There are those on the other side who say: We just don't have time. Well, we had time to take up 159 amendments on the defense authorization bill. We had time to bring up 67 amendments on the defense appropriations bill. We had time to bring up 104 amendments on the budget resolution. We had time to bring up 66 amendments on the supplemental appropriations. We had time to bring up 38 amendments on the Ed-Flex bill. We even had time to bring up and dispose of 26 amendments on the military bill of rights.

If we had 26 amendments that were legitimately considered on the military bill of rights, how about 20 amendments on the Patients' Bill of Rights? That doesn't seem too much to ask to me.

So here we are. This is an important issue. It isn't going to go away. We can do it the easy way or the hard way. It appears that we are inclined to do it the hard way. We are prepared to do it any way. We will minuet with anybody, but it takes two to tango. We are here to do our job.

I yield the floor.

Mr. LOTT. Mr. President, I yield to the Senator from Oklahoma, Mr. NICKLES.

Mr. NICKLES. Mr. President, I am really kind of surprised that our colleagues have not agreed to the unanimous consent proposal that was made last night. I am almost shocked because when you think about it—let me put it in a little different perspective. We have about 8 weeks that we are going to be in session before the end of September, before the end of the fiscal year. We have a lot of work to do in that period of time.

The majority leader basically made a proposal that said you can have almost all of a week. He said we will have a week off on the July 4th break, but then when we come back, you can have Monday, Tuesday, Wednesday, and Thursday. That is 4 days not 3. It is 4 days. Under that proposal, amendments were limited to 2 hours each.

That is a major concession. A Senator has a right to have unlimited debate on any amendment. Some of these amendments are very significant, as I think everybody would agree. Some of the proposals would change every single health care plan in America. Some would be quite expensive. Some would increase everybody's health care costs across the country. So we should not do that lightly. Probably we should not do it in 2 hours. If one amendment can increase every health care premium in the country by 1 percent—and there are a couple proposals to do that—we should discuss that because a lot of people are concerned about the growing cost of health care.

Under our proposal we said every amendment would have a 2-hour time limit. Granted, every amendment could have two second-degree amendments. I would be happy to modify that to one second-degree amendment if you think that advances your cause. I would be happy to do that. It doesn't take a brain surgeon to figure it out. I probably should not say that; Senator FRIST is here. I would not assume a second-degree amendment is exactly the same or that close to the first-degree amendment.

So, really, if you have 2-hour time limits, if you have one amendment and a second-degree, that is two amendments every 4 hours. We don't have to have a second-degree on every amendment. So you can have a lot of amendments in 4 days, a lot of them, probably to accomplish the desires that you have expressed to us, which is that you wanted to have 16 amendments or 20, or something similar to that. Some of those amendments on the list, hopefully, would be agreed upon. I haven't looked at the list. I haven't seen the list. But I am sure we can come to an agreement. I am also sure you don't have to spend 2 hours on every single amendment.

So my point to my colleagues who have had amendments, and to the Senator from California, I mention this: You have the best deal you are ever going to get. It takes unanimous consent. A lot of Senators over here don't want to give unanimous consent to 2 hours on some of these amendments. That was in the proposal. I can't believe you didn't accept it, and then you said you want Friday, too. That is regrettable.

Other people have said, wait a minute, now you are talking about making a point of order that you should not legislate on an appropriations bill. The Senator from South Dakota says we have done it before—a couple weeks ago. We have a real problem. We changed the rules by an action on the floor, and a lot of us voted that way and said, wait a minute, that has not helped us manage the Senate. We have had a rule in the Senate—a rule called rule XVI—which many times is abused and ignored; we legislate a lot on appropriations bills. But it makes it very difficult to accomplish things. Maybe that rule should be reinstated. Both Democrats and Republicans know we should reinstate it. Let's leave the authorizing and legislating up to the authorizing committees that have the experience and expertise to do so.

Mr. GREGG. If the Senator will yield for a question, I noticed that the Democratic leader held up a list of the vote and pointed out that 54 Republicans voted to overrule rule XVI, and that three Democratic Members, I guess, voted with us. Then that would mean that the balance of the Democratic membership—well into the 40s—voted for maintaining rule XVI. As I understand that argument, we are basically saying those guys were right.

Mr. NICKLES. The Senator is correct.

Mr. GREGG. I would think the Democratic membership would be happy about that and would accept our representation that we made a mistake and that we are happy to acknowledge it, and we are going to own up to that mistake and join with them and say they were right the first time we voted on this and we will be with them this time.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague. My point is that rule XVI is not a Democrat rule or a Republican rule. It is a rule that has been abused in the past, and it ought to be reinstated. It is a rule that would help us do our Nation's business and finish our appropriations bills on time. We should leave the legislating up to the appropriate authorizing committees. If the authorizing

committees aren't passing legislation we want, maybe we ought to give them a jump start. It goes through the appropriate legislative process.

I compliment Senator CRAPO from Idaho, who suggested that we should do this. He is right. Many of us suggested that we do this long before we came into this dilemma. I told my friend and colleague from California this amendment doesn't belong on the agriculture appropriations bill. Granted, if you want to try to pass the so-called Patients' Bill of Rights, piece by piece, or body part by body part, on an agriculture appropriations bill, you are wasting everybody's time. There is no way in the world an agriculture appropriations bill is going to come back with a Patients' Bill of Rights. Maybe you are making political statements, but you are not legislating effectively. It is not going to become law.

The majority leader proposed that we will give you basically a week, 4 legislative days, with time limits on amendments, which nobody has seen on either side. That is a tremendous gift. My colleague from Delaware is probably saying: I can't believe they didn't agreed to that. Many people on the other side are saying: I can't believe you haven't agreed.

I am not sure that offer is still going to be out here. I am troubled by that offer, I tell my colleague from South Dakota. I will tell you, there is no way in the world you are going to get another UC after today. I will be shocked if you get one that will be this generous in time, giving 4 legislative days to this particular issue.

I think I heard my colleague from South Dakota say: Wait a minute, we are being squeezed out and we haven't had the opportunity to bring up these amendments.

I think the majority leader, in making this request yesterday, was being very sincere in saying, hey, this is a way we can do this—not piece by piece, not on legislative appropriations bills, but basically we would give you 4 days beginning on July 12. I think that was a very generous offer. I wanted our colleagues to know that. If it is refused, then obviously the Patients' Bill of Rights is not going anywhere this session.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will just take 2 minutes. I thank my colleague for his generosity. I can't tell you how bowled over I am by the generosity of the Republican Party for allowing us 2 hours of discussion when, as I understood the rules, there is no limit on time, assuming you can get the floor. I am truly overwhelmed by that generous offer. And my friend from New Hampshire——

Mr. LOTT. Mr. President, if I may respond to that, I thought the best way to do it was not have any time limits.

Mr. BIDEN. Mr. President, I am impressed.

The second thing I say to my friend from New Hampshire, I find his reasoning absolutely fascinating and appealing. It is a little like saying, you know, we have been in the candy drawer for the last year, but we are going to lock it now because we think you are right; there should have been a lock on this drawer the whole time, as they walk around fat and happy and 300 pounds. I kind of like that.

I have been here 27 years, and I have never been as impressed with the generosity of the other party as I have been today. I wanted to say that and tell you how good it makes me feel.

I yield the floor.

Mr. LOTT. Mr. President, I am glad to yield to the Senator from New Hampshire for an appropriate response.

Mr. GREGG. Mr. President, I also find it amusing that the Senator from Delaware would resist so aggressively our desire to join with him on his original vote when he appears to have been right, and we are saying: Gee, you were.

Mr. BIDEN. If the Senator will yield. Put the candy back in the drawer and I would be happy to help.

Mr. LOTT. I will yield briefly to the Senator from Idaho, who did a lot of work on this sort of issue when he was in the House, and he believes very strongly we should not be legislating on an appropriations bill. He was not here when we made this mistake. He is right, I think, that we should find a way to fix it.

By the way, we are going to have a vote on this issue this summer. I am going to find that sooner or later an amendment will come up in a way that I am going to appeal the ruling of the Chair, and we are going to fix this problem, or at least we are going to vote on it. I believe when we get a vote, it will actually pass. I hope some Democrats will vote for it. I think we changed the rule XVI inadvertently without actually understanding the impact of what we were doing. It has been sitting there for 4 or 5 years, and I think it is time that we do something about it. Would the Senator from Idaho like to comment on that?

Mr. CRAPO. Yes, I would, very much. Mr. President, this is something that I haven't said to the majority leader, but 6 years ago I ran for the House of Representatives. In that campaign, I said that one of the things I thought ought to be fixed in Congress was that we should stop Congress from considering legislation with amendments that have nothing to do with the underlying bill. I used to say they should not be allowed to put nongermane amendments on legislation. I was told that maybe that is too big a word, ''nongermane.''

I think the American people understand that concept. In fact, the American people understand that one of the problems we face in Congress—both the House and the Senate—is that when a piece of legislation is considered, we don't keep it germane: we don't keep the focus of the debate on that legislation. Americans understand that is why we run into budget problems.

They understand that is why we have so many difficult problems in Congress. They can't understand why we can't come to agreement. The fact is that it is a very sensible commonsense principle that used to be in the rules of the Senate—that when a piece of legislation was brought before the Senate, an amendment cannot be put on that legislation unless the amendment is germane or relevant to that legislation itself. It is something that all Americans have an easy time understanding. Yet for some reason we have a difficult time here in the Senate honoring that basic principle.

This isn't an issue of who is right on this issue or who is right on that issue or who is going to get political advantage out of this rule. It is a rule that cuts the same way all the time, and whichever party or whichever interest would like to abuse it is the one that is going to have to face its consequences. But it is one which is a fair principle that will allow us to properly move forward.

I think it is very critical to recognize that today we are debating this issue because we are trying to finish the appropriations process, and not run into a problem a few months from now when we are not able to get the Government's budgeting process finished, to keep our commitment to the American people to keep a balanced budget, and maybe eke out an opportunity for some tax relief and yet fulfill our responsibilities to the important programs in the Federal Government.

That is the debate today. Part of that debate we are on today is the agriculture appropriations bill. Yet we have stopped the functions of the Senate now for several days, and the threat apparently is permanently, unless we shift the debate to another very important topic—the health care issue.

No one disagrees that we should debate health care issues. We even offered that we can debate those issues. The offer simply has been let's do it in an orderly and a principled way. Let's not allow amendments that are unrelated to the subject of the underlying legislation to be submitted.

I think it is very interesting that the argument was made just a minute ago that, well, you Republicans changed this rule a few years ago. I didn't. I wasn't here a few years ago when that vote was taken. I was campaigning 6 years ago, so that shouldn't be the way this Senate should operate, and it shouldn't be the way the House of Representatives operates. I have taken that position every session that I have

been in this Congress. I take that position here today. We have to take the strong position on principles.

I think the American people will recognize that, and they know a lot of politics is being played as we debate here today. But if we will make our decisions on principles by which the American people should be governed, and by which this House of our Congress should be governed, and then let those principles work their way out as the various interests try to play politics on the issues, then at least we will know that the process is fair. That is what this Senate ought to do and what it ought to return to.

I think it is time for us to resolve this impasse by returning to the kind of governing principles that we should follow as a Senate.

I thank the majority leader for yielding and giving me this opportunity.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I have some procedures I would like to go through, and then we will put in a time for morning business, and then Senators can engage on their own.

I think we should go on with the people's business of passing our appropriations bills.

I will continue to work with Senator DASCHLE and all of those who are interested in trying to see if we can come up with some agreement to handle a Patients' Bill of Rights separately and aside from the appropriations bills in a specified period of time and an acceptable way. That is obviously not easy. But we have found solutions to complicated problems before. Hopefully, we can find one this time.

CLOTURE MOTION

Mr. LOTT. Mr. President, so we can get a focus on where the problem is, and so everybody will understand that what is being affected here is the regular appropriations process, I send a cloture motion to the desk to the pending agriculture appropriations bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the agriculture appropriations bill:

Senators Trent Lott, Thad Cochran, Ben Nighthorse Campbell, Susan M. Collins, Craig Thomas, Mike Crapo, Kay Bailey Hutchison, Robert F. Bennett, Larry E. Craig, Connie Mack, Charles E. Grassley, Christopher S. Bond, Richard C. Shelby, Tim Hutchinson, Ted Stevens, and Mike Enzi.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to S. 1143, and I send a cloture motion to the desk on the transportation appropriations bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the Transportation Appropriations bill:

Senators Trent Lott, Pete Domenici, Paul Coverdell, Thad Cochran, Pat Roberts, Jesse Helms, Chuck Hagel, Judd Gregg, Ted Stevens, Slade Gorton, William V. Roth, Jr., Bob Smith of New Hampshire, Craig Thomas, Mike Crapo, James M. Inhofe, and Frank H. Murkowski.

Mr. LOTT. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, there was a lot of discussion earlier today about the importance of law enforcement agencies and the need for the Federal Government to be a part of fighting crime and drugs in our schools in our streets and our neighborhoods. Therefore, I move to proceed to S. 1217, the Commerce, Justice, and State Department appropriations bill, and I send a cloture motion to the desk on this important bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 153, S. 1217, the Commerce, Justice, State appropriations bill:

Senators Trent Lott, Ted Stevens, Fred Thompson, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, George V. Voinovich, Paul Coverdell, Conrad Burns, Pete Domenici, Christopher S. Bond, Mike DeWine, Slade Gorton, John Ashcroft, Frank H. Murkowski, and Jeff Sessions.

Mr. DASCHLE. Mr. President, will the leader yield for a question prior to proceeding?

Mr. LOTT. I will be glad to yield.

Mr. DASCHLE. The leader mentioned the importance of the Commerce-State-Justice bill for purposes of dealing with the crime issue, and all the other issues. I would be interested, if the majority leader could tell us who the conference nominees would be for the conference committee on the juvenile justice bill. Are we prepared to select the conferees on the juvenile justice bill?

Mr. LOTT. I believe we are. I will need to talk to Senator HATCH. We would have to confer on the Senators who would be conferees. But it is my intent to have conferees appointed on that bill. When we get through here, I would be glad to talk to the minority leader about that.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. Mr. President, I withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATION ACT, APPROPRIATIONS, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to S. 1234, the foreign operations bill, and I send a cloture motion to the desk on that bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 159, S. 1234, the Foreign Operations appropriations bill.

Senators Trent Lott, Ted Stevens, Fred Thompson, Richard G. Lugar, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, Mike DeWine, Conrad Burns, Pete Domenici, Christopher Bond, Slade Gorton, John Ashcroft, George V. Voinovich, Frank H. Murkowski, and Paul Coverdell.

Mr. LOTT. I now withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. LOTT. Mr. President, with all of that in mind, I had no other alternative but to file these cloture motions to show the American people just how the funding for our Government agencies is being held up, and not the least of which, of course, is the Department of Agriculture bill. But under rule XXII, these votes will occur in a stacked sequence on Monday, unless changed by consent. And I ask unanimous consent that these cloture votes occur beginning at 5:30 on Monday, and

that in each case the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. So those four cloture votes will occur in sequence beginning at 5:30 on Monday.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. KENNEDY. Mr. President, did the leader ask consent?

Mr. LOTT. That we go to morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Democratic leader.

FINDING A SOLUTION

Mr. DASCHLE. Mr. President, I just want to reiterate our desire to see if we can find a way with which to address this issue.

I will reiterate that, if we have the opportunity to present 20 amendments up or down, I will be prepared to go to my colleagues and say: Look, we can live with that. I want you to cooperate and find a way in which we can have a good debate with 20 amendments freestanding with up-or-down votes. We can live with that. We could even live with a time certain so long as we have a good debate on those amendments with a vote on those amendments prior to the time we reach the end date. But that is a simple request. It is a simple desire to find some resolution.

Our colleagues have been more than willing to cooperate in that regard. I hope we can do it. Our door is still open. We will work to see if we can't find a way to accomplish that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thought we would be going back to the amendment of the Senator from California. I hope those Americans who have been watching the Senate for the last few minutes—and also for the past few days—have no doubt in their minds what this is all about. This hasn't got anything to do with the Senate rules at all or Senate procedure. It is about a very fundamental and basic issue; it's about whether the Senate of the United States is willing to take up the Patients' Bill of Rights, the core of which states that decisions affecting the medical treatment of an individual are going to be decided by the doctors and trained medical professionals and not by gatekeepers or insurance adjusters or insurance accountants. That is the basic issue.

We can talk about 2-hour amendments, 4 days, a week, we can talk about four cloture motions, but the bottom line is that the Republican majority is refusing to permit the Senate to go about the people's business and schedule a Patients' Bill of Rights and permit the kind of orderly procedure that has been a part of this body for almost 200 years. That is what is going on here. Then they have the effrontery to talk about how they are going to change the rules in order to try and deny any opportunity to have a measure of this kind brought before the Senate.

Let's be very clear what this is about. This is about something which is basic and fundamental to the families in this country. For 2 days, the Senator from California has been trying to bring up her amendment and get action on it. She has been precluded from doing so. The last action this evening—morning business at 5:10 on Thursday evening—has again precluded a debate and vote on her amendment. She was here yesterday at 9:30 in the morning. It doesn't take a Member of the Senate to understand what is going on. She is being denied a vote on the key issue of this whole debate, and that is whether insurance companies which cover American families are going to have to use a definition of what is ''medically necessary'' that will reflect the best medical training, judgment, and skill in the United States. That is what her amendment is.

I have seen a lot of actions taken in order to preclude a Member of the Senate from getting a vote, but to go through the process of having four cloture votes next Monday, all in an attempt to deny the Senator from California an opportunity to get an up-or-down vote on her amendment, is a very clear indication of what is going on.

This isn't about process. This is about substance. What kind of quality health care programs are we going to have in the United States of America?

We are being denied the opportunity to make that decision. We were denied it last year and we are denied it again this year. We can listen to all the other bills left to do this year, and the Patients' Bill of Rights should be one of them. We tried to get it up last year, but we couldn't get it up under regular order. We have tried to get it up this year, but, again, we can't get it up under regular order.

Earlier today, we heard reference to the process and procedure that was followed during Kassebaum-Kennedy. Let me remind my colleagues that the consent agreement to consider the Kassebaum-Kennedy legislation was reached on February 6 of that year. It said the bill must be brought up no earlier than April 15 and no later than May 3, with no time agreements or limitations on amendments. And we passed it, unanimously, under those terms.

It seems to me that the last two days provide a very clear example of the majority effectively, I believe, abusing the process and procedures of the Senate, to deny the debate, discussion and the vote on an important issue in order to protect themselves on the issue of health care. We should be protecting the American people. They are going to understand it. There can be no other interpretation of what is happening on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hate to see my colleague and friend from Massachusetts get so exercised—and he happens to be incorrect.

He has to know the rules of the Senate very well. The proposal the majority leader was propounding is very fair. The Senator from California wants a vote on her amendment. I will be very frank. The way she can get a vote on her amendment is to move forward and accept the offer already made. She could offer her amendment, for example, as a second-degree amendment. The Senator can get a vote on her amendment.

The way to do this is not on an appropriations bill. The Senator from Idaho is correct. We shouldn't be doing this on an appropriations bill. Everyone in the Senate knows it. This is not the way to legislate.

We ought to be able to manage the Nation's business in an appropriate manner, not coming up with the Patients' Bill of Rights saying: We will do this piece by piece; we have 40 pieces and we will do it on various bills, bills that are going to go to conferees.

Conferees know absolutely nothing about this issue. They have never had a hearing on this issue, never dealt with this issue. Asking them to legislate on it is wrong. It is not going to happen. It will not pass; it will not become law. We are wasting our time.

It is not anybody's intention on this side to filibuster, to deny the opportunity to offer amendments. The Senator can have the opportunity. Yes, it is quite likely there will be amendments offered in the second-degree, but a lot of amendments wouldn't be offered in the second-degree. Likewise, second-degree amendments are available to Members on both sides. That should be very apparent.

The point is I am a little frustrated by people saying we are not being treated fairly. The Senator has been offered a most generous proposal where Senators could offer lots and lots of amendments and get votes on those amendments. It doesn't take a legislative genius to make that happen.

I encourage our colleagues to see if we can't work together and make this happen instead of offering this piece by piece on an agriculture appropriations

bill, even though we know it will not become law.

I think there is a right way to legislate. This is not the right way to legislate. I hope we will work together to come up with something acceptable. I think there has been put off a more than generous proposal from on our side. We have been amending it for the last 2 days, trying to accommodate legitimate concerns. Somebody said originally it was 3 hours on each amendment. Some people say we shouldn't have any debate limit on amendments. I happen to think that is probably closer to correct when considering the magnitude and the scope of some of these amendments.

I urge our colleagues to step back and lower the rhetoric, not get so exercised, and see if we can't come up with an appropriate legislative way to solve this problem, see if we can't come up with a legitimate, positive, legislative approach that will help solve some of the problems that have been acknowledged, without dramatic increases in consumer costs and increases in the number of people who are uninsured. That is what I prefer. The hotter the rhetoric gets, the less likely that is to happen.

We need to work together in order to make positive legislation happen. The Democrats alone will not pass legislation; the Republicans alone will not pass legislation. Nothing will become law if it is strictly partisan.

I urge my colleagues to step back a little bit and look at some of these unanimous consent requests and see if we can find an appropriate vehicle and manner to legislate on this important issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I will take this opportunity to respond to the distinguished—I was going to say the difficult Senator, but I mean the distinguished Senator from Oklahoma.

I feel caught on the horns of a dilemma. On one hand, what I am seeing is this is never going to happen on an agriculture appropriations bill. On the other hand, what I am hearing is, you have an offer to offer your amendment; it will be second-degreed; it will be defeated; there won't be a real opportunity to have an up-or-down vote on the amendment.

Our leader, I believe, is willing to come to a reasonable agreement whereby the main points of the Patients' Bill of Rights can be debated on the floor with an agreement that amendments be voted up or down within a certain period of time. But he is very astute. I do not think he wants us to find out that someone comes on the floor, takes up all the time, there is no opportunity for an up-or-down vote on the amendments, there is one vote en bloc, and then the majority leader can come on the floor and undo it all after it is over.

What we are asking for, and maybe now is as good a time as any—I have learned there are times when you go to the wall and there are times when you do not go to the wall, and it is important to know the difference in the timing.

Let me share with the Senator one story that happened at UCLA, which is why I feel so strongly about this Senate passing legislation that prevents arbitrary interference with the physician's treatment and the setting of that treatment, in other words, the hospital length of stay. If the Senator wants, I can give him the doctor's name and he can verify it.

This is about a neurosurgeon who performed surgery at the UCLA Medical Center to remove a brain tumor. The patient's managed care plan covered 1 day in the intensive care unit. After that day, the patient had uneven breathing and fluctuating blood pressure and heart rate. The doctor wanted her to stay in the hospital another day for monitoring. The HMO utilization reviewer consulted the guidebook that said only 1 day was allowed in the ICU, so she was denied the extra day. The doctor thought it would be medically unethical to move the patient out of the ICU, so he kept her there. The next day, the HMO called again and said the cost of the second day would be deducted from the surgeon's fee.

That is the kind of thing that is happening. We have to put an end to it because the result is going to be terrible for the practice of medicine. There are now doctors voting to unionize, to collectively bargain. I know some people have said with some disdain: Oh well, that's just over their wages. I am here to say it is not.

My own doctor at Great Mount Zion Medical Center, now part of the University of California, after 30 years of practice, says he has never been so disillusioned, never been so disappointed. He said the morale of doctors is so low from being countermanded all the time by medical plans and having to hassle to get a drug approved. Using this kind of disincentive of, if you believe a patient belongs in ICU after brain surgery for an additional day, we are going to deduct it from your fee—what kind of a practice of medicine is that?

These are big issues, I say to the Senator from Oklahoma, because, in my view, they are life-or-death issues. We have a chance to address it. I do not want to legislate on an agriculture appropriations bill, but, on the other hand, I believe to the depth and breadth and height of me in this amendment. Other colleagues have other amendments.

The time has come to have a debate on the issue. Our leader will negotiate a fair agreement. I really think it is in your hands. We want an up-or-down vote on these amendments.

This is not an amendment that has been just quickly put together for what someone might say is a political purpose. This amendment has been worked on, it has been vetted, and it is supported by 200 organizations and supported by every single medical organization in this country—nurses, the American Cancer Society, the American Heart Association, the American Lung Association—across the board.

No one should be afraid to keep a patient, following brain surgery, in intensive care for an extra day. The gall of the health insurance plan to say, OK, we are deducting it from the doctor's fee. I hope the Senator will have some reaction to this, because I know that is not the way he wants to see medicine practiced in this country.

I can go on and on. Perhaps because my State is such a big managed care State, there are so many examples. They need to be stopped, and there is no better time than right now. All we need is an agreement that will allow some amendments—leave it up to our leaders—up-or-down vote, and prevent the opportunity from sidetracking that up-or-down vote. At the end of this, we will have something.

Senator KENNEDY was absolutely right. I remember all the wrangling over the Kennedy–Kassebaum bill, and then finally, bingo, it just got done. That is what we are asking for now. That is what the people of America are asking for now as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague from California. She mentioned timing. I do not think the time is now. I do not think it should be on the appropriations bill. We have been pretty straightforward in saying we will give you a few days after the Fourth of July break. Basically, that means next week we will be working on other appropriations bills, and that means the following week we will be working on the Patients' Bill of Rights.

I will tell my colleague—I can easily tell her, and anybody else—the Senator can orchestrate a way to get a vote on her amendment. It can be done. Her amendment can be a second-degree amendment, I tell my colleague. I have already stated we can limit the agreement to one second-degree amendment instead of two. There are many of us willing to do that. The way not to do it, in my opinion, is piecemeal on 20 different legislative items—some on this appropriations bill, some on that appropriations bill—knowing those appropriators are going to conference and will say: What in the world are we going to do with medical necessity? We don't know what that is.

I appreciate the fact she mentioned a brain surgeon who said a patient should stay in a day longer and some

managed care idiot, or bureaucrat, said no. I do not happen to think the legislative solution proposed in the Senator's legislation is the right fix. I happen to think the better idea is to give an internal appeal that can be done immediately. It can be appealed. If it is not overturned—the example the Senator cited I think would be overturned immediately, and, if not done immediately, it could be done by an external appeal done by outside peer review experts. They do not have to go to court, they do not have to sue, and they have immediate change. That is the better process.

My point is, as far as process is concerned now, we should not be debating this on an appropriations bill. Offering a few days beginning on July 12 is more than generous. I will try to be flexible in further negotiations, but the give is just about given when, if the Senator looks, we have just about 8 weeks to legislate before the end of the fiscal year.

I think the majority leader has been very, very generous. I will work with my colleague to see if we cannot come to a constructive conclusion. I appreciate her willingness to do so.

Mr. President, I yield the floor.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to yield.

Mr. SCHUMER. I thank the Senator and appreciate everything he said and the graciousness with which he said it.

I will make two points in terms of my question. I am a freshman Senator. I am well familiar with the process of the House. That is something I wished to escape. It is one of the reasons I ran for the Senate. The reason was that we could not debate at any time appropriations bills or authorization bills without really the consent of the Rules Committee, which was controlled by the Speaker 11 to 5. We could not get anything done.

From what I understand in listening to my colleagues and being here myself, this has been like a pressure cooker. On bill after bill, bills that we have done, instead of being given the chance to offer amendments—we did some authorizing bills, but then on a good number of them—Y2K, for instance—the tree was filled. In other words, the majority leader offered an amendment and then put on a second-degree amendment, and then another amendment and put on a second-degree amendment. We were not permitted to, say, add a Feinstein amendment or an amendment that I hoped to offer about scope or other amendments as well.

The frustration on our side—I began to hear my colleagues, who have been here many years longer than I have been, start saying that this is just like the House, that in the past the right of the majority was to sort of set the agenda—chair the committees, call the hearings—but in the Senate, in its grand traditions, the minority always had the right to offer some amendments.

As we moved through the process this year, through a bunch of legislative maneuvers—all within the rules but maybe not within the previous traditions of the Senate—we were not allowed to do that.

So we came to the conclusion that, on something as important to so many of us as the Patients' Bill of Rights, we would not have the opportunity, under any circumstance, to offer those amendments.

My guess is that the kind of offer that was made, which our minority leader has outlined why we think it is inadequate, we never would have gotten to that point if there had been an open process and we had been allowed to offer amendments as we went through that process.

I just ask the majority whip, who is a Senator I have a great deal of respect for—and I understand we have different views on the Patients' Bill of Rights, but he is coming at this and trying to be very fair—what can be done to avoid the kinds of frustration that my colleagues on this side of the aisle are genuinely feeling on the Patients' Bill of Rights or on so many other issues, that we will not have any opportunity, any time, to offer amendments on issues important to us, unless we sort of force the issue, as we have done this week?

I yield. That is my question to the majority whip.

Mr. NICKLES. I tell my friend, and colleagues, there is a lot of work to be done. I think it is in the interest of all Senators to work together. I do not think that necessarily it is really constructive to say we are going to shut down the Senate for a week, as has actually happened the last couple days, unless we get our will. I would like us to work maybe a little more off the floor and a little more behind the scenes and say: What can we do?

That will take cooperation. It will take saying, We are willing to take up this bill and finish it by tomorrow. Then you do not have to get into a whole lot of extended discussion and maybe a lack of trust. Because I heard some people say, well, wait a minute. Under this agreement that we proposed, somebody could filibuster the bill, and you could only have one or two amendments.

That was not our intention. I can tell my colleagues that was not my intention. Do we want to have 25 really tough votes? No. But votes go both ways.

But my point being, there is no one I know of who was saying we are going to have somebody come in and filibuster this bill. Nobody was talking about doing that. Maybe we need to have a little more faith and a little more collegiality and willingness to work together.

This is an item of interest to a lot of people. There are a lot of people on this side who would like us to pass a positive bill.

I have also stated my very sincere conviction that we should not pass a bill that is going to increase health care costs a total of about 13 or 14 percent, after you add in inflation. I really mean that. I am very sincere about that.

So we may have some differences, but, I have not totally given up on the idea of us working something out.

I will suggest the absence of a quorum. Maybe something else can be done to accomplish that.

Mr. President, I suggest the absence of a quorum.

Mrs. FEINSTEIN. I ask the Senator, before you do, may I respond to one quick thing you said on ''medical necessity''?

You made the comment: Nobody really knows what ''medical necessity'' is. Let me just very briefly read you the definition because it is a standard definition. The term ''medical necessity'' or ''appropriateness'' means, with respect to a service or benefit, ''a service or benefit which is consistent with generally accepted principles of professional medical practice.'' That is the definition of ''medical necessity'' or ''appropriateness'' in this bill.

Mr. NICKLES. Thank you.

Mrs. FEINSTEIN. Thank you very much.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. In morning business, I ask unanimous consent I be given 10 minutes to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Thank you, Mr. President.

PATIENTS' BILL OF RIGHTS

Mr. SCHUMER. Mr. President, I would just like to first thank my colleagues from South Dakota, Massachusetts, and California for bringing up this issue.

Let me just say that, again, as I travel across my State, the issue of the Patients' Bill of Rights is one that is foremost on the minds of my constituents. I have heard their pleas and complaints. I have heard about horrible situations that people are forced into. I have heard about the fears of tens of thousands of people in each community

who do not have a problem now with their HMO, but having heard about a relative, a friend, a professional colleague who has, they worry about having one themselves.

So the bottom line is a simple one. We wish to have a free and open debate. That is our position. It is more important than many of the issues we were debating.

I heard the majority leader say we had to do the foreign operations bill. That is a bill that is important to me and to many of my constituents but hardly one as important as the Patients' Bill of Rights.

So what we are saying on this side is the following: That there has been such a breakdown in the patient-doctor relationship, and with the intrusion of that patient-doctor relationship by an army of accountants and actuaries and bureaucrats who are making decisions that should be made by doctors and nurses and hospitals, that something has to be done.

We disagree on cost issues. The Senator from Oklahoma thought it would raise costs 13, 14, 15 percent. The Senator from Massachusetts has a CBO estimate—CBO is impartial—that says it would be the cost of a Big Mac a month to a family. But the very least is that we should be debating that issue, debating it fully and openly.

The Senator from Oklahoma has said that it was not his intention, when he offered his proposal, that someone filibuster and take the whole 30 hours or the whole week just filibustering.

That may well be the case, but there may be one of the 100 Senators who feels so strongly against this issue that he would take to the floor to filibuster. Unless we can get in the confines of the agreement that we will be able to vote on the very important issues that are part of the Patients' Bill of Rights, then how can we agree? Because if we were to agree now—and there are so many thousands of our constituents on whose hopes and even prayers this legislation rests—and we were not to get those votes, and instead someone would filibuster, they would all think we had let them down.

So the bottom line is a very simple one. The bottom line is, yes, we can come to an agreement, but the agreement, from our point of view, needs to allow open debate and votes on a whole series of issues. My guess is we won't win every one, but my guess is we will win a good number.

To have an agreement that might allow one person to filibuster the whole time, even though it may not be the majority whip's intention, to have an agreement that would not allow the major issues to be not only debated but voted upon would be a serious miscarriage of the hopes of millions of Americans who wish to see the patient-doctor relationship restored. It would have been much better if we had done that debate this week.

As I mentioned to the majority whip, the feeling on this side of the aisle of frustration, that the open process on which the Senate has prided itself for 200 years would no longer be allowed, led to our view that we would make sure and do everything in our power within the rules of the Senate to see that open debate and votes on the Patients' Bill of Rights occurred.

I think we are doing a service to our constituents. I think this is what they sent us to the Senate to do. I will be doing everything I can, helping our minority leader, helping the senior Senator from Massachusetts and all of my other colleagues who care so much about this issue, to see that we get that open, full debate and the votes on the very important issues of the Patients' Bill of Rights to which our constituents are entitled.

I thank the Chair, and I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, are we in a quorum call?

The PRESIDING OFFICER. We are in morning business.

SENATE DENIAL OF SUPPORT FOR STEELWORKERS

Mr. WELLSTONE. Mr. President, on Tuesday, the Senate voted 57–42 to refuse debate on legislation that would provide some support to steelworkers.

I think those of us who wanted to provide some protection to steelworkers and their families against the illegal dumping of steel from foreign exporters to our country lost mainly because of the White House, which used import data from the month of April and convinced a lot of Members that the steel crisis is over.

Here we are, 2 days later, and there are new, important numbers out for May. We find out 2 days later that the steel crisis is not over. In fact, overall steel imports went up 30 percent from April to May. Most of the increase comes from the import of various kinds of semifinished steel, the very products that our taconite mines in Minnesota compete against. Imports of blooms, billets, and slabs are up a whopping 122 percent. Let me repeat that: 2 days ago the administration was telling us there was no crisis; the surge of imports is over. Now we find out a 30-percent surge of imported steel, the latest figures today, over a 1-month period from April to May, and for billets and slabs and blooms, a 122-percent increase in imports.

This is a disaster. It is a disaster for the women and men who have lost their jobs on the Iron Range and may never get them back. It is a disaster for the workers who are hanging by a thread. It is a disaster for their husbands and their wives and children. For them the steel crisis is not over. If anything, the steel crisis is getting worse.

The question I ask my colleagues who voted against our bill, who voted against even debating our bill, is: What next? To the administration, I say you were successful in defeating the Rockefeller bill. Now what do you propose? Are we going to simply give up on the steel industry?

We cannot give up on the steel industry, and we cannot give up on the iron ore industry in our own country. We have to do something.

I am troubled by the arguments that were made in our Senate debate. I am troubled by some of the newspaper opinion pieces, because they seem to be suggesting that we ought to just give up on this industry. They seem to be suggesting that the extraordinary surge of steel imports, the dumping of cheap steel, the illegal dumping of steel sold below cost of production in our country is actually good for the economy, good for the economy because it keeps prices down in other sectors of our economy.

If that is the case, we should actually encourage foreign countries to dump on our markets. If we want to lower steel prices, then we shouldn't have any antidumping laws. We should repeal them all. We shouldn't even have any antidumping laws on the books. If that is the case, we ought to get rid of a section 201 law which provides for WTO legal quotas to import surges, the likes of which we have been experiencing. The fact of the matter is, we have had this surge of imported steel, and the argument is, it is good for the country because it keeps prices down.

That means we are not going to have a steel industry. That means we will not have an iron ore industry. That means many of these workers and their families are going to be spit out of the economy. Our workers can compete with anybody, any place, any time, anywhere. But they cannot compete with a surge of illegally dumped imports. Our steelworkers, our iron ore workers are the most efficient in the world. They can compete with fairly traded steel, but they cannot compete with this.

I am real worried, because I think this administration and I think too many of my colleagues in the Senate have sent the following message when it comes to trade policy: If it is a top contributor, Chiquita bananas, we are there for you. We will make sure that we put on a real strong import quota. When it comes to investments of Wall Street investors, when they go sour in Korea or Indonesia, Thailand or Mexico, Brazil or Russia, we will pick up the tab.

But when the global economic crisis boomeranged on American steelworkers, the message from the administration and the Senate was: You get stuck with the bill.

The crisis is not over. The May import numbers prove it. The question for all of you who oppose the Rockefeller bill, the question for this administration, a Democratic administration that is supposed to care about working people is: What do you propose to do now?

Let me just repeat this one more time. I was thinking to myself, I wonder why the administration hasn't released figures, since they were making the case that the crisis was over. Surely they will release the May figures. They must have had them a few days ago. Two days ago, one of the major arguments used for opposing our legislation was ''the crisis is over.'' Now we find out 2 days later, overall steel imports are up 30 percent from April to May, and imports of blooms and billets and slabs, which compete against our taconite on the Iron Range, are up 122 percent. We didn't get those figures from the administration 2 days ago. I think I know why.

I say to the President, I say to the administration, and I say to Senators who voted against an opportunity to even debate this legislation: The crisis is not over. The statistics prove it. My question is: What do you propose to do now? What do you propose to do now?

Mr. President—not the President that is presiding on the floor of the Senate, but Mr. President of the United States of America—what do you propose to do now? Your administration told us 2 days ago this crisis was over. Now we have the figures: 30 percent increase in imports of steel, 122 percent in imports of blooms, billets, and slabs. It is going to be an economic convulsion for the Iron Range of Minnesota. It is going to be an economic convulsion for steelworkers, illegally dumped steel. We will compete against anybody. But if you are going to make the argument that we should not do anything about illegally dumped steel, that we can't provide any protection for our workers, that we can't have an administration and a Government that negotiates a fair and a tough trade policy that provides protection to our workers, then what in the world are we here for?

I speak with a little bit of—not bitterness but outrage. I heard what was being said just two days ago. Now the numbers have come out. Now we know we have this crisis. Now we know we have this surge of imports. It is illegally dumped steel.

My question for the President of the United States of America is: What are you going to do? You defeated our legislation. What are you going to do now?

I am not going to give up on this. I hope the steelworkers and their families won't give up on this. My suggestion is that we need to have a meeting with the President and the administration because I have to still believe that they are concerned and they will be willing to take some action. We need to talk about what kind of action we will take soon, because if we don't, there are going to be a lot of broken dreams, a lot of broken lives, and a lot of broken families all across our country, including in Northeast Minnesota, the iron range of Minnesota. I can't turn my gaze away from that. I can't quit fighting because of the vote a couple days ago.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I don't want to be redundant, but I would like to continue the statement I began to make earlier this morning. Let me quickly put it in perspective.

The statement further explains an amendment that I have at the desk, which essentially says that a group health plan or an insurance issuer may not arbitrarily interfere with, or alter, the decision of the treating physician with respect to the manner or the setting in which particular services are delivered if those services are medically necessary or appropriate.

It then goes on to define ''medically necessary'' as ''that which is consistent with generally accepted principles of professional medical practice.'' The amendment, of course, means that the doctor can determine what is a medically necessary length for a hospital stay, and the doctor can determine the kind of treatment or drug the patient can be best treated with.

I know some people wonder why am I so vociferous about physicians making medical decisions. California has the largest number of individuals in managed care. We have around 20 million people in managed care plans in California.

I have heard of many different cases. Let me just give you one other case—I just talked about the person with the brain illness. I can also give you the case of the Central Valley man, 27 years old who had a heart transplant and was forced out of the hospital after 4 days because his HMO would not pay for more days. That constituent of mine died. That is the reason I feel so strongly.

Additionally, I know—and the Washington Post this morning documents—that doctors are increasingly frustrated, demoralized, and hamstrung by insurance plans' definitions of medical necessity. An American Medical Association survey reported in the March 2, 1999, Washington Post, quoted an AMA spokeswoman who said that some managed care companies have begun to define explicitly what treatments are ''medically necessary,'' and they have chosen to define them in terms of lowest cost.

She says:

> Doctors used to make that decision solely on the basis of what was best for the patient.

She stressed that doctors are unhappy that managed care organizations are ''controlling or influencing medical treatment before the treatment is provided.'' She said, ''Denials and delays in providing care directly harm the health and well-being of the patients.''

A fall 1998 report found that ''patients and physicians can expect to see more barriers to prescriptions being filled as written,'' according to the Scott-Levin consultant firm, because HMOs are requiring more ''prior authorizations'' by the plans before doctors can prescribe them.

Then, as I spoke of a little earlier, there is the issue of financial incentives, another form of interference in medical necessity decisions. In November, the New England Journal of Medicine pointed out:

> Many managed care organizations include financial incentives for primary care physicians that are indexed to various measures of performance. Incentives that depend on limiting referrals or on greater productivity applies selective pressure to physicians in ways that are believed to compromise care.

That is what we are trying to stop.

> Incentives that depend on the quality of care and patients' satisfaction are associated with greater job satisfaction among physicians.

Let me describe how Charles Krauthammer put it in writing in the January 9, 1998 Washington Post under the headline, ''Driving the Best Doctors Away'':

> The second cause of [doctors leaving the profession] is the loss of independence. More than money, this is what is driving these senior doctors crazy: some 24-year-old functionary who knows as much about medicine as he does about cartography demanding to know why Mr. Jones, a diabetic in renal failure, has not been discharged from the hospital yet. Dictated to by medically ignorant administrators, questioned about every prescription and procedure, reduced in status from physician to ''provider,'' these doctors want out.

Mr. President, that is a sorry commentary, and it is the truth.

One of my deepest interests is cancer. I cochair the Senate Cancer Coalition with the distinguished Senator from Florida, Senator Connie Mack. Let me quote from a report of the President's Cancer Panel:

> Under the evolving managed care system, participating physicians are increasingly being asked to do more with less—to see a greater volume of patients and provide significantly more documentation of care with less assistance or staff. In addition, managed care has dictated a major shift to primary care gatekeepers who are under pressure to limit referrals to specialists and care provided in tertiary care facilities, and may be

financially rewarded for their success in doing so.

Nancy Ledbetter, an oncology nurse and clinical research nurse coordinator for Kaiser Permanente said, ''. . . necessary care is being withheld in order to contain costs.'' This is from the June 16, 1999 Journal of the National Cancer Institute.

A breast cancer surgeon wrote me:

> Severe limitations are being placed upon surgeons in giving these women [with breast cancer] total care . . . Patients feel that their care is reduced to the mechanics of surgery alone, ignoring the whole patient's medical, emotional, and psychological needs.

Surely, one of the oldest axioms of medicine, and the way my father used to practice medicine, is that you can't just treat the wound, you have to treat the whole patient as an individual, as a human being.

In my State, again, over 80 percent of people who have insurance are in managed care. Forty percent of California's Medicare beneficiaries are in managed care. Some say Californians have been pioneers for managed care. Some even say Californians have been the Nation's ''guinea pigs.''

The complaints don't abate: delaying diagnoses and treatments as tumors grow; trying the cheapest therapies first, instead of the most effective; refusing needed hospital admissions; refusing to refer patients to specialists who can accurately diagnose conditions and provide effective treatments; we hear complaints about shoving patients out of the hospitals prematurely, against doctor's wishes. We hear complaints about misclassifying medically necessary treatments as ''cosmetic.''

We hear about plans demanding that doctors justify their care and second-guessing doctors' medical judgments.

We have had heard about doctors exaggerating the patient's condition to be able to give them a certain drug, or keep them in a hospital beyond a certain length of time, to get plans to pay for care.

I hope this amendment can restore some balance to the system by empowering patients and the medical profession to provide the kind of quality medical care that people not only pay for but that they deserve.

That is why I feel so strongly about this amendment.

Again, I harken back to the day when I had the first example in 1997 of a woman in a major managed care plan undergoing an outpatient radical mastectomy—7:30 in the morning, surgery; 4:30, out on the street with drains hanging from her chest, and unable to know where she was going.

That is not good medicine.

I can only end my comments on this amendment by saying that the amendment is sincerely presented.

The amendment is the heart of a Patients' Bill of Rights.

The amendment should not increase premium costs.

The amendment is what the American people expect.

And the amendment simply says that an insurance company cannot arbitrarily interfere with the doctor's decision with respect to treatment or hospitalization.

I don't think that is too much to ask this body to legislate and to state unequivocally, and I think every single person in my State, as well as every State, will be much better off once this is accomplished.

Let me end by saying that I believe that Senator DASCHLE is willing to work out an agreement which allows a number of amendments to come to the floor and be debated, provided that these amendments can be voted up or down.

I suspect that what we are going to really end up with is a bipartisan Patients' Bill of Rights. I suspect that if we can get this unanimous consent agreement, we will find that there will be many on the other side of the aisle who will vote for this amendment, and there will be some of us who will vote for some of the amendments on the other side as well.

It seems to me that when you have a situation whereby the physicians in America have reached the point where they have decided to unionize and collectively bargain that this should be a very loud call that all is not well with the practice of medicine in the United States of America.

It should be a very loud call for a unanimous consent agreement which will allow us, on the floor of the Senate, to work out a series of amendments which can provide the kind of quality care that the people of the United States are entitled to, and that certainly 20 million Californians in managed care are.

I thank the Chair.

I yield the floor.

PLEDGE OF ALLEGIANCE RESOLUTION

Mr. FEINGOLD. Mr President, I want to express my support for the resolution, which was adopted by the Senate yesterday, to begin a new tradition in this distinguished body: to begin our days by saying the Pledge of Allegiance each morning in this Chamber. There were about ten of my colleagues on the floor this morning to inaugurate this new tradition, and I only wish there could have been more to join us.

We will pay tribute to our flag, the greatest symbol of our freedom, in the Chamber where we are sworn to uphold the very freedoms the flag symbolizes. There can be no more fitting tribute to our Constitution than the free and unfettered expression of patriotism that the Pledge of Allegiance represents.

Today in the Senate, we honor the flag. In contrast to this voluntary celebration of our flag, the other chamber today may vote on an amendment to our Constitution that asks us to turn away from the freedoms we cherish in order to protect our flag, in effect to compel reverence for the flag. This amendment, in a misdirected attempt to protect a cherished symbol, instead tears at the very fabric of our freedom.

In the past, I have walked in the Appleton, WI, parade on Flag Day. I am told that it is the largest Flag Day parade in our country—it is certainly one of the best. As I saw the faces of those people, those Americans, as they waved the flag, filled with pride in our great nation, I knew then not only that patriotism shouldn't be legislated, but that it doesn't need to be. It is in this Chamber and in the hearts and minds of millions of Americans across this country. Again, I celebrate the effort to pay tribute to the flag, and the freedom it represents, in this Chamber each day. I only hope when and if the amendment that threatens that freedom is considered on this floor, we will remember the Pledge of Allegiance, and remain true to the liberty it speaks of, and that all of us hold so dear.

CUBA

Mr. SPECTER. Mr. President, during the Memorial Day recess, I spent two days in Havana, Cuba, from June 1 to 3. I met with numerous Cuban officials, including a marathon six-and-a-half hour session with President Fidel Castro, with Cuban human rights dissidents, with religious leaders, with several foreign ambassadors and with our U.S. team. I am convinced there are a number of steps we can take, pursuant to our existing U.S. policy, to create closer people-to-people relations with Cuba. Sharing medical research, especially on immunizations, would be appropriate, between the National Institutes of Health and the Cuban Ministry of Health. Former Gen. Barry McCaffrey, head of U.S. drug policy, had suggested to me that we should work closer with the Cuban government on drug interdiction, and I think he is right.

Relations between our two countries, only 90 miles apart, are almost non-existent. We have an embargo and a boycott. We have no exchange of ambassadors, and the limited coordination between our governments does not extend beyond very limited cooperation on drug interdiction.

I believe it is worthwhile to share with my colleagues some of my findings and impressions from my trip. The issue of the embargo is complex, and I am not yet ready to advocate a position. But there are other issues, such as the benefits of increasing contact and cooperation, which merit comment at this time.

Upon arrival in Havana about 2 pm June 1, we were met by Jorge Lexcano

Perez, President of the Commission on International Relation, and Jose Manuel Barrios, Director of the Ministry of Foreign Affairs' U.S. Department. Primarily, all parties agreed that both nations would profit from better relations between the two.

I met next for more than an hour with our country team at the U.S. Embassy. We discussed the steps needed to normalize relations between our two nations and the dynamics of Cuba's government and economy, including the booming black market. We discussed the social climate, including religious freedom and human rights concerns.

I met next with Dr. Jose Miller, President of Casa de la Comunidad Hebrea de Cuba (The Jewish Community House of Cuba) and leader of Cuba's Jewish community, and with Adela Dworin, Dr. Miller's Vice President. Dr. Miller maintained that freedom of religion has been ''no problem'' in Cuba for both Jews and Christians since the fall of the Berlin Wall eight years ago. Cardinal Jaime Ortega, in a later meeting, also stressed that Cuba has seen an improvement in religious freedom during the past decade. Both said the greater openness came from a recognition on President Castro's part that a religious reconciliation was necessary. President Castro, Dr. Miller noted, has attended Hanukkah services at his synagogue. Dr. Miller and Ms. Dworin estimated that Cuba's Jewish population has shrunk to 1,500 from about 15,000 in 1959, and that they must bring in a rabbi to hold high holiday services.

We held our final meeting June 1 with Dr. Pedro Lopez Saura at The Center for Genetic Engineering and Biotechnology, an impressive biotech facility that has apparently pioneered a vaccination for Meningitis B. Meningitis B, which also plagues the United States, is a severe infectious disease that may lead to permanent neurological damage and even to death in acute cases. Meningitis strikes about 2,600 people annually, more than half under five years old. Meningitis B accounts for 50–55 percent of all U.S. cases. While NIH, our federal medical research arm, has a budget 1,000 times the size of The Cuban center's, the Cuban facility has apparently outstripped American efforts in a couple of narrow areas, including Meningitis B vaccine and interferon work. I found Dr. Lopez, who has trained in Cuba, Belgium, East Germany and Finland, very impressive. I suggested that Dr. Lopez visit NIH Director Dr. Harold Varmus, who has already visited the Cuban facility, for an exchange that could benefit both nations.

We began our meetings the next morning, June 2, with the Cuban Minister of Health, Dr. Carlos Dotres Martinez, at one of Cuba's largest medical teaching facilities on the outskirts of Havana. Dr. Martinez touted the Cuban health system and presented charts and statistics to suggest that Cuba's aggressive research and vaccination program has eradicated polio, diphtheria and other pestilences and improved its citizens' health and longevity. In a common Cuban refrain, Dr. Martinez argued that the U.S. blockade has forced Cubans to spend more for medical imports from Europe and China. He estimated Cuba has spent an estimated $20 million more for freight and other incidental costs on top of the fixed costs of $50 million to $100 million.

I suggested that Dr. Martinez meet with HHS Secretary Donna Shalala.

We met next with Concepcion de la Campa, President and General Director of the Finlay Institute, which manufactures vaccines, including the Meningitis B vaccine pioneered by the Cuban research labs. I had a particular interest in this biotechnology effort because a company with a substantial base in my state of Pennsylvania is negotiating a license to work with Cubans to produce the Meningitis B vaccine. Under their proposed arrangement, the Pennsylvania company would produce the vaccine in quantity for distribution in the United States and elsewhere in the First World and the Cubans would manufacture the vaccine for the rest of the world.

Mrs. Campa, like her Cuban medical colleagues, agreed that medical research would be boosted by closer relations between the United States and Cuba, and by such joint ventures.

We met next at the U.S. Ambassador's Residence with ambassadors from several nations: Charge Josef Marsicek of the Czech Republic, Ambassador Reinhold Huber of Germany, Ambassador Eduardo Junco Bonet of Spain, Ambassador David Ridgway of Britain, and Ambassador Keith Christie of Canada. The ambassadors gave me a frank assessment of President Castro and the Cuban realities. Like the US team, the European diplomats also saw a thawing in the Castro regime's stridency, as demonstrated by Cuban overtures for dialog.

After my talk with the ambassadors, I met at the US residence with five Cuban dissidents and human rights activists: A member of the Christian Liberation Movement; a former Batista-era soldier, an environmental and peace activist; a medical doctor removed from his post for criticizing the Cuban medical establishment; and a member of the Pro-Human Rights Party. We discussed human rights and repression generally and specifically, with a focus on ''The Four,'' four jailed Cuban dissidents whose plight has stirred international human rights complaints. I have omitted their names and limited comments on their statements to protect their identities.

The dissidents told us passionately of the Cuban government's intolerance for any dissent, demonstrated by frequent jailings and loss of jobs and travel opportunities for those who speak out. The dissidents disagreed on remedies for accomplishing change, differing, for example, on whether the United States should lift its embargo.

At 8 pm Wednesday evening, we arrived at the President's complex for a dinner meeting with President Castro. The President arrived 10 minutes later, apologized for his tardiness, and proceeded to host us for a six hour and 37 minute session, ending at nearly 3 am. We had been advised that President Castro enjoyed lengthy talks. We knew we were in for a long night when President Castro said he had worked until 5:45 am the night before and then slept eight hours, waking at 2 pm—just six hours before our meeting. We did not even move from the President's conference room to his dining room until midnight.

I found President Castro, at 73, robust and engaging. Always cordial, he was at times jocular and at other times guarded. He wore his trademark green military uniform with modest insignia and took notes throughout much of our meeting. During our talk, we covered the gamut of subjects.

I asked about the possibility of parole for the four celebrated dissidents. President Castro told me, ''I think they should fulfill their sentences because they have done great damage to this country,'' He insisted that charges against Cuba of human rights abuses ''were totally unfair,'' arguing that Cuba did not torture prisoners, employ death squads or practice assassination.

On the issue of drug trafficking, President Castro said his country has been cracking down, including establishing the death penalty for international drug trafficking. ''We are willing to cooperate'' with the United States, he said. ''We don't ask the Americans for anything in return. We do it as a matter of ethics.'' He noted that Cuba would not, however, allow the United States to violate its territorial waters or air space.

I asked President Castro about the assassination of President Kennedy, an area of particular interest for me because of my work as a lawyer on the Warren commission. President Castro maintained that the Cuban government played no role in the assassination, and that it would have been insane for it to have become involved, given that the United States, by his reckoning, was looking for provocation or pretense to invade Cuba. Castro said Lee Harvey Oswald, Kennedy's assassin, wanted to go to Cuba—a request the Cubans denied—simply to transit to the Soviet Union. President Castro said he was relieved that the Warren Commission concluded that Cuba was not involved with Oswald.

I asked President Castro if he was concerned that people might think Cuba had been involved with Oswald. He said, ''Yes, we were concerned.''

President Castro gave an elaborate description of the Cuban Missile Crisis. He described how Cuba initially bought its weapons from Belgium, a NATO country, to avoid inciting the United States. But the second Belgian shipment was sabotaged and blown up on Havana's docks, Castro said, and he eventually arranged to buy Soviet arms. President Castro said former Soviet leader Nikita Kruschev made a mistake in not describing the missiles as defensive weapons and in ''getting into a game of definitions'' instead of simply maintaining his right to install weapons without question. President Castro noted the United States had weapons at the time in Turkey and Italy. He described his hunting trip in Russia with Kruschev, and how Kruschev had pulled out and read from a letter to Kennedy. When Kruschev read a passage about Kennedy promising to pull U.S. missiles out of Turkey and Italy, President Castro said, Kruschev realized he had made a mistake in revealing that Kruschev was going to breach his deal with Castro and remove the Cuban missiles. That would leave Cuba vulnerable to U.S. invasion, in President Castro's view.

In the end, President Castro said, the Russian withdrawal also served Cuba's purpose. ''We preferred the risk of invasion to the presence of Soviet troops, because it would have established an image [of Cuba] as a Soviet base.''

President Castro told us about various assassination attempts against him by the United States since 1959, some documented by the U.S. Senate's Church Committee. Plans were launched to poison President Castro's milk shake, to plant an exploding cigar and to blow him up. ''Some of them were childish,'' he said. President Castro said he had survived largely ''as a matter of luck.''

I asked him how he felt about being the target of so many assassination attempts.

President Castro replied, ''Do you play any sports?''

I said, ''I play squash every day.''

He said, ''That is my sport.''

Throughout the evening, the Cuban President frequently dispatched an aide or minister in the wee hours to produce a document or find an official's name. The aides performed their research in short order. In one case, President Castro wanted the name of a U.S. Senator who had visited Cuba in 1977, which turned out to be former Sen. Lowell Weicker of Connecticut.

The next morning—or, more accurately, later Thursday morning—we met with Cardinal Ortega. Like Dr. Miller of the Havana synagogue, Cardinal Ortega also said the Cuban regime had adopted a more open attitude toward religion, from the previous ''climate of fear.'' He attributed the thaw in the government's position to a recognition that it was not easy to erase religious faith. He noted there have always been diplomatic relations between Havana and the Vatican.

As for living conditions in Cuba under Castro, the Cardinal said the obvious in noting widespread poverty. On human rights, he said the Castro regime always equates human rights as the right to health, study and education, a low threshold.

Our visit was facilitated by the assistance and cooperation of the U.S. team and the Cuban government.

CHILD ACCESS PREVENTION

Mr. LEVIN. Mr. President, as the 1999 school year came to a close, our Nation was shocked by the incidences of school violence that claimed so many lives. In the aftermath of these tragedies, Americans have become more sensitized to the dangers of guns and the easy access that children have to them. Yet, despite this additional scrutiny by parents, guns continue to claim the lives of young people. Each day, more children are dying, not just in schoolyards, but in the home. They are killed by guns in unintentional shootings.

Unintentional shootings are among the leading causes of death for young people. According to the National Center for Health Statistics, each day at least one person under the age of 19 is killed by an unintentional shooting. Unsafe guns are an enormous danger to these young people, who are the victims of 33 percent of all accidental firearm deaths. And in Michigan, people under the age of 19 make up more than 50 percent of the fatalities caused by unintentional shootings.

Unintentional shootings almost always occur at home, when a child finds a loaded weapon and while playing with it, shoots himself, a sibling, or a young friend. Some parents try to take precautions against these tragedies by hiding their firearm in a drawer, a closet or even under the mattress. Unfortunately, if it is loaded or without a safety lock, it does not matter where that gun is hidden. It has the potential to kill, and for hundreds of kids each year, it does just that.

Daily shootings resulting from the careless storage of guns can easily be prevented. Locking devices for guns are simple to handle and inexpensive, but they must be used. In the Juvenile Justice bill that passed the Senate just a few weeks ago, an amendment was included that would require all sales, deliveries or transfers of handguns to include a secure gun storage or safety device, which was a step in the right direction. But, there was nothing to require that adults, especially with children in the house, use those safety devices. Safe storage laws, or Child Access Prevention, CAP, laws are needed to ensure that adults store loaded guns with safety devices in place and in locations reasonably inaccessible to children.

There is no doubt that owning a firearm requires precaution and responsibility, especially when young children are around. CAP laws hold adults criminally responsible if a loaded firearm was left where it could be reasonably accessed by a juvenile, and the juvenile uses or brings into public the adult's firearm without the permission of his parent or guardian. Criminal liability would not apply to adults who have no reasonable expectation of having a juvenile on their premises or if a juvenile obtains a firearm as a result of an unlawful entry. CAP laws simply require adults to use common sense safety measures, such as secure gun storage devices or trigger locks for their firearms.

Currently, there are 16 States that have enacted CAP laws. And since the first law took effect 10 years ago, state CAP laws have reduced unintentional deaths of children by firearms on an average of 23 percent. In Florida, just one year after CAP was enacted, unintentional shootings dropped more than 50 percent. And for every state that has enacted a safe storage law, there is compelling evidence that because of CAP, children are safer at home.

Despite these successes, there are still an overwhelming number of states, including Michigan, without CAP laws. And until there is awareness that guns should be locked up and stored unloaded, guns will continue to claim the lives of innocent children. Until CAP or safe storage laws are the law of the land, people will continue to learn the hard way that the guns in their home meant for protection will continue to claim the lives of those they are trying to protect.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 23, 1999, the Federal debt stood at $5,594,431,506,414.50 (Five trillion, five hundred ninety-four billion, four hundred thirty-one million, five hundred six thousand, four hundred fourteen dollars and fifty cents).

One year ago, June 23, 1998, the Federal debt stood at $5,500,927,000,000 (Five trillion, five hundred billion, nine hundred twenty-seven million).

Five years ago, June 23, 1994, the Federal debt stood at $4,598,158,000,000 (Four trillion, five hundred ninety-eight billion, one hundred fifty-eight million).

Ten years ago, June 23, 1989, the Federal debt stood at $2,780,957,000,000 (Two trillion, seven hundred eighty billion, nine hundred fifty-seven million) which reflects a debt increase of more than $2 trillion—$2,813,474,506,414.50 (Two trillion, eight hundred thirteen billion,

four hundred seventy-four million, five hundred six thousand, four hundred fourteen dollars and fifty cents) during the past 10 years.

NOMINATION OF RICHARD HOLBROOKE

Mr. GRASSLEY. Mr. President, I am announcing, today, my intention to place a hold on the nomination of Mr. Richard Holbrooke to be the next U.S. Ambassador to the United Nations. I would like to explain for the benefit of my colleagues why I have done so.

First, let me explain that I have nothing against Mr. Holbrooke. He is simply caught in the middle. The issue can be cleared up very, very quickly, if reasonable heads come together.

At issue is the outrageous treatment by the State Department of one of its employees. Her name is Linda Shenwick. She is Counselor for Resources Management at the United States U.N. Mission. She is the Mission's expert on financial and management matters.

Ms. Shenwick has been instrumental in bringing to light many of the waste and mismanagement issues associated with the U.N. She's been an invaluable source of information and insight for the people's branch of government. Some people in the State Department, apparently all the way to the top, don't much care for Ms. Shenwick's candor with Congress. And so they painted a big, ol' target on Ms. Shenwick, and have come after her, relentlessly.

You see, Ms. Shenwick is guilty of committing the crime of telling the truth. And when you commit truth, you're history in the State Department.

Here is how the State Department has treated Ms. Shenwick. I'd like my colleagues to know this, so they can judge for themselves whether this is conduct befitting such a grand institution as the State Department.

Ms. Shenwick has been ''Felix Bloched.'' You remember Felix Bloch. He was investigated while under suspicion for espionage. He was put on non-duty status while he was investigated. That's now what they've done to Ms. Shenwick, effective last Friday at 5:30 pm.

That's not all. Before kicking her out of her office last week, she was not allowed to talk to other employees. They could not talk to her. She had to keep her door closed at all times. She could not access the main computer in the office. They forced her to fly to Washington, with little or no notice, for meetings that didn't occur.

At the end of this month, Ms. Shenwick must report to a new job in Washington, in an area in which she has no background. They know that she wants to stay in New York. They seem determined to break this woman down. So far, they have not succeeded.

Mr. President, I have a long-standing practice of taking up the cause of witnesses before the Congress who have done the right thing at great risk to their careers. Before I do this, I must make sure the individual has sufficient credibility, and is being retaliated against for their disclosures in the public interest. I have spoken with my colleagues on both sides of the aisle, and on both sides of Capitol Hill. They all agree she has credibility, and has provided solid, accurate information to Congress. It is information that has led to management reforms and more effective controls of the U.N. budget. No one has ever successfully challenged her information. Instead, the Department has attacked her.

In all the whistleblower cases I have worked over the years, this one stands out. I have never seen such a blatant, raw attempt to harass and silence a whistleblower who simply told the truth. Can the truth be that offensive to the State Department?

My action to put a hold on the Holbrooke nomination is a contest over which message will prevail. By its actions, the message the State Department wants to send is fear. Every other employee of the USUN Mission has their eyes firmly fixed on this case. The State Department wants them to know, if they commit truth like Ms. Shenwick did, that they, too, will get the ''Felix Bloch Treatment.'' I guess committing truth is just as bad as committing espionage.

Mr. President, It's my hope that we in this body will intercept that message, and send one of our own. The people's right to know the truth is what we care about. And those who help Congress know the truth will be protected, not punished.

Until this month, Ms. Shenwick and her attorney had been negotiating with the State Department to find her a new job in New York. There was some progress, but the Department started negotiating in bad faith. The talks broke down, and Ms. Shenwick is being transferred to Washington at the end of the month, to a job for which she has no background.

I am willing to release my hold of the nomination of Mr. Holbrooke forthwith. But before that happens, fairness and civility must prevail. Good faith negotiations must re-start, and an agreement must be reached by both parties. This could happen within 24 hours, if desired.

In 1997, another member of this body put a similar hold on a nominee until the Department resolved Ms. Shenwick's situation. The Secretary agreed to resolve the issues and keep Ms. Shenwick at the USUN Mission. The hold was lifted. But instead of resolving the matter, the harassment continued. And it continues to this day.

That will not happen again. The hold gets lifted when there's an agreement in writing.

Mr. President, I hope that my colleagues appreciate the reasonableness of my position, and the importance of the message that I am asking this body to send. I hope I can count on their support in the public's best interest. And we can then allow Mr. Holbrooke to get on with his important work in New York.

EDUCATION EXPRESS ACT OF 1999 (ED-EXPRESS)

Mr. FRIST. Mr. President, yesterday, Senator DOMENICI and I introduced the Education Express Act (Ed-Express). This legislation builds on the success of the Ed-Flex bill, which earlier this year passed the Senate and House of Representatives by overwhelming margins, and was signed into law in April.

It is critical that this Congress builds on Ed-Flex's themes of flexibility and accountability. As we consider the Reauthorization of the Elementary and Secondary Education Act, we must continue the push to cut red tape and remove overly-prescriptive federal mandates on federal education funding. At the same time, we must hold states and local schools accountable for increasing student achievement.

Flexibility, combined with accountability, must be our objective. The end result of our reform effort must spark innovation—innovation designed to provide all students a world-class education.

This need for flexibility and accountability in education was repeated again and again in hearings held by the Senate Budget Committee's Task Force on Education. The Task Force, on which Senator DOMENICI serves as an Ex-officio member, and I serve as the chairman, issued a report entitled ''Prospects for Reform: The State of Education and the Federal Role.''

In this report the Task Force made several recommendations of ways to improve the federal education effort. The number one recommendation noted, ''In light of the continuing proliferation of federal categorical programs, the Task Force recommends that federal education programs be consolidated. This effort should include reorganization at the federal level, and block grants for the states. The Task Force particularly favors providing states flexibility to consolidate all federal funds into an integrated state strategic plan to achieve national educational objectives for which the state would be held accountable.''

The Ed-Express bill is the legislative response to this recommendation. Specifically, $37 billion over the next five years would be provided from the federal government as part of a larger consolidation of duplicative and limiting categorical programs into a much

more streamlined and direct funding stream to states and localities for a variety of education purposes.

We have a national emergency in education. To address this crisis, the federal government will commit additional resources for a five-year period in order to improve student achievement and the quality of our teaching force.

This would infuse significant funds to the hands of parents, communities, and local/State governments to improve the education achievement of students.

Under this plan, States may elect to receive elementary and secondary education funding by ''Direct Check.'' Incentives such as replacing existing burdensome federal categorical programs are provided to encourage States to choose the direct check option. A State, however, may choose to remain in the categorical system.

In the spirit of Ed-Flex, this legislation that we introduced also looks to the Governors for leadership. States which opt for the Direct Check Flexibility will receive their education funding upon the adoption of a State plan written by the governor that outlines the goals and objectives for the funds.

The Nation's governors are leading the way for education reform in this country. It was the Nation's Governors who helped bring about the successful passage of Ed-Flex. We at the Federal level must do all we can to advance the reform efforts taking place at the State and local levels.

Ed-Express establishes a Challenge Fund, a Teacher Quality Fund, and an Academic Opportunity Fund.

Challenge Funds would be provided to States and localities with the flexibility to design and implement programs to improve student learning. These funds may be used to purchase new books, hire teachers, promote character education, provide tutoring services for students, and for a variety of other education initiatives.

Teacher Quality Funds may be used for such activities as providing professional development opportunities for teachers, merit pay, increasing teachers' salaries, and alternative certification programs.

Academic Opportunity Funds may be used to provide governors who choose the Direct Check option with the ability to reward school districts and schools that meet or exceed state-defined goals and performance objectives for student achievement and teacher quality.

The need for a consolidated Federal education effort has never been greater. I think that we are all familiar with the statistics that show our students are not able to keep up academically with their international counterparts. In fact, the longer a student stays in an American school the more his/her academic skills deteriorate. We must draw upon innovative methods to correct this problem so that our children will be able to compete in the global economy.

As a scientist, I know the value of looking for new ways to solve problems, and America has long had a proud tradition to innovation. Ed-Express will create a whole new generation of inventors in the field of education—in particular, Governors, local school boards, teachers, and parents will be better able to put good ideas into practice.

REPORT ON THE NATIONAL EMERGENCY CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979 FOR THE PERIOD AUGUST 19, 1998 THROUGH FEBRUARY 19, 1999—MESSAGE FROM THE PRESIDENT—PM 40

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999.*

REPORT OF THE PROTOCOL AMENDING THE AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE UNITED STATES AND CANADA—MESSAGE FROM THE PRESIDENT—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b) and (d)), the text of a proposed Protocol Amending the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada signed at Washington June 15, 1955, as amended. I am also pleased to transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), I have submitted to the Congress under separate cover a classified annex to the NPAS, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Protocol has been negotiated in accordance with the Atomic Energy Act of 1954, as amended, and other applicable law. In my judgment, it meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada in two respects:

1. It extends the Agreement, which would otherwise expire by its terms on January 1, 2000, for an additional period of 30 years, with the provision for automatic extensions thereafter in increments of 5 years each unless either Party gives timely notice to terminate the Agreement; and

2. It updates certain provisions of the Agreement relating to the physical protection of materials subject to the Agreement.

The Agreement itself was last amended on April 23, 1980, to bring it into conformity with all requirements of the Atomic Energy Act and the Nuclear Non-Proliferation Act of 1978. As amended by the proposed Protocol, it will continue to meet all requirements of U.S. law.

Canada ranks among the closest and most important U.S. partners in civil nuclear cooperation, with ties dating back to the early days of the Atoms for Peace program. Canada is also in the forefront of countries supporting international efforts to prevent the spread of nuclear weapons to additional countries. It is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. It also subscribes to the Nuclear Supplier Group (NSG) Guidelines, which set forth standards of the responsible export of nuclear commodities for peaceful use, and to the Zangger (NPT Exporters) Committee Guidelines, which oblige members to require the application of IAEA safeguards on nuclear exports to nonnuclear weapon states. It

is a party to the Convention on the Physical Protection of Nuclear Material, whereby it has agreed to apply international standards of physical protection to the storage and transport of nuclear material under its jurisdiction or control.

Continued close cooperation with Canada in the peaceful uses of nuclear energy, under the long-term extension of the U.S.-Canada Agreement for Cooperation provided for in the proposed Protocol, will serve important U.S. national security, foreign policy, and commercial interests.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediate consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999*.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2000'' (Rept. No. 106–85).

By Mr. SPECTER, from the Committee on Veterans' Affairs:

Special Report entitled ''Legislative Activities of the Committee on Veterans' Affairs' During the 105th Congress'' (Rept. No. 106–86).

By Mr. CAMPBELL, from the Committee on Appropriations, without amendment:

S. 1282: An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies, for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106–87).

By Mrs. HUTCHISON, from the Committee on Appropriations, without amendment:

S. 1283: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106–88).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 140: A bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes (Rept. No. 106–89).

S. 734: A bill entitled the ''National Discovery Trails Act of 1999'' (Rept. No. 106–90).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 762: A bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park (Rept. No. 106–91).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 938: A bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, and for other purposes (Rept. No. 106–92).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 939: A bill to correct spelling errors in the statutory designations of Hawaiian National Parks (Rept. No. 106–93).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 946: A bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center (Rept. No. 106–94).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 955: A bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase or exchange as well as by donation (Rept. No. 106–95).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1027: A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes (Rept. No. 106–96).

H.R. 459: A bill to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project (Rept. No. 106–97).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1287: An original bill to provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes (Rept. No. 106–98).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 441: A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 768: A bill to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HATCH, for the Committee on the Judiciary:

Keith P. Ellison, of Texas, to be United States District Judge for the Southern District of Texas, vice Norman W. Black, retired.

Gary Allen Feess, of California, to be United States District Judge for the Central District of California, vice James M. Ideman, retired.

Stefan R. Underhill, of Connecticut, to be United States District Judge for the District of Connecticut, vice Peter C. Dorsey, retired.

W. Allen Pepper, Jr. of Mississippi, to be United States District Judge for the Northern District of Mississippi, vice L.T. Senter, Jr., retired.

Karen E. Schreier, of South Dakota, to be United States District Judge for the District of South Dakota, vice Richard H. Battey, retired.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1273. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself, Mr. ROTH, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mrs. HUTCHISON, Mr. SANTORUM, Mr. THOMAS, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. COVERDELL, Mr. MCCONNELL, Mr. INHOFE, and Mr. BUNNING):

S. 1274. A bill to amend the Internal Revenue Code of 1986 to increase the accessibility to and affordability of health care, and for other purposes; to the Committee on Finance.

By Mr. KYL:

S. 1275. A bill to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. CHAFEE, Mr. DASCHLE, Mr. SPECTER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Ms. LANDRIEU, Mr. REID, Mr. WYDEN, Mr. SARBANES, Mr. KERRY, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROBB, Mr. CLELAND, Mr. MOYNIHAN, Mr. SCHUMER, Mr. AKAKA, Mr. DURBIN, Mrs. BOXER, Mr. TORRICELLI, Mr. KERREY, Mr. LEVIN, Mr. FEINGOLD, Mr. BRYAN, Mrs. FEINSTEIN, and Mr. KOHL):

S. 1276. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. CONRAD, Mr. HARKIN, and Mr. ROBB):

S. 1277. A bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics; to the Committee on Finance.

By Mr. FRIST:

S. 1278. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERREY (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1279. A bill to improve the environmental quality and public use and appreciation of the Missouri River and to provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River; to the Committee on Environment and Public Works.

By Mr. BRYAN:

S. 1280. A bill to terminate the exemption of certain contractors and other entities from civil penalties for violations of nuclear safety requirements under Atomic Energy Act of 1954; to the Committee on Environment and Public Works.

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mr. CLELAND):

S. 1281. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Government Affairs.

By Mr. CAMPBELL:

S. 1282. An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies, for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mrs. HUTCHINSON:

S. 1283. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. NICKLES:

S. 1284. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any suppliers; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself, Mr. DEWINE, and Mr. FEINGOLD)

S. 1285. A bill to amend section 40102(37) of title 49, United States Code, to modify the definition of the term ''public aircraft'' to provide for certain law enforcement and emergency response activities; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, and Mr. DURBIN):

S. 1286. A bill to authorize the Attorney General to make grants to local educational agencies to carry out school violence prevention and school safety activities in secondary schools; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1287. An original bill to provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes; to the Committee on Energy and Natural Resources; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Con. Res. 42. A concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1273. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT OF AMENDMENTS OF 1999

Mr. BINGAMAN. Mr. President, I rise to introduce the electricity restructuring bill I introduced in the last Congress. I offer the bill today because the Energy and Natural Resources Committee will be holding two legislative hearings next week on the pending electricity restructuring bills, and I want this bill to be included in the discussions. With the exception of two typographical corrections, the text of the bill is identical to S. 1276, which I introduced in the last Congress.

The bill has three principal legislative objectives: (1) clarifying the line between state and federal jurisdiction, (2) strengthening the reliability of the transmission system, and (3) ensuring fair access to the interstate transmission grid. When I introduced the bill in the last Congress it received wide support as the nucleus of the most critical issues that Congress must address in any restructuring legislation.

As many Senators are aware, I am working with the chairman of the Energy and Natural Resources Committee, my good friend Senator MURKOWSKI, on developing a consensus electricity bill that can be marked up and reported to the full Senate. Although I had expected that we would be further along in the process by now, I remain fully committed to following this bipartisan course. My introduction of this bill should not impeded that process.

Much has happened in the electric utility industry since this bill was first drafted nearly two years ago. There are now six approved regional transmission operators, and several more are on the drawing boards. Twenty-two states, including New Mexico, have implemented some form of electric competition and two more may pass legislation this year. And there is now industry-wide consensus on the importance of federal legislation to assure the continued security and reliability of the nation's high-tension transmission grid.

Mr. President, I continue to see a strong need for federal electricity legislation so that states that have elected retail competition can fully enjoy all of the benefits that completion brings. In addition, improvements in federal regulation will streamline wholesale markets in every state. At the same time, I believe Congress should not enact federal legislation that disrupts existing state laws or that forces unwilling states to restructure.

I also have increasing concern about the mounting cloud of litigation pending in the federal courts that could frustrate the development of healthy wholesale and retail markets. Only Congress can clear up jurisdictional issues and let competitive markets fully develop. Interstate transmission must be a federal responsibility.

Mr. President, I believe we now have a consensus on the core issues that Congress must address. The Energy Committee held an oversight hearing last month on the status of restructuring in the states. There was nearly universal agreement among the witnesses on the need for federal legislation addressing interstate transmission and federal-state jurisdiction

I look forward to the legislative hearings next week on this and other bills and to reporting bi-partisan electricity legislation that can pass the Senate this year.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1273

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 ''Federal Power Act Amendments of 1999''.

SEC. 2. CLARIFICATION OF JURISDICTION.

(a) DECLARATION OF POLICY.—Section 201(a) of the Federal Power Act (16 U.S.C. 824(a)) is amended by—

(1) inserting after ''transmission of electric energy in interstate commerce'' the following: '', including the unbundled transmission of electric energy sold at retail,''; and

(2) striking ''such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.'' and inserting the following: ''such Federal regulation shall not extend, however, to the bundled retail sale of electric energy or to

unbundled local distribution service, which are subject to regulation by the States.''.

(b) APPLICATION OF PART.—Section 201(b) of the Federal Power Act (16 U.S.C. 824(b)(1)) is amended by—

(1) inserting after ''the transmission of electric energy in interstate commerce'' the following: '', including the unbundled transmission of electric energy sold at retail,''; and

(2) adding at the end the following:

''(3) The Commission, after consulting with the appropriate State regulatory authorities, shall determine, by rule or order, which facilities used for the transmission and delivery of electric energy are used for transmission in interstate commerce subject to the jurisdiction of the Commission under this Part, and which are used for local distribution subject to State jurisdiction.''.

(c) DEFINITION OF INTERSTATE COMMERCE.—Section 201(c) of the Federal Power Act (16 U.S.C. 824(c)) is amended by inserting after ''outside thereof'' the following: ''(including consumption in a foreign country)''.

(d) DEFINITIONS OF TYPES OF SALES.—Section 201(d) of the Federal Power Act (16 U.S.C. 824(d)) is amended by—

(1) inserting ''(1) after the subsection designation;

(2) adding at the end the following:

''(2) The term 'bundled retail sale of electric energy' means the sale of electric energy to an ultimate consumer in which the generation and transmission service are not sold separately.

''(3) The term 'unbundled local distribution service' means the delivery of electric energy to an ultimate consumer if—

''(A) the electric energy and the service of delivering it are sold separately, and

''(B) the delivery uses facilities for local distribution as determined by the Commission under subsection (b)(3).

''(4) The term 'unbundled transmission of electric energy sold at retail' means the transmission of electric energy to an ultimate consumer if—

''(A) the electric energy and the service of transmitting it are sold separately, and

''(B) the transmission uses facilities for transmission in interstate commerce as determined by the Commission under subsection (b)(3).''.

(e) DEFINITIONS OF PUBLIC UTILITY.—Section 201 of the Federal Power Act (16 U.S.C. 824) is amended by striking subsection (e) and inserting the following:

''(e) The term 'public utility' when used in this Part or in the Part next following means—

''(1) any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212); or

''(2) any electric utility or Federal power marketing agency not otherwise subject to the jurisdiction of the Commission under this Part, including—

''(A) the Tennessee Valley Authority,

''(B) a Federal power marketing agency,

''(C) a State or any political subdivision of a State, or any agency, authority, or instrumentality of a State or political subdivision,

''(D) a corporation or association that has ever received a loan for the purpose of providing electric service from the Administrator of the Rural Electrification Administration or the Rural Utilities Service under the Rural Electrification Act of 1936; or

''(E) any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing,

but only with respect to determining, fixing, and otherwise regulating the rates, terms, and conditions for the transmission of electric energy under this Part (including sections 217, 218, and 219).''.

(f) APPLICATION OF PART TO GOVERNMENT UTILITIES.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking ''No provision'' and inserting ''Except as provided in subsection (e)(2) and section 3(23), no provision''.

(g) DEFINITION OF TRANSMITTING UTILITY.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (23) and inserting the following:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, Federal power marketing agency, or any public utility, as defined in section 201(e)(2), that owns or operates electric power transmission facilities which are used for the sale of electric energy.''.

SEC. 3. FEDERAL WHEELING AUTHORITY.

(a) COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—

(1) Section 211(a) of the Federal Power Act (16 U.S.C. 824j(a)) is amended by striking ''for resale''.

(2) Section 212(a) of the Federal Power Act (16 U.S.C. 824k(a)) is amended by striking ''wholesale transmission services'' each place it appears and inserting ''transmission services''.

(3) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g)) is repealed.

(b) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—Section 212 of the Federal Power Act (16 U.S.C. 824k) is further amended by striking subsection (h) and inserting the following:

''(h) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—No rule or order issued under this Act shall require or be conditioned upon the transmission of electric energy:

''(1) directly to an ultimate consumer in connection with a sale of electric energy to the consumer unless the seller of such energy is permitted or required under applicable State law to make such sale to such consumer, or

''(2) to, or for the benefit of, an electric utility if such electric energy would be sold by such utility directly to an ultimate consumer, unless the utility is permitted or required under applicable State law to sell electric energy to such ultimate consumer.''.

(c) CONFORMING AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (24) and inserting the following:

''(24) TRANSMISSION SERVICES.—The term 'transmission services' means the transmission of electric energy in interstate commerce.''.

SEC. 4. STATE AUTHORITY TO ORDER RETAIL ACCESS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 215. STATE AUTHORITY TO ORDER RETAIL ACCESS.

''(a) STATE AUTHORITY.—Neither silence on the part of Congress nor any Act of Congress shall be construed to preclude a State or State commission, acting under authority of state law, from requiring an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State.

''(b) NONDISCRIMINATORY SERVICE.—If a State or State commission permits or requires an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State, the electric utility shall provide such service on a not unduly discriminatory basis. Any law, regulation, or order of a State or State commission that results in unbundled local distribution service that is unjust, unreasonable, unduly discriminatory, or preferential is hereby preempted.

''(c) RECIPROCITY.—Notwithstanding subsection (b), a State or state commission may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in such State if such utility or any of its affiliates owns or controls local distribution facilities and is not itself providing unbundled local distribution service.

''(d) STATE CHARGES.—Nothing in this Act shall prohibit a State or State regulatory authority from assessing a nondiscriminatory charge on unbundled local distribution service within the State, the retail sale of electric energy within the State, or the generation of electric energy for consumption by the generator within the State.''.

SEC. 5. UNIVERSAL AND AFFORDABLE SERVICE.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 216. UNIVERSAL AND AFFORDABLE SERVICE.

''(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

''(1) every consumer of electric energy should have access to electric energy at reasonable and affordable rates, and

''(2) the Commission and the States should ensure that competition in the electric energy business does not result in the loss of service to rural, residential, or low-income consumers.

''(b) CONSIDERATION AND REPORTS.—Any State or State commission that requires an electric utility subject to its jurisdiction to provide unbundled local distribution service shall—

''(1) consider adopting measures to—

''(A) ensure that every consumer of electric energy within such State shall have access to electric energy at reasonable and affordable rates, and

''(B) prevent the loss of service to rural, residential, or low-income consumers; and

''(2) report to the Commission on any measures adopted under paragraph (1).''.

SEC. 6. NATIONAL ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 217. NATIONAL ELECTRIC RELIABILITY STANDARDS.

''(a) RELIABILITY STANDARDS.—The Commission shall establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

''(b) DESIGNATION OF NATIONAL AND REGIONAL COUNCILS.—

''(1) For purposes of establishing and enforcing national electric reliability standards under subsection (a), the Commission may designate an appropriate number of regional electric reliability councils composed of electric utilities or transmitting utilities, and one national electric reliability council composed of designated regional electric reliability councils, whose mission is to promote the reliability of electric transmission system.

''(2) The Commission shall not designate a regional electric reliability council unless the Commission determines that the council—

''(A) permits open access to membership from all entities engaged in the business of

selling, generating, transmitting, or delivering electric energy within its region;

''(B) provides fair representation of its members in the selection of its directors and the management of its affairs; and

''(C) adopts and enforces appropriate standards of operation designed to promote the reliability of the electric transmission system.

''(c) INCORPORATION OF COUNCIL STANDARDS.—The Commission may incorporate, in whole or in part, the standards of operation adopted by the regional and national electric reliability councils in the national electric reliability standards adopted by the Commission under subsection (a).

''(d) ENFORCEMENT.—The Commission may, by rule or order, require any public utility or transmitting utility to comply with any standard adopted by the Commission under this section.

SEC. 7. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 218. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

''(a) COMMISSION AUTHORITY.—Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may order a transmitting utility to enlarge, extend, or improve its facilities for the interstate transmission of electric energy.

''(b) PROCEDURE.—The Commission may commence a proceeding for the issuance of an order under subsection (a) upon the application of an electric utility, transmitting utility, or state regulatory authority, or upon its own motion.

''(c) COMPLIANCE WITH OTHER LAWS.—Commission action under this section shall be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable state and federal laws.

''(d) USE OF JOINT BOARDS.—Before issuing an order under subsection (a), the Commission shall refer the matter to a joint board appointed under section 209(a) for advice and recommendations on the need for, design of, and location of the proposed enlargement, extension, or improvement. The Commission shall consider the advice and recommendations of the Board before ordering such enlargement, extension, or improvement.

''(e) LIMITATION ON AUTHORITY.—The Commission shall have no authority to compel a transmitting utility to extend or improve its transmission facilities if such enlargement, extension, or improvement would unreasonably impair the ability of the transmitting utility to render adequate service to its customers.''.

SEC. 8. REGIONAL INDEPENDENT SYSTEM OPERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 219. REGIONAL INDEPENDENT SYSTEM OPERATORS.

''(a) REGIONAL TRANSMISSION SYSTEMS.—Whenever the Commission finds such action necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services within a region, the Commission may order the formation of a regional transmission system and may order any transmitting utility operating within such region to participate in the regional transmission system.

''(b) OVERSIGHT BOARD.—The Commission shall appoint a regional oversight board to oversee the operation of the regional transmission system. Such oversight board shall be composed of a fair representation of all of the transmitting utilities participating in the regional transmission system, electric utilities and consumers served by the system, and State regulatory authorities within the region. The regional oversight board shall ensure that the independent system operator formulates policies, operates the system, and resolves disputes in a fair and non-discriminatory manner.

''(c) INDEPENDENT SYSTEM OPERATOR.—The regional oversight board shall appoint an independent system operator to operate the regional transmission system. No independent system operator shall—

''(1) own generating facilities or sell electric energy, or

''(2) be subject to the control of, or have a financial interest in, any electric utility or transmitting utility within the region served by the independent system operator.

''(d) COMMISSION RULES.—The Commission shall establish rules necessary to implement this section.''.

SEC. 9. ENFORCEMENT.

''(a) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended by—

(1) striking ''subsection'' and inserting ''section''; and

(2) striking ''or 214'' and inserting: ''214, 217, 218, or 219''.

''(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''or 214'' each place it appears and inserting: ''214, 217, 218, or 219''.

SEC. 10. AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) PROTECTION OF EXISTING WHOLESALE POWER PURCHASE CONTRACTS.—No State or State regulatory authority may bar a State regulated electric utility from recovering the cost of electric energy the utility is required to purchase from a qualifying cogeneration facility or qualifying small power production facility under this section.''.

By Mr. GRAMS (for himself, Mr. ROTH, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mrs. HUTCHISON, Mr. SANTORUM, Mr. THOMAS, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. COVERDELL, and Mr. MCCONNELL):

S. 1274. A bill to amend the Internal Revenue Code of 1986 to increase the accessibility to and affordability of health care, and for other purposes; to the Committee on Finance.

HEALTH CARE ACCESS AND EQUITY ACT OF 1999

Mr. GRAMS. Mr. President, I rise today with my colleagues Chairman ROTH and Senator ABRAHAM, to introduce legislation which will provide access to affordable health insurance for 43 million uninsured Americans, correct the inequities in the tax treatment of certain types of health insurance, and allow for the full deductibility of long term care insurance.

The Health Care Accessibility and Equity Act of 1999 presents us with the opportunity to create the most comprehensive tax-deductible coverage system in our nation's history.

One of the most discriminatory portions of the tax code is the disparate treatment between an employer purchasing a health plan as opposed to an individual purchasing health insurance on their own.

Mr. President, when employers purchase a health plan for their employees, he or she can fully deduct the costs of providing that insurance, effectively lowering the actual costs of providing that coverage.

However, when an employee purchases an individual policy on their own, they must do so with after tax-dollars. They don't have the ability or the advantage offered to employers to reduce the actual costs of the policy by deducting premiums from their taxes every year.

Therefore, they usually wind up without health coverage. The Health Care Accessibility and Equity Act will end this discrimination within the tax code and make health care available for many Americans today.

Further, the legislation offered today by Senator ROTH, Senator ABRAHAM, and myself would immediately allow the self-employed to fully deduct health insurance costs. Twenty-five million Americans are in families headed by a self-employed individiual—20 percent of those are uninsured.

We always talk about trying to have more Americans covered by health care insurance. Yet, we have a tax code which discriminates against some, while favoring others. This results in fewer people being covered.

Let's make the same tax incentives for purchasing health insurance available to employers apply to everyone—level the playing field and we will have taken the next logical step in the evolution of our health care system,

Mr. President, I believe Congress should be doing all we can to lower the costs of health insurance.

However, it seems most proposals before the Senate do just the opposite by forcing some federal definition of a quality health plan on consumers and sticking them with the bill.

It's not good policy it does nothing for those who are uninsured and it certainly won't help those who will be forced to drop health insurance because they can no longer afford the premiums,.

Mr. President, we've heard a lot of rhetoric about patient protections and why the Federal Government needs to step in and help consumers. Indeed, a better role for the Government is to help consumers by removing restrictions on Medical Savings Accounts as we do in this legislation as well.

MSAs allow the consumers to control their costs when it comes to providing their families with health care. It would allow them to decide which provider they want to see and which services they want and will pay for. Certainly, empowering patients is a much more productive solution to a problem than simply forcing consumers to buy

the government's definition of quality health insurance.

When Congress created the medical savings accounts in the Kassebaum-Kennedy Health Insurance Portability and Accountability Act, there were so many restrictions placed upon the program then that it was essentially set up to fail. Yet MSAs have managed to become tremendously successful.

According to the General Accounting Office, 37 percent of all MSA policyholders were previously uninsured. When you gave them the option and the opportunity, they were then able financially to buy insurance. Clearly, MSAs are providing an option for those who before couldn't afford to buy health insurance.

The bill we are introducing today does not force Americans into a government-centered health care plan, a system that they spoke so loudly against back in 1993, if we remember. Senator KENNEDY's Patients' Bill of Rights legislation, I think, is another example of a government-centered approach which actually threatens the accessibility and the affordability of health care.

Again, this morning, our legislation fosters a consumer-centered health care system without raising the costs, which so many of our constituents have favored.

Glenn Howatt of the Minneapolis Star Tribune recently did an article on MSAs and spoke with several policyholders. I will read a portion of his article which I believe demonstrates exactly why Congress needs to lift the restrictions on MSAs so that everyone has the opportunity to purchase an affordable health insurance plan. Mr. Howatt gives an account of Suzanne Eisenreich Roberts.

Last year, Roberts thought it would be a good idea to dump her individual health insurance policy, which cost $330 every month, because she rarely got sick.

She switched to an MSA last year. Her premiums dropped to $100 per month, but her deductible shot up to $2,250 a year.

Two days after the new policy became effective, Roberts developed a gallstone problem that required surgery. Although the insurance covered the $14,000 surgery, Roberts had to pay $2,250 to satisfy the deductible requirement.

''Financially, I can afford the deductible,'' said Roberts. And, she noted, ''I was really out nothing because I would have spent it in premiums anyway.''

If Roberts had kept her old policy, her annual premiums would have been $3,960.

But her new policy's premiums are just $1,200 a year—a $2,760 saving that more than makes up for the deductible cost.

Even though she went with the MSA, even though she had to have surgery the first year, she was far ahead by having a medical savings account compared to her own insurance policy.

I ask unanimous consent to have printed the entire text of Mr. Howatt's article and another pertinent article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Star Tribune, Feb. 28, 1999]

MEDICAL SAVINGS ACCOUNTS OFFER RELIEF FROM HIGH HEALTH CARE PREMIUMS

(By Glenn Howatt)

At time when health care premiums in Minnesota are up 15 to 20 percent over last year's rates, a growing number of small businesses are turning to medical savings accounts as a way to seek relief.

Commonly known as MSAs, medical savings accounts combine a high-deductible insurance policy with a tax-advantaged account the consumer can use to pay the deductible. MSAs represent a departure from the norm in a state serviced primarily by health maintenance organizations and other forms of managed care.

Most health insurance policies in Minnesota provide coverage for a wide range of medical needs—everything from complex surgery to routine clinic visits.

But under MSAs, insurance coverage doesn't kick in until the individual policyholder has paid for thousands of dollars worth of health care out of pocket.

This high-deductible insurance policy is paired with the medical savings account, a tax-advantaged fund that helps the policyholder cope financially with the demands of the deductible.

To its advocates, the MSA is more than a one-time fix to cut costs, instead representing a long-term approach to buying health care.

THE ADVANTAGES

The catastrophic insurance policy results in much lower premiums, the high deductible controls costs by cutting down on unnecessary visits to the doctor, and the attractive savings account gives users an incentive to stay healthy so they can use the money for other things, such as retirement, advocates content.

But MSAs also have critics, who say the high deductible is a burden for those with chronic medical conditions. Some also fear public health consequences if individuals avoid spending money to receive the kind of preventive health care that is fully covered by managed care policies.

Congress asked the General Accounting Office (GAO), the investigative and research arm of the government, to gauge the impact of MSAs on the health insurance market when it authorized the marketing of MSAs under a four-year experiment that began in 1997.

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While the policy implications of MSAs are still unclear, in practical terms, MSAs are becoming an option for small businesses and the self-employed, the only groups that are eligible to set up MSAs.

Under the current law, the definition of self-employed is the same as the Internal Revenue Service's: a person who pays self-employment tax or pays Social Security tax as a self-employed person. The plans are not available to people who are unemployed or who have retired early and are not yet covered by Medicare, but a bill proposed in the U.S. House would expand the definition to include those groups.

SMALL BUSINESS BUYER

Eldon Kimball, owner of Edina-based Creative Systems Software, happened upon the MSA option after he received a general mailing from an insurance broker.

Kimball, who provides health benefits for himself and his four employees, was looking for some way to deal with spiraling health care premiums.

''Premiums were going up and up and up and up and for a small company like ours, that was becoming a terrible burden,'' Kimball said.

Small businesses such as Kimball's have few options—cut benefits, ask employees to shoulder more cost, drop health insurance altogether, or let health care take a bigger bite out of the bottom line.

While Kimball noted that switching to an MSA would lower his total premium bill by nearly $200 a month, he was more impressed with the benefits that the MSA could provide to his employees.

Kimball uses the money he saves on premiums to partially fund the medical savings accounts for his employees, a move that gives him a break on his taxes.

The employees can use the money in their MSAs to pay for medical costs—the annual deductibles for the insurance policy are $2,250 for individuals and $4,450 for families.

Anything that employees don't spend they keep, making the MSA another way of saving for retirement. At that point, the money becomes available for any purpose without penalty. Withdrawals from MSAs can be made before retirement for non-medical purposes, but those are subject to penalties and taxes.

RETIREMENT FUND

''It has a long-term advantage,'' said Kimball. The MSA ''becomes another benefit in the form of a retirement fund if they don't use it.''

Under the MSA regulations, employers are not required to put money into employees' accounts.

Edwrd M. Ryan, an Eden Prairie-based certified public accountant who employs 10 workers, said his employees still come out ahead even though he doesn't fund their MSAs.

Before his office switched to MSAs last year, he split the cost of the monthly insurance premium with his workers. Now he pays the entire cost of the premium, freeing up workers' money to fund their MSAs.

But MSAs also come with high deductibles, as Suzanne Eisenreich Roberts, who owns Accountant Profile Inc., a Roseville-based placement agency for accountants, knows well.

Last year, Roberts thought it would be a good idea to dump her individual health insurance policy, which cost $330 every month, because she rarely got sick.

She switched to an MSA last year. Her premiums dropped to $100 per month, but her deductible shot up to $2,250 a year.

Two days after the new policy became effective, Roberts developed a gallstone problem that required surgery. Although the insurance covered the $14,000 surgery. Roberts had to pay $2,250 to satisfy the deductible requirement.

''Financially I can afford the deductible,'' said Roberts. And, she noted, ''I was really out nothing because I would have spent it in premiums anyway.''

If Roberts had kept her old policy, her annual premiums would have been $3,960. But her new policy's premiums are just $1,200 a year—a $2,760 saving that more than makes up for the deductible cost.

TARGETING UNINSURED

Companies that sell MSAs obviously are targeting people such as Roberts who have little downside risk. But they also hope to sign up people who could not afford health insurance before.

The GAO reported that of the nearly 42,000 MSA accounts established in 1997, 37 percent were started by individuals who previously did not have health insurance.

''MSAs were intended for having a lower cost mechanism to attract more people without insurance,'' said Scott Krienke, vice president of marketing for Fortis Insurance in Milwaukee.

The GAO report issued in December said about 40 companies nationally were selling high-deductible insurance policies paired with MSAs. Some insurance companies act as trustee for the account, but sometimes a bank or investment company serves as the trustee.

Insurance companies responding to the GAO survey said they were disappointed with sales, but hoped that growing familiarity with MSAs on the part of consumers and brokers would lead to greater acceptance of the product.

Fortis, which sells MSAs nationwide, is believed to be the largest seller of MSA policies in Minnesota, according to state officials.

Krienke said Fortis sold 260 individual policies in Minnesota in 1997 and nearly doubled that number to 516 in 1998. He hopes sales will reach 700 this year.

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NEW CUSTOMERS

MSAs could gain a larger market presence this year through Community Coordinated Health Care, a new health plan being formed by a consortium of clinics and hospitals.

The plan will offer MSAs to small and medium-sized businesses that are part of the Employers Association, a coalition of more than 1,700 companies.

''We are going to appeal to everybody,'' said Bernie Mackell, of Eden Prairie-based Medical Savings Accounts Inc., who is coordinating MSAs for the new health plan.

Mackell said education will be a large component of the MSA programs being offered to Employers Association companies.

''Having employees involved in their health care is important,'' Mackell said. Health education would encourage employees to seek preventive care as one way that they can preserve capital in the MSA funds.

The new health plan is expected to be operational by this summer.

And at least two large health insurers are watching the MSA market closely.

Blue Cross and Blue Shield of Minnesota said it is monitoring the market, although right now it has not plans to offer an MSA.

However, HealthPartners said it is actively considering offering an MSA product.

''We already have in our product line a $1,000 deductible plan for individuals that moves in the direction that MSAs go,'' said George Halvorson, HealthPartners chief executive, adding that there is a ''good likelihood'' that HealthPartners may add an MSA into the mix at some point.

A NATIONAL EXPERIMENT

Insurance companies began selling medical savings accounts (MSAs) in 1997 under a four-year trial period established by Congress. Self-employed workers and small businesses with 50 or fewer employees are eligible for MSAs. Sales of MSAs have not met expectations, and only 42,000 MSAs were opened in 1997, according to the General Accounting Office (GAO). MSA advocates say the rules laid down by Congress are too restrictive and want the accounts to be available to a wider market. But critics fear that MSAs could siphon healthier individuals from the traditional insurance market. A GAO study on the effect of MSAs was canceled because not enough MSAs have been sold.

HOW MSAS WORK

Medical savings accounts are paired with high-deductible, low-premium health insurance policies.

THE HEALTH INSURANCE POLICY

Premiums on high-deductible policies are typically lower than most other forms of insurance. Employers offering MSAs can require workers to pay part of the premium.

For individual coverage, deductibles must be at least $1,500 but no more than $2,250. For family coverage, deductibles range between $3,000 and $4,500.

The policy might (but is not required to) have additional out-of-pocket costs, such as copayments for office visits. Maximum annual out-of-pocket expenses, including the deductible, are $3,000 for individuals and $5,500 for families.

THE MEDICAL SAVINGS ACCOUNT

DEPOSITS

Money deposited into the MSA, which is separate from the premiums paid on the health policy, can come from the individual or the employer, but not from both in the same year.

There's a limit to how much money can be put into an MSA each year. For individual coverage, up to 65 percent of the deductible amount can be contributed. For family coverage, the maximum goes up to 75 percent of the deductible.

Contributions made by individuals are tax-deductible. Contributions made by employers do not count toward gross income and are not subject to taxes.

Most MSA accounts earn interest similar to passbook savings accounts, but some MSA administrators offer the option to transfer money into money market accounts or mutual funds under certain conditions.

WITHDRAWALS

MSA contributions accrue and are not ''use it or lose it'' accounts. Individuals are not required to use MSA funds when paying deductible amounts under the insurance policy.

MSA dollars can be used to pay for qualified medical expenses, including doctor visits, prescription drugs, vision and dental care.

Withdrawals from MSAs for non-medical expenses are subject to a 15 percent tax penalty and are counted as gross income.

After the MSA account holder turns age 65, MSA funds can be used for any purpose and are not assessed the 15 percent penalty.

Mr. GRAMS. Clearly, Mr. President, MSAs offer many benefits for the uninsured. Let's lift the restrictions placed on MSAs and allow everyone to open a Medical Savings Account.

The Health Care Accessibility and Equity Act begins the process of dealing with our nation's long term care needs.

Mr. President, it is estimated that, in the history of the world, half of the people who have ever reached age 65 are alive today.

And as the babyboom generation ages, the population of those over age 65 will increase quicker than at any time in history.

The increase in the aged population brings with it a number of complex and vexing issues, one of which is long term care.

The Health Insurance Portability and Accountability Act tinkered slightly with the issue of long term care insurance, but we need to meet the issue head on.

The legislation Chairman ROTH, Senator ABRAHAM, and I are introducing today would eliminate the questions surrounding what constitutes a qualified versus non-qualified long term care plan and their tax treatment.

I have always believed we should encourage individuals to save for their retirement needs and, for a number of reasons, usually cost, long term care insurance is often overlooked during retirement planning.

Unfortunately, this often leads to individuals spending themselves down to poverty and relying on Medicaid. By allowing individuals to deduct the costs of long-term care insurance, we can prevent many of our elderly from impoverishing themselves in order to receive long-term care.

The Health Care Accessibility and Equity Act of 1999 is good policy and will begin to address the crisis of 43 million Americans without access to affordable health care insurance today. Most important, it levels the playing field for those who are purchasing health insurance individually.

I urge my colleagues to support this legislation and to help us get closer to the goal of health care access for all Americans.

Mr. ROTH. Mr. President, there is a serious inadequacy in the treatment of Americans who must pay for their health care on their own and those who receive it on a tax subsidized basis from their employers. In addition, our tax code restricts people from making health care decisions in a tax advantaged way. I am happy to join with my colleagues, Senator GRAMS of Minnesota and Senator ABRAHAM of Michigan in sponsoring the Health Care Access and Equity Act of 1999. Our bill would rectify this situation and provide a level playing field for all Americans who purchase their own health insurance and those who receive employer subsidized insurance. It will also give people more tax-advantaged options in how they use their health care dollars.

Let me explain the current unfairness of our tax code as it relates to health care insurance. Current law provides that any employer subsidy of health benefits is not included in the income of the employee. This means that if an employer pays the entire cost of health care insurance, that entire subsidy is not included in the employee's taxable income.

However, if the employer does not provide health care insurance for its employees or if the employee has to pay the full cost of the insurance, they do not get the same tax benefit as those who have all or a portion of their health care insurance paid for by their

employer. Those premiums that are not paid for by the employer can be deducted by the employee—but only to the extent that the total premium amount and other health care costs exceed 7.5% of the employee's adjusted gross income. What this effectively means is that these individuals are denied a tax effective way of paying for health insurance.

Self-employed individuals don't have an employer to cover their health insurance needs; they must pay for their health insurance on their own. Self-employed individuals can only deduct 60% of the amount of their health care premiums. This percentage will increase over time until the year 2003, when health care premiums will be fully deductible.

Our current tax code does not treat all taxpayers the same. Our bill changes this situation.

This bill provides that all taxpayers can fully deduct the amount paid for health insurance—as long as the taxpayer is not eligible to participate in an employer subsidized medical plan. This equalizes the tax treatment of paying for health insurance so that all individuals get a tax incentive when they have health care insurance, regardless of whether their employer pays for the coverage.

This amendment underscores the need to make health care more affordable for more Americans and to begin providing greater equity in the tax treatment of health insurance whether people obtain their coverage at their place of employment or purchase coverage in the individual health insurance market.

It is a sobering fact that there are over 41 million Americans without health insurance.

Largely as a result of the tax incentives I explained before, the number of people covered by employer-provided health insurance has grown from less than 12 million in 1940 to approximately 150 million today.

However, those who do not have tax-subsidized health care benefits do not fare as well. According to the Employee Benefit Research Institute, individuals who must pay for health coverage with after-tax dollars are 24 times more likely to be uninsured as those with employer-provided coverage.

With this change, all individuals who do not receive the employer-provided subsidies for health care insurance will not have the opportunity to have their taxes reduced because they purchased insurance.

This amendment will benefit approximately 12 million taxpayers who do not have health insurance that is subsidized by an employer.

Our bill also provides that more individuals will be able to have long term care insurance in a tax effective manner, by giving them a tax deduction for the payment of premiums for a long term care policy. Current law only allows a deduction for long term care premiums if those premiums, along with other medical expenses exceed 7.5% of adjusted gross income. With this bill, the entire amount of the long term care premium will be deductible. This will benefit at least 3.8 million taxpayers. Clearly more people will be able to prepare for their future needs by buying long term care insurance.

Another important provision of our bill is the expansion of the availability of medical Savings Accounts. MSAs gives individuals more choice in how they spend their health care dollars.

Current law restricts who can participate in an MSA and clearly these restrictions have limited who participate in this program. Our bill would lift these caps on this program and give people more reason to choose to be in an MSA.

Another important point to remember with MSAs is that they encourage those individuals who are not insured to become insured. When the General Accounting Office reviewed what has happened in the MSA market, they reported that approximately one third of those who participated in the MSA program had been previously uninsured. The MSA participated in the MSA program had been previously uninsured. The MSA program has been proven to increase those covered under a health plan; with this bill we expand the program so that more people will be insured.

Finally, our bill provides incentives for employees to contribute to flexible spending accounts. With a flexible spending account, an employee can contribute a portion of his salary—thereby reducing his taxable income—to a flexible spending account and then use the money in that account to pay for health care benefits, whether or not they are covered by his medical insurance. Increasing the availability of these FSAs, will give employees more freedom on how to spend their money when purchasing health care.

The policy behind our bill is clear—increased equity in the tax system for health care insurance and more choice for individuals in how they spend their health care dollars. I am happy to join my two distinguished colleagues—Senator GRAMS and ABRAHAM and the other Senators co-sponsoring this important health care legislation.

By Mr. KYL:

S. 1275. A bill to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund; to the Committee on Energy and Natural Resources.

HOOVER DAM MISCELLANEOUS SALES ACT

Mr. KYL. Mr. President, I rise today to introduce a bill to authorize the Bureau of Reclamation to produce commemorative items for sale at the Hoover Dam Visitor Center.

Mr. President, the Hoover Dam receives more than one million visitors a year. Many of those visitors have expressed an interest in purchasing books, maps, photos, and other memorabilia relating to the Colorado River and the design, construction, and operation of the Dam. This bill would authorize the production and sale of such items, including the minting of commemorative coins from scrap copper that came from electrical cabinets and boxes which were used when the Dam was manually operated. Four to five tons of copper are available for this purpose.

Mr. President, this bill not only responds to the public's demand for Hoover Dam-related items, it also creates a revenue source to help repay the cost of constructing the visitor center and of providing guided tours of the Dam and its power plant. Currently, purchasers of Hoover Dam power in Arizona, California, and Nevada are paying for the construction of the visitor center, which ended up costing approximately $125 million, nearly four times as much as the original estimate. This bill further authorizes the Bureau to select a private concessionaire to manage the gift shop selling these items, thereby creating a new business opportunity for a private or a non-profit entity. Thus, this bill would enhance the visitor experience at Hoover Dam in a taxpayer-friendly way.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1275

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 ''Hoover Dam Miscellaneous Sales Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the sale and distribution of general public information about the use of public land and water areas for recreation, fish, wildlife, and other purposes serve significant public benefits;

(2) publications and other materials educate the public and provide general information about Bureau of Reclamation programs and projects;

(3) in 1997, more than 1,000,000 visitors, including 300,000 from foreign countries, toured the Hoover Dam;

(4) hundreds of thousands of additional visitors stopped to view the dam;

(5) visitors often ask to purchase maps, publications, and other items to enhance their experience or serve educational purposes;

(6) in many cases the Bureau of Reclamation is the sole source of those items;

(7) the Bureau is in a unique position to fulfill public requests for those items; and

(8) as a public agency, the Bureau should be responsive to the public by having appropriate items available for sale.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to authorize the Secretary of the Interior to offer for sale to members of the public that visit the Hoover Dam Visitor Center educational materials and memorabilia; and

(2) to use revenue from those sales to repay the costs relating to construction of the Hoover Dam Visitor Center.

SEC. 4. AUTHORITY TO CONDUCT SALES.

With respect to the Hoover Dam, the Secretary of the Interior, acting through the Commissioner of Reclamation, may—

(1) conduct sales of—

(A) materials generated by the Bureau of Reclamation such as posters, maps, brochures, photographs, and similar publications, videotapes, and computer information discs that are related to programs or projects of the Bureau; and

(B) memorabilia and other commemorative items that depict programs or projects of the Bureau;

(2) convert unneeded property or scrap material into Bureau memorabilia for sale purposes; and

(3) enter into agreements with nonprofit organizations, other Federal agencies, State and local governments, and commercial entities for—

(A) the production or sale of items described in paragraphs (1) and (2); and

(B) the sale of publications described in paragraph (1).

SEC. 5. COSTS AND REVENUES.

(a) COSTS.—All costs incurred by the Bureau of Reclamation under this Act shall be paid from the Colorado River Dam fund established by section 2 of the Act of December 21, 1928 (43 U.S.C. 617a).

(b) REVENUES.—

(1) USE FOR REPAYMENT OF SALES COSTS.—All revenues collected by the Bureau of Reclamation under this Act shall be credited to the Colorado River Dam fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items in accordance with section 4.

(2) USE FOR REPAYMENT OF CONSTRUCTION COSTS.—All revenues collected by the Bureau of Reclamation under this Act that are not needed to pay costs described in paragraph (1) shall be transferred annually to the general fund of the Treasury in repayment of costs relating to construction of the Hoover Dam Visitor Center.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. CHAFEE, Mr. DASCHLE, Mr. SPECTER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Ms. LANDRIEU, Mr. REID, Mr. WYDEN, Mr. SARBANES, Mr. KERRY, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROBB, Mr. CLELAND, Mr. MOYNIHAN, Mr. SCHUMER, Mr. AKAKA, Mr. DURBIN, Mrs. BOXER, Mr. TORRICELLI, Mr. KERREY, Mr. LEVIN, Mr. FEINGOLD, Mr. BRYAN, Mrs. FEINSTEIN, and Mr. KOHL):

S. 1276. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

EMPLOYMENT NON-DISCRIMINATION ACT OF 1999

Mr. JEFFORDS. Mr. President, I am delighted to be here today to introduce the Employment Non-Discrimination Act of 1999 (ENDA). I am here today because I believe that the principles of equality and opportunity should be applied to all Americans and that success at work should be based on performance, not prejudice.

Unfortunately, qualified, hard-working Americans continue to be denied job opportunities based instead on sexual orientation. The Employment Non-Discrimination Act will help put an end to this insidious discrimination. By extending to sexual orientation the same federal employment discrimination protections established for race, religion, gender, national origin, age and disability, the Employment Non-Discrimination Act will further ensure that principals of equality and opportunity apply to all Americans.

This bill is about fairness, this bill is about equality, this bill is about basic civil rights. This bill must pass this Congress.

ENDA will achieve equal rights — not ''special rights'' — for gays and lesbians. This legislation prohibits preferential treatment based on sexual orientation. To remove any doubt, we have added language to expressly prohibit affirmative action on the basis of sexual orientation.

ENDA does not require an employer to justify a neutral practice that may have a statistically disparate impact based on sexual orientation, nor provide benefits for the same-sex partner of an employee. Rather, it simply protects a right that should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance on the job.

We took a fresh look at ENDA and we have made a number of constructive changes this year. We have re-written the discrimination section to more closely track Title VII of the Civil Rights Act of 1964. This new language has the benefit of 35 years of legal interpretation. Employers and courts alike understand this language and what is expected under it.

One concern that we have heard repeatedly during past debates is that this language will create a tidal wave of litigation. In Vermont, one of 11 states to have enacted a sexual-orientation anti-discrimination law, the legal waters have been more like the Tidal Basin. In the 9 years since the enactment of Vermont's law, Vermont's Attorney General has initiated only 25 investigations of alleged sexual orientation discrimination.

Vermont is not unique. According to the GAO, none of the states with ENDA-type laws have experienced a wave of litigation. Instead, these states have ensured that employees working within their borders cannot be discriminated against for being gay.

As I have stated before, success at work should be directly related to one's ability to do the job, period. We first introduced ENDA in 1994. Over the past six years, we have held hearings, listened to the concerns raised and revised this legislation to respond to those concerns. I am pleased to report that it was worth the effort because The Employment Non-Discrimination Act of 1999 is the best bill we have ever introduced. The time has come to make the Employment Non-Discrimination Act the law of the land.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1276

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 ''Employment Non-Discrimination Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, or joint labor-management committee.

(3) EMPLOYER.—The term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 401 of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights of 1964 (42 U.S.C. 2000e–16(a)) applies.

(4) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—Except as provided in section 10(a)(1), the term ''employment or an employment opportunity'' includes job application procedures, referral for employment, hiring, advancement, discharge, compensation, job training, a term, condition, or privilege of union membership, or any other term, condition, or privilege of employment, but does not include the service of a volunteer for which the volunteer receives no compensation.

(6) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) RELIGIOUS ORGANIZATION.—The term ''religious organization'' means—

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if—

(i) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(9) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

(10) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

SEC. 4. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's sexual orientation; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of such individual's sexual orientation.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the sexual orientation of the individual or to classify or refer for employment any individual on the basis of the sexual orientation of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the sexual orientation of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee or as an applicant for employment, because of such individual's sexual orientation; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the sexual orientation of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the sexual orientation of a person with whom the individual associates or has associated.

(f) DISPARATE IMPACT.—Notwithstanding any other provision of this Act, the fact that an employment practice has a disparate impact, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

SEC. 5. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual's having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 6. BENEFITS.

This Act does not apply to the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

SEC. 7. COLLECTION OF STATISTICS PROHIBITED.

The Commission shall not collect statistics on sexual orientation from covered entities, or compel the collection of such statistics by covered entities.

SEC. 8. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) ORDERS AND CONSENT DECREES.—Notwithstanding any other provision of this Act, an order or consent decree entered for a violation of this Act may not include a quota, or preferential treatment to an individual, based on sexual orientation.

SEC. 9. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to a religious organization.

(b) UNRELATED BUSINESS TAXABLE INCOME.—This Act shall apply to employment or an employment opportunity for an employment position of a covered entity that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 10. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—In this Act, the term ''employment or an employment opportunity'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1), the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

SEC. 11. CONSTRUCTION.

Nothing in this Act shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

SEC. 12. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to

administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title;

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this Act, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) PROHIBITION OF AFFIRMATIVE ACTION—Notwithstanding any other provision of this section, affirmative action for a violation of this Act may not be imposed. Nothing in this section shall prevent the granting of relief to any individual who suffers a violation of such individual's rights provided in this Act.

SEC. 13. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in a Federal court of competent jurisdiction for a violation of this Act.

(b) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States or a State for a violation of this Act, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

SEC. 14. ATTORNEYS' FEES.

Notwithstanding any other provision of this Act, in an action or administrative proceeding for a violation of this Act, an entity described in section 12(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs. The Commission and the United States shall be liable for the costs to the same extent as a private person.

SEC. 15. POSTING NOTICES.

A covered entity who is required to post notices described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10) shall post notices for employees, applicants for employment, and members, to whom the provisions specified in section 12(b) apply, that describe the applicable provisions of this Act in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964.

SEC. 16. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this Act with respect to employees of the Library of Congress.

(c) BOARD.—The Board referred to in section 12(a)(3) shall have authority to issue regulations to carry out this Act, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this Act with respect to covered employees, as defined in section 401 of title 3, United States Code.

SEC. 17. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 18. SEVERABILITY.

If any provision of this Act, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

SEC. 19. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

Mr. KENNEDY. Mr. President, I am proud to stand with Senator JEFFORDS, Senator LIEBERMAN, Congressman FRANK, and Congressman SHAYS to announce the introduction of the Employment Non-Discrimination Act of 1999, which has over 30 co-sponsors in the Senate and over 150 co-sponsors in the House of Representatives. Once this bill becomes law, it will ensure that all Americans have the opportunity to work without fear of reprisal because of their sexual orientation. It is the next important step for civil rights in America.

This country has made great progress toward fairness and an end to bigotry in the workplace. Title VII of the Civil Rights Act of 1964 ensures that Americans—without regard to their race, ethnic background, gender, or religion—have the opportunity to obtain and keep a job. The Minimum Wage guarantees a basic standard of living. The Family and Medical Leave Act guarantees that working men and women can balance important family and employment responsibilities without fear of reprisal by their employer. The Americans with Disabilities Act establishes important protections for workers with disabilities.

Now, Congress must take steps to achieve the same kind of fairness for gay men and lesbians who encounter blatant discrimination in the workplace. The Employment Non-Discrimination Act will accomplish that goal by prohibiting employers from using sexual orientation as a basis for hiring, firing, promotion, or compensation.

The bill is important for what it does, as well as what it doesn't do. It does not require domestic partnership benefits. It does not authorize ''disparate impact'' claims. It does not apply to the Armed Services. It contains a broad exemption of religious organizations. It prohibits quotas and preferential treatment, and bars the EEOC from requiring the collection of statistical information on sexual orientation.

A broad coalition of churches, businesses, and civil rights liberties organizations support the Employment Non-Discrimination Act. 68 percent of Americans from all regions of the country support its passage.

The American people agree that workplace discrimination is wrong, and that clear protections are needed to prevent it. Some states already have such laws, and many businesses have policies similar to our proposal. But this patchwork of protection is inadequate. A national standard is essential for the protection of this basic right.

The discrimination that exists today is a stain on our democracy.

David Horowitz encountered this bigotry when he applied to be an Assistant City Attorney in Mesa, Arizona. He had graduated near the top of his law school class at the University of Arizona. While employed by a private law firm, he applied for a position with the City Attorney. He was not offered a position, but he was told he was the second choice. Six months later, he was called and interviewed for another job opening. The City Attorney asked David for references and told him that,

''I only ask for references when I'm ready to make someone an offer.'' In the interview, David told the City Attorney that he was openly gay, and the tone of the interview suddenly changed. David was told that his sexual orientation posed a problem, and three weeks later he received a rejection letter.

What happened to David Horowitz was wrong, but he had no recourse under State or Federal law against this blatant discrimination. No American should be denied a chance to work because of prejudices. It is long past time to close this loophole in our civil rights law, and I urge the Congress to act this year to close it.

Mr. LIEBERMAN. Mr. President, I am delighted to join with Senators JEFFORDS, KENNEDY and over 30 of our colleagues as an original cosponsor of this important legislation, the Employment Non-Discrimination Act of 1999. By guaranteeing that American workers cannot lose their jobs simply because of their sexual orientation, this bill would extend the bedrock American values of fairness and equality to a group of our fellow citizens who too often have been denied the benefit of those most basic values.

Our nation's foundational document, the Declaration of Independence, expressed a vision of our country as one premised upon the essential equality of all people and upon the recognition that our Creator endowed all of us with the inalienable rights to life, liberty and the pursuit of happiness. Two hundred and twenty-three years ago, when that document was drafted, our laws fell far short of implementing the Declaration's ideal. But since that time, we have come ever closer, extending by law to more and more of our citizens—to African Americans, to women, to disabled Americans, to religious minorities and to others—a legally enforceable guarantee that, with respect to their ability to earn a living at least, they will be treated on their merits and not on characteristics unrelated to their ability to do their jobs.

It is time to extend that guarantee to gay men and lesbians, who too often have been subject to incidents of discrimination and denied the most basic of rights: the right to obtain and maintain a job. A collection of one national survey and twenty city and state surveys found that as many as 44 percent of gay, lesbian and bisexual workers faced job discrimination in the workplace at some time in their careers. Other studies have reported even greater discrimination—as much as 68 percent of gay men and lesbians reporting employment discrimination. The fear in which these workers live was clear from a survey of gay men and lesbians in Philadelphia. Over three-quarters told those conducting the survey that they sometimes or always hide their orientation at work out of fear of discrimination.

The toll this discrimination takes extends far beyond its effect on those individuals who must live in fear and without full employment opportunities. It also takes an unacceptable toll on America's definition of itself as a land of equality and opportunity, as a place where we judge each other on our merits, and as a country that teaches its children that anyone can succeed here as long as they are willing to do their job and work hard.

This bill provides for equality and fairness—that and no more. It says only what we already have said for women, for people of color and for others: that you are entitled to have your ability to earn a living depend only on your ability to do the job and nothing else. In fact, the bill would even do somewhat less than it does for women and people of color, because it would not give gay men and women all of the protections we currently provide to other groups protected under our civil rights laws.

Mr. President, this bill would bring our nation one large step closer to realizing the vision that Thomas Jefferson so eloquently expressed 223 years ago when he wrote that all of us have a right to life, liberty and the pursuit of happiness. I urge my colleagues to join me in supporting this important legislation.

Mrs. MURRAY. Mr. President, I am very pleased to join Senator JEFFORDS as he reintroduces the Employment Non-Discrimination Act. As before, I speak as a strong supporter of this legislation, because I have always believed that every single American deserves fair treatment under the law no matter his or her gender, race, religion or sexual orientation.

As one of only a few women to ever serve in the United States Senate, and the first ever from Washington state, I understand what it means to be part of a group that seeks fairness and equal opportunity. I have never advocated for any special class, just equal treatment and protection under the law.

Not long ago, many thought it would be impossible for women to serve in the Senate or an elected office of any kind. It was felt this was not a suitable occupation for a woman and that simply being a woman meant a person was incapable of meeting the demands of the job. These people alleged that women would somehow jeopardize the work done in the U.S. Congress. While these statements may seem impossible to believe today, they do illustrate what many women faced. However, to our country's benefit, these stereotypes were overcome. I am confident that none of my colleagues today would deny the tremendous contributions women have made here, in the House, in state and local government, and at every level of public service.

People suffer when stereotypes based on fear or ignorance are used to justify discrimination. I do not believe elected leaders serve our country well if they deny any citizen equal opportunities and equal treatment under the law. A person's success or failure must depend on his or her qualifications, skills, efforts, and even luck. But, no one, I repeat, no one, should be denied opportunities because of race, gender, religion, age or sexual orientation. No one should endure discrimination such as many people have endured in the workplace because of sexual orientation.

I am always disappointed to hear about cases of economic discrimination based solely on sexual orientation. It defies logic that in today's society any employer could refuse to hire an individual, deny them equal pay, or professional advancement and subject them to harassment simply because of their sexual orientation. Our country is based on the ideal of allowing equal opportunity and basic civil rights for all Americans, but we have not fully achieved this goal. The Employment Non-Discrimination Act will correct that wrong.

As we would all agree, discrimination based on race, gender, ethnic origin, or religion is not just unfair, but illegal as well. ENDA would simply add sexual orientation to this list. It is written even more narrowly than current law for other areas of non-discrimination, because it does not allow positive corrective actions such as quotas or other preferential treatment. It simply says that a person cannot be unfairly treated in employment, based on his or her sexuality, whether that person is heterosexual or homosexual. Mr. President, this is a reasonable expectation. In fact, it has become a reality in nine states, including California, Massachusetts, and Minnesota, and in many local jurisdictions across the country. Also, many Fortune 500 companies, such as Microsoft and IBM, have adopted their own non-discrimination policies. Companies such as these recognize that it makes good business sense to value each and every one of their employees equally. It is time that our laws reflect these values as well.

Not only do these companies and governments support a non-discrimination policy in the workplace, but the public also supports ENDA by a wide margin, according to a bipartisan 1998 poll conducted for the Human Rights Campaign. This poll found that 58 percent of Americans support the Employment Non-Discrimination Act. This is compelling evidence that Americans are behind ENDA, support expanding these basic civil rights to all, and believe that everyone deserves these rights. They understand that our country will be a better place when discrimination based on sexual orientation in the workplace is put to an end.

Mr. President, this is not about one group's protection at another's expense. This issue is still not about allowing a greater window for litigation,

as opponents have previously argued. It is about common sense, common decency and our fundamental values as Americans.

In the last Congress, we came within one vote of adopting this important, bipartisan legislation. I urge my colleagues now to support this measure so that we can continue our proud tradition of protecting basic civil rights and opportunity for all Americans. Let us join together to pass this bill so that our brothers and sisters, sons and daughters, friends and relatives will have protection against unjust discrimination. We have the opportunity to provide them with these basic civil rights now. I hope my colleagues will seize this opportunity to make our country the just, equal, and fair place it should be.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. CONRAD, Mr. HARKIN, and Mr. ROBB):

S. 1277. A bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics; to the Committee on Finance.

SAFETY NET PRESERVATION ACT OF 1999

• Mr. GRASSLEY. Mr. President, I rise today to introduce a bill co-sponsored by Senator BAUCUS to preserve hundreds of community health centers and rural health clinics across the country. Our bill, The Safety Net Preservation Act of 1999, would remedy a phase-out of the payment system that covers the clinics' cost of caring for Medicaid patients. Congress approved the phase-out of cost-based reimbursement during the Balanced Budget Act of 1997.

The phase-out was meant to save Medicaid money and respond to those who felt cost-based reimbursement imposed an expensive mandate on states. Scheduled to begin on October 1, the phase-out will force the clinics to use scarce federal grants intended to provide care for the uninsured to prop up Medicaid under-payments. The change could force health centers to lose as much as $1.1 billion over the next five years.

Our bill would establish a prospective payment system to ensure that health centers and clinics receive sufficient Medicaid funding. The bill would protect the federal investment in health centers while giving states the flexibility to design their own payment systems for health centers and clinics.

There's no doubt that community health centers and rural health clinics serve a unique and essential role in getting high-quality health care services to those in need. They are the backbone of America's health care infrastructure for millions of medically under-served rural and urban communities, where access to health care is often limited. I've seen first hand the valuable services provided by these centers and the obstacles the providers overcome to do so. Last year, I visited a center in Des Moines. They serve patients who speak nine different languages. In many cases, these clinics are often the difference between seeing a doctor and forgoing treatment. We can't allow money shortfalls to force them to shut down. We have to preserve this safety net for millions of Americans.

I am pleased for the support of Senators MURKOWSKI, ROCKEFELLER, CONRAD, ROBB and HARKIN as original co-sponsors of The Safety Net Preservation Act of 1999. I look forward to passage of this important legislation in the 106th Congress.•

By Mr. KERREY (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1279. A bill to improve the environmental quality and public use and appreciation of the Missouri River and to provide additional authority to the Army Corps of Enginees to protect, enhance, and restore fish and wildlife habitat on the Missouri River; to the Committee on Environment and Public Works.

MISSOURI RIVER VALLEY IMPROVEMENT ACT OF 1999

• Mr. KERREY. Mr. President, I am pleased to introduce today, along with my colleagues Senator DASCHLE and Senator JOHNSON, the Missouri River Valley Improvement Act of 1999. This legislation is important for the 10,000 people who live along the 2,321-mile Missouri River, and marks also the upcoming bicentennial anniversary of the Lewis and Clark expeditions along this great River. The intent of the Act is to improve the environmental qualtiy and public use and appreciation of the Missouri River, and to provide additional authorities to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat as part of their ongoing operations on the River.

The Missouri River is a resource of incalculable value to the 10 states which it traverses, but it is a river that has changed dramatically since the pioneering days of Lewis and Clark. The construction of dams and levees over the past 50 years has aided navigation, flood control, and water supply along the Missouri River, but has also reduced habitat for native river fish and wildlife, and resulted in lost opportunities for recreation on the river.

The legislation will help to restore a series of nature areas along the river in time to celebrate the 2004 anniversary of the Lewis and Clark, when we are anticipating greatly increased visitation along the river and to the surrounding areas, due in large part to the records and descriptions as detailed by these explorers on their 1804 trip.

The bill will also aid native river fish and wildlife, help to restore cottonwoods along the river, reduce flood losses, and enhance recreation and tourism, all vital to the economies and quality of life to our communities along the river. It additional provides authorities for the revitalization of historic riverfronts, similar to the ongoing 'Back to the River' revitalization project currently underway in my home state of Nebraska. The Back of the River Project in Nebraska is bringing our families and our businesses back to the Missouri River, for recreational enjoyment as well as for the commercial and business-related opportunities that follow. It is our hope that this will aid other communities to participate in similar efforts in their riverfronts.

Another major provision of this bill is the creation of a long-term, science-based monitoring program on the Missouri River. This program, to be developed and operated through the U.S. Geological Survey-Biological Resources Division in Columbia, Missouri, will monitor the physical, biological, and chemical characteristics of the Missouri River. The program will help us to monitor and assess the quality of biota, habitats, and the water itself in this great river, and to provide information that will enhance our understanding of the Missouri, how it is operated, and how future operation decisions may affect the river.

We currently do not understand a lot about the river, beyond the physical and some of the habitat-based impacts that have been caused by channelization. This program will create a publicly-accessible database of all the information we do have on the river, and all that is collected through the project, and will help to guide our management of the river in the future. The database will also provide additional opportunities for the people who live along the river to interact with the river in another way, and to learn more about the river that they live near.

I have seen how successful educational opportunities related to the River can be, and how excited and involved children and adults get when they learn about and become more involved with their natural resources. The Fontenelle Forest Association in Nebraska, which contains forests and wetlands, and is along the Missouri River, has hands-on exhibits, live animal displays, teaching spaces, and even meeting spaces for Nebraskans. Ken Finch, the Executive Director of the Fontenelle Forest Association, has been instrumental in providing educational programs and opportunities, including a program called H2Omaha, a multi-faceted science education program which uses the Missouri River and its watershed as a living laboratory. I envision that the Missouri River database created by this Improvement Act will greatly expand information and data available to Ken and the participants at Fontenelle Forest, and I

know that other communities will find this resource valuable, as well.

I have also seen successful restoration efforts on the river—efforts like Boyer Chute and Hamburg Bend in Nebraska—both side channels created with the aid of the Corps of Engineers. These side channels have been enormously successful in restoring lost habitat for river species by creating slower-moving, more shallow waterways parallel to the river. These restoration areas have attracted not just wildlife, such as the native fish and birds and even river otter that historically lived in large numbers on the Missouri, but have also attracted canoeists and hikers who enjoy the scenic beauty and the recreational opportunities that these sites offer. This bill will help communities to create additional restoration projects like this along the river, projects that will not impact existing uses of the river, but that will add immensely to recreational and wildlife opportunities, and that will also add additional flood protection to surrounding communities.

In anticipation of the greatly increased visitation along the river that will occur with the Lewis and Clark bicentennial celebration, the bill additionally will establish Lewis and Clark Interpretive Centers to educate the public about the Missouri River, and will allow the Corps of Engineers to provide enhancements to recreational facilities and visitors centers.

Mr. President, I urge my colleagues who represent the states and communities along the Missouri River to look closely at this bill, and to join me and the other cosponsors of the bill in supporting this important legislation. The Missouri River Valley Improvement Act of 1999 will help to restore and improve our access and enjoyment of the river, and will provide vital economic, recreational, and educational opportunities for everyone who lives along and visits this great river, the Crown Jewel of the midwest.●

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mr. CLELAND):

S. 1281. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies.

THE SAFE FOOD ACT

Mr. DURBIN. Mr. President, today I am introducing legislation that would replace the current fragmented federal food safety system with a single, independent agency responsible for all federal food safety activities—the Safe Food Act of 1999 (S. 1281). I am pleased to be joined by Senators TORRICELLI, MIKULSKI, and CLELAND in this important effort.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world. However, we can do better. Foodborne illness is a significant problem.

The safety of our nation's food supply is facing tremendous pressures with regard to emerging pathogens, an aging population with a growing number of people at high risk for foodborne illnesses, broader food distribution patterns, an increasing volume of food imports, and changing consumption patterns.

The General Accounting Office (GAO) estimates that as many as 81 million people will suffer food poisoning this year and more than 9,000 will die. Children and the elderly are especially vulnerable. In terms of medical costs and productivity losses, foodborne illness costs the nation up to $37 billion annually. The situation is not likely to improve without decisive action. The Department of Health and Human Services predicts that foodborne illnesses and deaths will increase 10–15 percent over the next decade.

In 1997, a Princeton Research survey found that 44 percent of Americans believe the food supply in this country is less safe than it was 10 years ago. American consumers spend more than $617 billion annually on food, of which about $511 billion is spent on foods grown on U.S. farms. Our ability to assure that the safety of our food and to react rapidly to potential threats to food safety is critical not only for public health, but also to the vitality of both domestic and rural economies and international trade.

Many of you are probably following the dioxin crisis in Belgium. Days before the national elections poultry, eggs, pork, beef, and dairy products were withdrawn from supermarket shelves. Butcher shops closed and livestock farms were quarantined. Since then countries, worldwide, have restricted imports of eggs, chickens, and pork from the European Union. Public outrage in Belgium over the dioxin scandal led to a disastrous showing by the ruling party in the national and European elections on June 14, and the government was forced to resign. Food safety concerns and fears are global.

Today, food moves through a global marketplace. This was not the case in the early 1900's when the first federal food safety agencies were created. Throughout this century, Congress responded by adding layer upon layer—agency upon agency—to answer the pressing food safety needs of the day. That's how the federal food safety system got to the point where it is today. And again as we face increasing pressures on food safety, the federal government must respond. But we must respond not only to these pressures but also to the very fragmented nature of the federal food safety structure.

Fragmentation of our food safety system is a burden that must be changed to protect the public health from these increasing pressures. Currently, there are at least 12 different federal agencies, 35 different laws governing food safety, and 28 House and Senate subcommittees with food safety oversight. With overlapping jurisdictions, federal agencies often lack accountability on food safety-related issues.

Last August, the National Academy of Sciences (NAS) released a report recommending the establishment of a ''unified and central framework'' for managing federal food safety programs, ''one that is headed by a single official and which has the responsibility and control of resources for all federal food safety activities.'' I agree with this conclusion.

The Administration has stepped forward on the issue of food safety—the President's Food Safety Initiatives and the President's Council on Food Safety have focused efforts to track and prevent microbial foodborne illnesses. I commend President Clinton and Secretaries Glickman and Shalala for their commitment to improving our nation's food safety and inspection systems. Earlier this year in response to the NAS report, the President's Council on Food Safety stated its support for the NAS recommendation calling for a new statute that establishes a unified framework for food safety programs with a single official with control over all federal food safety resources.

An independent single food safety agency is needed to replace the current, fragmented system. My proposed legislation would combine the functions of USDA's Food Safety and Inspection Service, FDA's Center for Food Safety and Applied Nutrition and the Center for Veterinary Medicine, the Department of Commerce's Seafood Inspection Program, and the food safety functions of other federal agencies. This new, independent agency would be funded with the combined budgets from these consolidated agencies.

With overlapping jurisdictions, federal agencies many times lack accountability on food safety-related issues. There are simply too many cooks in the kitchen. A single, independent agency would help focus our policy and improve enforcement of food safety and inspection laws.

The General Accounting Office has been unequivocal in its recommendation for consolidation of federal food safety programs. GAO's April 1998 report states that ''since 1992, we have frequently reported on the fragmented and inconsistent organization of food safety responsibilities in the federal government.'' In a May 25, 1994 report, GAO cites that its ''testimony is based on over 60 reports and studies issued over the last 25 years by GAO, agency Inspectors General, and others.'' The Appendix to the 1994 GAO report lists: 49 reports since 1977, 9 USDA Office of

Inspector General reports since 1986, 1 HHS Office of Inspector General report in 1991, and 15 reports and studies by Congress, scientific organizations, and others since 1981.

Again, earlier this year, GAO in its 21-volume report on government waste, pointed to the lack of coordination of the federal food safety efforts as an example. ''So many cooks are spoiling the broth,'' says the GAO while highlighting the absurdity of having one federal agency inspecting frozen meat pizza and another inspecting frozen cheese pizza.

Over 20 years ago, the Senate Committee on Governmental Affairs advised that consolidation is essential to avoid conflicts of interest and overlapping jurisdictions. In a 1977 report the committee stated, ''While we support the recent efforts of FDA and USDA to improve coordination between the agencies, periodic meetings will not be enough to overcome [these] problems.'' This statement is just as true today as it was then.

It's time to move forward. Let us stop using multiple federal agencies to inspect pizza. Instead let us ''deliver'' what makes sense—a single, independent food safety agency.

A single, independent agency with uniform food safety standards and regulations based on food hazards would provide an easier framework for implementing U.S. standards in an international context. When our own agencies don't have uniform safety and inspection standards for all potentially hazardous foods, the establishment of uniform international standards will be next to impossible.

Research could be better coordinated within a single agency than among multiple programs. Currently, federal funding for food safety research is spread over at least 20 federal agencies, and coordination among those agencies is ad hoc at best.

New technologies to improve food safety could be approved more rapidly with one food safety agency. Currently, food safety technologies must go through multiple agencies for approval, often adding years of delay.

In this era of limited budgets, it is our responsibility to modernize and streamline the food safety system. The U.S. simply cannot afford to continue operating multiple systems. This is not about more regulation, a super agency, or increased bureaucracy, it's about common sense and more effective marshaling of our existing federal resources.

With the incidence of food recalls on the rise, it is important to move beyond short-term solutions to major food safety problems. A single, independent food safety and inspection agency could more easily work toward long-term solutions to the frustrating and potentially life-threatening issue of food safety.

Mr. President, together, we can bring the various agencies together to eliminate the overlap and confusion that have, unfortunately, at times characterized our food safety efforts. We need action, not simply reaction. I encourage my colleagues to join me in this effort to consolidate the food safety and inspection functions of numerous agencies and offices into a single, independent food safety agency.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1281

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Safe Food Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Establishment of independent Food Safety Administration.
Sec. 5. Consolidation of separate food safety and inspection services and agencies.
Sec. 6. Additional authorities of the Administration.
Sec. 7. Limitation on authorization of appropriations.
Sec. 8. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The safety and security of the food supply of the United States requires efficient and effective management of food safety regulations.

(2) The safety of the food supply of the United States is facing tremendous pressures with regard to the following issues:

(A) Emerging pathogens and the ability to detect them.

(B) An aging population with a growing number of people at high risk for foodborne illnesses.

(C) An increasing volume of imported foods, without adequate monitoring and inspection.

(D) Maintenance of adequate inspection of the domestic food processing and food service industry.

(3) Federal food safety inspection, enforcement, and research efforts should be based on scientifically supportable assessments of risks to public health.

(4) The Federal food safety system is fragmented, with at least 12 primary Federal agencies governing food safety.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a single agency, the Food Safety Administration, that will be responsible for the regulation of food safety and labeling and for conducting food safety inspections to ensure, with reasonable certainty, that no harm will result from the consumption of food, by preventing food-borne illnesses due to microbial, natural, or chemical hazards in food; and

(2) to transfer to the Food Safety Administration the food safety, labeling, and inspection functions currently performed by other Federal agencies, to achieve more efficient management and effective application of Federal food safety laws for the protection and improvement of public health.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Food Safety Administration established under section 4.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of Food Safety appointed under section 4.

(3) FOOD SAFETY LAWS.—The term ''food safety laws'' means the following:

(A) The Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(B) The Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

(C) The Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

(D) The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), with regard to food safety, labeling, and inspection under that Act.

(E) Such other laws and portions of laws regarding food safety, labeling, and inspection as the President may designate by Executive order as appropriate to consolidate under the administration of the Administration.

SEC. 4. ESTABLISHMENT OF INDEPENDENT FOOD SAFETY ADMINISTRATION.

(a) ESTABLISHMENT OF ADMINISTRATION; ADMINISTRATOR.—There is established in the executive branch an agency to be known as the ''Food Safety Administration''. The Administration shall be an independent establishment, as defined in section 104 of title 5, United States Code. The Administration shall be headed by the Administrator of Food Safety, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Administrator shall administer and enforce the food safety laws for the protection of the public health and shall oversee the following functions of the Administration:

(1) Implementation of Federal food safety inspection, enforcement, and research efforts, based on scientifically supportable assessments of risks to public health.

(2) Development of consistent and science-based standards for safe food.

(3) Coordination and prioritization of food safety research and education programs with other Federal agencies.

(4) Coordination of the Federal response to foodborne illness outbreaks with other Federal agencies and State agencies.

(5) Integration of Federal food safety activities with State and local agencies.

SEC. 5. CONSOLIDATION OF SEPARATE FOOD SAFETY AND INSPECTION SERVICES AND AGENCIES.

(a) TRANSFER OF FUNCTIONS.—For each Federal agency specified in subsection (b), there are transferred to the Administration all functions that the head of the Federal agency exercised on the day before the effective date specified in section 8 (including all related functions of any officer or employee of the Federal agency) that relate to administration or enforcement of the food safety laws, as determined by the President.

(b) COVERED AGENCIES.—The Federal agencies referred to in subsection (a) are the following:

(1) The Food Safety and Inspection Service of the Department of Agriculture.

(2) The Center for Food Safety and Applied Nutrition of the Food and Drug Administration.

(3) The Center for Veterinary Medicine of the Food and Drug Administration.

(4) The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the Department of Commerce as it relates to the Seafood Inspection Program.

(5) Such other offices, services, or agencies as the President may designate by Executive order to further the purposes of this Act.

(c) TRANSFER OF ASSETS AND FUNDS.—Consistent with section 1531 of title 31, United States Code, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds that relate to the functions transferred under subsection (a) from a Federal agency shall be transferred to the Administration. Unexpended funds transferred pursuant to this subsection shall be used by the Administration only for the purposes for which the funds were originally authorized and appropriated.

(d) REFERENCES.—After the transfer of functions from a Federal agency under subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or other material to that Federal agency or the head of that agency in connection with the administration or enforcement of the food safety laws shall be deemed to be a reference to the Administration or the Administrator, respectively.

(e) SAVINGS PROVISIONS.—The transfer of functions from a Federal agency under subsection (a) shall not affect—

(1) an order, determination, rule, regulation, permit, agreement, grant, contract, certificate, license, registration, privilege, or other administrative action issued, made, granted, or otherwise in effect or final with respect to that agency on the day before the transfer date with respect to the transferred functions; or

(2) any suit commenced with regard to that agency, and any other proceeding (including a notice of proposed rulemaking), or any application for any license, permit, certificate, or financial assistance pending before that agency on the day before the transfer date with respect to the transferred functions.

SEC. 6. ADDITIONAL AUTHORITIES OF THE ADMINISTRATION.

(a) OFFICERS AND EMPLOYEES.—The Administrator may appoint officers and employees for the Administration in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service, and fix the compensation of the officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Administrator may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, and pay in connection with the services travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of such title.

(c) BUREAUS, OFFICES, AND DIVISIONS.—The Administrator may establish within the Administration such bureaus, offices, and divisions as the Administrator may determine to be necessary to discharge the responsibilities of the Administration.

(d) RULES.—The Administrator may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules as the Administrator determines to be necessary or appropriate to administer and manage the functions of the Administrator.

SEC. 7. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.

For the fiscal year that includes the effective date of this Act, the amount authorized to be appropriated to carry out this Act shall not exceed—

(1) the amount appropriated for that fiscal year for the Federal agencies described in section 5(b) for the purpose of administering or enforcing the food safety laws; or

(2) the amount appropriated for these agencies for such purpose for the preceding fiscal year, if, as of the effective date of this Act, appropriations for these agencies for the fiscal year that includes the effective date have not yet been made.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the earlier of—

(1) the date that is 180 days after the date of the enactment of this Act; and

(2) such date during that 180-day period as the President may direct in an Executive order.

By Mr. NICKLES:

S. 1284. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

Mr. NICKLES. Mr. President, I rise today to introduce the Electric Consumer Choice Act. For the last three years hearings and workshops have been held in both the House and Senate examining the issue of restructuring the electric industry. Many bills have been introduced on this issue by both Congressmen and Senators, some comprehensive and some dealing with more discreet issues such as repeal of the Public Utility Holding Company (PUHCA) or repeal of the Public Utility Regulatory Policies Act of 1978 (PURPA). The bill that I am introducing today cuts to the heart of the issue: do we or don't we support allowing consumers to choose their electric supplier? Do we or don't we support a national competitive market in electricity? I believe the answer to these questions is a resounding ''yes''! I believe competition is good, that free markets work and that every American will benefit from a competitive electric industry.

The Electric Consumer Choice Act is intended to begin the process of achieving a national, competitive electricity market. It achieves this in a simple, straight-forward method. Primarily, it eliminates electric monopolies by prohibiting the granting of exclusive rights to sell to electric utilities. It prohibits undue discrimination against consumers purchasing electricity in interstate commerce. It provides for access to local distribution facilities and it allows a state to impose reciprocity requirements on out-of-state utilities. The bill before you today also includes a straight repeal of PUHCA and the prospective repeal of the mandatory purchase provisions of PURPA. The bill also makes it clear that nothing in this act expands the authority of the Federal Energy Regulatory Commission (FERC) or limits the authority of a state to continue to regulate retail sales and distribution of electric energy in a manner consistent with the Commerce Clause of the United States Constitution.

The premise of this bill is that all attributes of today's electric energy market—generation, transmission, distribution and both wholesale and retail sales—are either in or affect interstate commerce. Therefore, any State regulation of these attributes that unduly discriminates against the interstate market for electric power violates the Commerce Clause unless such State action is protected by an act of Congress.

The Supreme Court has interpreted Part II of the Federal Power Act (FPA) as protecting State regulation of generation, local distribution, intrastate transmission and retail sales that unduly discriminates against the interstate market for electric power. The Court has reasoned that Congress, in the FPA, determined that the federal government needed only to regulate wholesale sales and interstate transmission in order to adequately protect interstate commerce in electric energy. Thus, all other aspects of the electric energy market were reserved to the States and protected from challenges under the Commerce Clause. The Electric Consumer Choice Act amends the FPA to eliminate the protection provided for State regulation that establishes, maintains, or enforces an exclusive right to sell electric energy or that unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce.

This bill provides consumers and electric energy suppliers with the means to achieve retail choice in all States by January 1, 2002. It does not impose a federal statutory mandate on the States. It does not preempt the States' traditional jurisdiction to regulate the aspects of the electric power market in the reserved realm—generation, local distribution, intrastate transmission, or retail sales—it merely limits the scope of what the States can do in that realm. It does not expand or extend FERC jurisdiction into the aspects of traditional State authority.

As I stated earlier, this bill is intended to provide every consumer a choice when it comes to electricity suppliers. It is intended to be the beginning, not the end of the process. There are many other issues that need to be addressed at the federal level to facilitate a national market for electricity. Some of these issues include taxation differences between various electric providers, clarification of jurisdiction over transmission, ensuring

reliability, providing for inclusion of the Power Marketing Administrations and the Tennessee Valley Authority in a national market, and other issues that can only be addressed at the Federal level. These issues need to be addressed and should be addressed. But while these issues are being debated we should ensure that progress towards customer choice proceeds.

I am proud to say that my state of Oklahoma has been in the forefront of opening up it's electricity markets to competition. Nineteen other states have also moved to open their markets. It is my hope that the Electric Consumer Choice Act will facilitate this process nationally. To that end, I am introducing this bill today.

Mr. President, I ask unanimous consent that the Electric Consumer Choice Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1284

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 ''Electric Consumer Choice Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(a) the opportunity for all consumers to purchase electric energy in interstate commerce from the supplier of choice is essential to a dynamic, fully integrated and competitive national market for electric energy;

(b) the establishment, maintenance or enforcement of exclusive rights to sell electric energy and other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice constitutes an unwarranted and unacceptable discrimination against and burden on interstate commerce;

(c) in today's technologically driven marketplace there is no justification for the discrimination against and burden imposed on interstate commerce by exclusive rights to sell electric energy or other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice; and,

(d) the electric energy transmission and local distribution facilities of all of the nation's utilities are essential facilities for the conduct of a competitive interstate retail market in electric energy in which all consumers have the opportunity to purchase electric energy in interstate commerce from the supplier of their choice.

SEC. 3. DECLARATION OF PURPOSE.

The purpose of this act is to ensure that nothing in the Federal Power Act or any other federal law exempts or protects from Article I, Section 8, Clause 3 of the Constitution of the United States exclusive rights to sell electric energy or any other State actions which unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice.

SEC. 4. SCOPE OF STATE AUTHORITY UNDER THE FEDERAL POWER ACT.

Section 201 of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following—

''(h) Notwithstanding any other provision of this section, nothing in this Part or any other federal law shall be construed to authorize a State to—

''(1) establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy; or,

''(2) otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.''.

SEC. 5. ACCESS TO TRANSMISSION AND LOCAL DISTRIBUTION FACILITIES.

No supplier of electric energy, who would otherwise have a right of access to a transmission or local distribution facility because such facility is an essential facility for the conduct of interstate commerce in electric energy, shall be denied access to such facility or precluded from engaging in the retail sale of electric energy on the grounds that such denial or preclusion is authorized or required by State action establishing, maintaining, or enforcing an exclusive right to sell, transmit, or locally distribute electric energy.

SEC. 6. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

Part II of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

''SEC. 215. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

''A State or state commission may prohibit an electric utility from selling electric energy to an ultimate consumer in such State if such electric utility or any of its affiliates owns or controls transmission or local distribution facilities and is not itself providing unbundled local distribution service in a State in which such electric utility owns or operates a facility used for the generation of electric energy.''.

SEC. 7. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective on and after the enactment of this Act.

SEC. 8 PROSPECTIVE REPEAL OF SECTION 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.

(a) NEW CONTRACTS.—No electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3).

(b) EXISTING RIGHTS AND REMEDIES.—Nothing in this section affects the rights or remedies of any party with respect to the purchase or sale of electricity or capacity from or to a facility determined to be a qualifying small power production facility or a qualifying cogeneration facility under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) under any contract or obligation to purchase or to sell electricity or capacity in effect on the date of enactment of this Act, including the right to recover the costs of purchasing the electricity or capacity.

SEC. 9. SAVINGS CLAUSE.

Nothing in this Act shall be construed to—

(a) authorize the Federal Energy Regulatory Commission to regulate retail sales or local distribution of electric energy or otherwise expand the jurisdiction of the Commission, or,

(b) limit the authority of a State to regulate retail sales and local distribution of electric energy in a manner consistent with Article I, Section 8, Clause 3 of the Constitution of the United States.

SEC. 10. EFFECTIVE DATES.

Section 5 and the amendment made by Section 4 of this act take effect on January 1, 2002. The amendment made by section 6 of this act takes effect on the date of enactment of this act.

By Mr. GRAHAM (for himself, Mr. DEWINE, and Mr. FEINGOLD):

S. 1285. A bill to amend section 40102(37) of title 49, United States Code, to modify the definition of the term ''public aircraft'' to provide for certain law enforcement and emergency response activities; to the Committee on Commerce, Science, and Transportation.

LAW ENFORCEMENT PUBLIC AVIATION REFORM ACT OF 1999

• Mr. GRAHAM. Mr. President, I am extremely pleased to join with my distinguished colleagues, Senator DEWINE and Senator FEINGOLD, in introducing the Law Enforcement Public Aviation Reform Act of 1999. This legislation will help law enforcement officers in their efforts to protect our citizens. In 1994, the Congress made a terrible mistake when it passed Public Law 103–411. Under this law, aircraft belonging to law enforcement agencies are considered ''commercial'' if costs incurred from flying missions to support neighboring jurisdictions are reimbursed.

In the last Congress, we were able to include an amendment on the Commerce, State, and Justice appropriations bill that would have made the necessary changes. Unfortunately, this measure was stripped from the final conference committee report.

This law has placed unnecessary restrictions and costly burdens on government agencies who operate public aircraft, particularly law enforcement agencies. At a time when law enforcement faces growing sophistication and organization of criminals, the federal government should not be placing additional mandates on our law enforcement officials. This law is so restrictive that it even prevents assistance from neighboring jurisdictions under mutual aid compacts.

Current law requires that the agency in need of assistance exhaust all commercially available options before requesting assistance from another jurisdiction. Even in the event of ''significant and imminent threat to life or property,'' the requesting agency must first establish that ''no service by a private operator was reasonably available to meet the threat.'' Law officers, pledged to protect public safety and fight crime, need the flexibility to determine the appropriate aircraft for any particular mission. They should not be required to offer private companies the right of first refusal on sensitive law enforcement missions. In many cases, it is simply not appropriate to have private companies performing law enforcement or other governmental functions.

Under this bill, public agencies would be permitted to recover costs incurred by operating aircraft to assist other jurisdictions for the purpose of law enforcement, search and rescue, or imminent threat to life, property or natural resources.

Mr. President, law enforcement organizations strongly support this bill. This legislation has the endorsement of the National Sheriff's Association, Airborne Law Enforcement Association, International Association of Chiefs of Police, Florida Sheriff's Association, and the California State Sheriff's Associations. From my home state in Florida, I have heard from Sheriff George E. Knupp, Jr. of Lake County. Sheriff Knupp stated, ''Current law restricts our ability to use this aircraft in the best possible manner and frankly, the law questions the authority of a popularly elected official to exercise the duties and responsibilities of the office.''

Our bipartisan proposed is simple, sound, and will serve the interests of law enforcement officials across this country. I urge all my colleagues to support the passage of this much needed legislation. Further delay in this matter will only serve to cost the American people unnecessary tax dollars and hamper the efforts of our law enforcement officials.●

● Mr. FEINGOLD. Mr. President, I rise today to join my distinguished colleague from Florida, Senator GRAHAM, to introduce a bill that will assist our local law enforcement agencies to respond in a timely fashion to life or death situations.

Sheriffs in my state and around this country have found that their hands are tied when it comes to sharing helicopters or other public aircraft with neighboring jurisdictions. The Milwaukee County Sheriff's Department recently became the first sheriff's department in Wisconsin to acquire a helicopter. Neighboring counties would like to borrow that helicopter and reimburse the Milwaukee County Sheriff for the cost of their use of that helicopter. The Milwaukee County Sheriff's Department is perfectly willing to share its helicopter but it can't easily do so. Under current law, in order for the assisting agency to receive a cost reimbursement from the neighboring jurisdiction for use of a helicopter, the neighboring sheriff must first exhaust the possibility that a private commercial helicopter is available. Even when the neighboring sheriff is faced with a serious imminent threat to life or property, the law requires the neighboring sheriff to first determine whether a privately operated helicopter is available. This law is absurd and puts everyone's safety at risk.

Law enforcement agencies use helicopters for a variety of reasons—to chase a suspect fleeing the scene of a crime, in search and rescue missions, to control crowds in public gatherings, to transport prisoners and to detect and eradicate marijuana. Saving lives and maintaining law and order is delayed if we require sheriffs to determine first whether they can find a private helicopter. Public safety is also jeopardized because private commercial pilots are likely not trained law enforcement personnel with experience in sensitive and sometimes dangerous situations. But if we allow sheriffs to share their aircraft with neighboring jurisdictions without first exhausting private avenues, law enforcement response is far more likely to be swift and sure.

This bill modifies the definition of ''public aircraft'' so that law enforcement agencies no longer need to make an attempt to find a private helicopter operator before using a neighboring jurisdiction's helicopter.

Mr. President, we demand that law enforcement act quickly and professionally to life or death situations. But we're not giving them the tools they need to do their job. We must do our part. I urge my colleagues to join in this bipartisan effort to change the law and give the sheriffs in Wisconsin and across this country the tools they need to keep our communities safe and secure.●

By Mrs. BOXER (for herself and Mr. DURBIN):

S. 1286. A bill to authorize the Attorney General to make grants to local educational agencies to carry out school violence prevention and school safety activities in secondary schools; to the Committee on the Judiciary.

SCHOOL SAFETY FUND ACT

Mrs. BOXER. Mr. President, it has been two months since the tragic shooting at Columbine High School in Colorado. That incident heightened awareness around the country—and I saw it first hand when I traveled throughout California—of the need to take steps to make our schools safer.

It seems to me that being safe in school is a fundamental right. It ought to be a top priority of every school district in America—and I know that a lot of schools are committed to making improvements. But some are having a hard time finding the money to do what needs to be done. I believe it ought to be a top priority of the federal government to help localities do what they need to do to ensure the safety of our children when they are in school.

So, today, I am introducing, along with my colleague, Senator DURBIN, the School Safety Fund Act. This bill would allow the Attorney General to provide grants to school districts to undertake a variety of activities to prevent school violence and to make our schools safer. The key is we want local schools to make the decision about what they need to do, but we want the federal government to provide some financial help.

Now, what are some of the things that schools want to—and should—do?

Schools could establish hotlines and tiplines, so that students could anonymously report potentially dangerous situations. We could put more community police officers in the public schools. Some schools need metal detectors and other security equipment. I think almost all schools could use more counselors, psychologists, and school social workers. Many teachers and administrators need training on the identification of the early warning signs of troubled youth. And, many of our students need conflict resolution programs and mentoring.

The point is, each school needs to decide the extent of its problem and what the best solution will be in that community. We are not dictating here. We are saying that we want to—we need to—help our local schools.

Let me talk about how these grants will be funded, because I think it is an interesting approach. Rather than set up a specific authorization level—rather than pulling a number out of a hat and saying, this is the need—my bill would give discretion to the Attorney General. The bill says that the Attorney General can make these grants out of the Violent Crime Reduction Trust Fund to meet the need that is out there.

For example, if there is a particular crisis in a particular community, the Attorney General has the flexibility to make grants. She does not have to wait for Congress to act—or watch as Congress fails to act. If the problem improves, the Attorney General can spend less or, perhaps someday, no money at all for school safety. Again, the number of grants would be based on an assessment of the needs.

Finally, let me say a word about my cosponsor, Senator DURBIN. I am very pleased to have him join me in this effort because several weeks ago, he fought this fight hard. He was a member of the conference committee on the supplemental appropriations bill, and he tried to get additional emergency funding—and it was and still is, in many respects, an emergency—for many of the activities we are talking about in this bill. Some on the other side of the aisle resisted his efforts, and eventually they voted him down. But, with his previous work on the subject, I am so pleased that he has joined me on this bill.

Mr. President, it is now mid-June, and many schools are closed for the summer or will close shortly. We must reject the notion that because our children are no longer in school, there is no longer a problem. There is a problem, and unless we begin to find ways to solve it—and unless the federal government helps fund the solutions our local communities come up with—I fear that when the school house doors open again in the Fall, the problem

might again hit the front pages of the newspapers.

I urge my colleagues to support this bill, and I ask unanimous consent that a copy be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1286

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 ''School Safety Fund Act of 1999''.

SEC. 2. DEFINITIONS.

In this Act, the terms ''local educational agency'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 3. PURPOSE.

The purpose of this Act is to assist local educational agencies in preventing and responding to the threat of juvenile violence in secondary schools through the implementation of effective school violence prevention and school safety programs.

SEC. 4. PROGRAM AUTHORIZED.

The Attorney General is authorized to carry out a program under which the Attorney General awards grants to local educational agencies to assist the local educational agencies in establishing and operating school violence prevention and school safety activities in secondary schools.

SEC. 5. APPLICATIONS.

Each local educational agency desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require. Each application shall—

(1) include a detailed explanation of—

(A) the intended uses of funds provided under the grant; and

(B) how the activities funded under the grant will meet the purpose of this Act; and

(2) a written assurance that the funds provided under the grant will be used to supplement and not supplant other State and local public funds available for school violence prevention and school safety activities in secondary schools.

SEC. 6. AUTHORIZED ACTIVITIES.

A local educational agency may use grant funds provided under this Act—

(1) to establish hotlines or tiplines for the reporting of potentially dangerous students and situations;

(2) to hire community police officers;

(3) to purchase metal detectors, surveillance cameras, and other school security equipment;

(4) to provide training to teachers, administrators, and other school personnel in the identification and detection of, and responses to, early warning signs of troubled and potentially violent youth;

(5) to establish conflict resolution, counseling, mentoring, and other violence prevention and intervention programs for students;

(6) to hire counselors, psychologists, mental health professionals, and school social workers; and

(7) for any other purpose that the Attorney General determines to be appropriate and consistent with the purpose of this Act.

SEC. 7. FUNDING.

From amounts appropriated to the Department of Justice from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211), the Attorney General may make available such sums as may be necessary to carry out this Act for each of the fiscal years 2000 through 2004.

SEC. 8. REPORT TO CONGRESS.

Not later than November 30th of each year, the Attorney General shall report to Congress regarding the number of grants funded under this Act for the preceding fiscal year, the amount of funds provided under the grants for the preceding fiscal year, and the activities for which grant funds were used for the preceding fiscal year.

ADDITIONAL COSPONSORS

S. 71

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 71, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 348

At the request of Ms. SNOWE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 386

At the request of Mr. GORTON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 655

At the request of Mr. LOTT, the names of the Senator from Tennessee (Mr. THOMPSON), the Senator from Kansas (Mr. ROBERTS), the Senator from Wyoming (Mr. ENZI), the Senator from Utah (Mr. HATCH), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 655, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 693

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 693, a bill to assist in the enhancement of the security of Taiwan, and for other purposes.

S. 712

At the request of Mr. LOTT, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 712, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for highway-rail grade crossing safety through the voluntary purchase of certain specially issued United States postage stamps.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 817

At the request of Mrs. BOXER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 817, a bill to improve academic and social outcomes for students and reduce both juvenile crime and the rist that youth will become victims of crime by providing productive activities during after school hours.

S. 894

At the request of Mr. CLELAND, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 894, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 911

At the request of Mr. GRAMS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes.

S. 1023

At the request of Mr. MOYNIHAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1023, a bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments.

S. 1144

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1157

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 1157, a bill to repeal the Davis-Bacon Act and the Copeland Act.

S. 1172

At the request of Mr. TORRICELLI, the name of the Senator from Kansas (Mr.

BROWNBACK) was added as a cosponsor of S. 1172, a bill to provide a patent term restoration review procedure for certain drug products.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1200, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1212

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1212, a bill to restrict United States assistance for certain reconstruction efforts in the Balkans region of Europe to United States-produced articles and services.

S. 1241

At the request of Mr. ASHCROFT, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1241, a bill to amend the Fair Labor Standards Act of 1938 to provide private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 1264

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1264, a bill to amend the Elementary and Secondary Education Act of 1965 and the National Education Statistics Act of 1994 to ensure that elementary and secondary schools prepare girls to compete in the 21st century, and for other purposes.

S. 1265

At the request of Mr. COVERDELL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1265, a bill to require the Secretary of Agriculture to implement the Class I milk price structure known as Option 1-A as part of the implementation of the final rule to consolidate Federal milk marketing orders.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of Senate Concurrent Resolution 34, A concurrent resolution relating to the observence of ''In Memory'' Day.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. SCHUMER, the names of the Senator from Missouri (Mr. BOND), the Senator from Ohio (Mr. DEWINE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of Senate Concurrent Resolution 39, A concurrent resolution expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Resolution 59, a resolution designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of Senate Resolution 95, a resolution designating August 16, 1999, as ''National Airborne Day.''

SENATE RESOLUTION 99

At the request of Mr. REID, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 99, a resolution designating November 20, 1999, as ''National Survivors for Prevention of Suicide Day.''

SENATE CONCURRENT RESOLUTION—EXPRESSING THE SENSE OF THE CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED BY THE UNITED STATES POSTAL SERVICE HONORING THE MEMBERS OF THE ARMED FORCES WHO HAVE BEEN AWARDED THE PURPLE HEART

Mr. ROBB submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S CON. RES. 42

Whereas Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the War of the Revolution, but was revived out of respect for the memory and military achievements of George Washington in 1932, the year marking the 200th anniversary of his birth; and

Whereas 1999 is the year marking the 200th anniversary of the death of George Washington: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued in 1999, the year marking the 200th anniversary of the death of George Washington.

• Mr. ROBB. Mr. President, I would like to take this opportunity to submit a resolution honoring our veterans that have earned the oldest military decoration in the world, the Purple Heart. This resolution expresses the Sense of the Congress that the U.S. Postal Service should issue a postage stamp honoring Purple Heart recipients.

The Purple Heart was established by General George Washington in 1782 as a badge of distinction for ''meritorious action.'' After the Revolutionary War, however, the Purple Heart was not awarded again until it was revived in 1932, the year marking the 200th anniversary of Washington's birth.

Today, the Purple Heart is awarded to members of the U.S. armed forces who are wounded by an instrument of war in the hands of the enemy. Additionally, it is awarded posthumously to next of kin in the name of those who are killed in action or die of wounds received in combat. This year, the 200th anniversary of George Washington's death, is a fitting time for the Postal Service to honor our Purple Heart recipients with a commemorative postage stamp. They deserve no less.•

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

ASHCROFT (AND OTHERS) AMENDMENT NO. 736

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. HAGEL, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, and Mr. DODD) submitted an amendment intended to be proposed by them to the bill (S. 1233), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7___. REQUIREMENT OF CONGRESSIONAL APPROVAL OF ANY UNILATERAL AGRICULTURAL OR MEDICAL SANCTION.—(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(B) EXCLUSION.—The term ''agricultural commodity'' does not include any agricultural commodity that is used to facilitate the development or production of a chemical or biological weapon.

(2) AGRICULTURAL PROGRAM.—The term ''agricultural program'' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any commercial sale of agricultural commodities, including a commercial sale of an agricultural commodity that is prohibited under a unilateral agricultural sanction that is in effect on the date of enactment of this Act; or

(D) any export financing (including credits or credit guarantees) for agricultural commodities.

(3) JOINT RESOLUTION.—The term ''joint resolution'' means—

(A) in the case of subsection (b)(1)(B), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (b)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___(b)(1)(A) of the _____ Act ___, transmitted on _____.'', with the blank completed with the appropriate date; and

(B) in the case of subsection (e)(2), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (e)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___(e)(1) of the _____ Act ___, transmitted on _____.'', with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—

(A) IN GENERAL.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) EXCLUSION.—The term ''medical device'' does not include any device that is used to facilitate the development or production of a chemical or biological weapon.

(5) MEDICINE.—

(A) IN GENERAL.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) EXCLUSION.—The term ''medicine'' does not include any drug that is used to facilitate the development or production of a chemical or biological weapon.

(6) UNILATERAL AGRICULTURAL SANCTION.—The term ''unilateral agricultural sanction'' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term ''unilateral medical sanction'' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(b) RESTRICTION.—

(1) NEW SANCTIONS.—Except as provided in subsections (c) and (d) and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity for any fiscal year, unless—

(A) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(i) describes the activity proposed to be prohibited, restricted, or conditioned; and

(ii) describes the actions by the foreign country or foreign entity that justify the sanction; and

(B) Congress enacts a joint resolution stating the approval of Congress for the report submitted under subparagraph (A).

(2) EXISTING SANCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act for any fiscal year, the President shall immediately cease to implement such sanction.

(B) EXEMPTIONS.—Subparagraph (A) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed with respect to an agricultural program or activity described in subparagraph (B) or (D) of subsection (a)(2).

(c) EXCEPTIONS.—The President may impose (or continue to impose) a sanction described in subsection (b) without regard to the procedures required by that subsection—

(1) against a foreign country or foreign entity with respect to which Congress has enacted a declaration of war that is in effect on or after the date of enactment of this Act; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity that is controlled on—

(A) the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

(B) any control list established under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibition on providing assistance to the government of any country supporting international terrorism that is established by section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(e) TERMINATION OF SANCTIONS.—Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in subsection (b)(1) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years and the request of the President for approval by Congress of the recommendation; and

(2) Congress enacts a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(f) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) REFERRAL OF REPORT.—A report described in subsection (b)(1)(A) or (e)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(2) REFERRAL OF JOINT RESOLUTION.—

(A) IN GENERAL.—A joint resolution shall be referred to the committees in each House of Congress with jurisdiction.

(B) REPORTING DATE.—A joint resolution referred to in subparagraph (A) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(A) the committee shall be discharged from further consideration of the joint resolution; and

(B) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO PROCEED.—

(i) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under paragraph (3) from further consideration of, a joint resolution—

(I) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(II) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(ii) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(I) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(II) not debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(I) amendment;

(II) a motion to postpone; or

(III) a motion to proceed to the consideration of other business.

(iv) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(v) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(B) LIMITATIONS ON DEBATE.—

(i) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(ii) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a

joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(A) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(B) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(C) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(6) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(7) RULEMAKING POWER.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this subsection—

(i) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

(ii) supersedes other rules only to the extent that this subsection is inconsistent with those rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) EFFECTIVE DATE.—This section takes effect 180 days after the date of enactment of this Act.

FEINSTEIN AMENDMENT NO. 737

Mrs. FEINSTEIN proposed an amendment to the bill, S. 1233, supra; as follows:

At the appropriate place, insert the following:

SEC. ____. PROMOTING GOOD MEDICAL PRACTICE.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. PROMOTING GOOD MEDICAL PRACTICE.

''(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

''(1) IN GENERAL.—A group health plan, or a health insurance issuer in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

''(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

''(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term 'manner or setting' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

''(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

''(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term 'medically necessary or appropriate' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

''(d) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any provision of this subchapter, the group health plan shall not be liable for such violation unless the plan caused such violation.

''(e) APPLICABILITY.—The provisions of this section shall apply to group health plans and health insurance issuers as if included in—

''(1) subpart 2 of part A of title XXVII of the Public Health Service Act;

''(2) the first subpart 3 of part B of title XXVII of the Public Health Service Act (relating to other requirements); and

''(3) subchapter B of chapter 100 of the Internal Revenue Code of 1986.

''(f) NO IMPACT ON SOCIAL SECURITY TRUST FUND.—

''(1) IN GENERAL.—Nothing in this section shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

''(2) TRANSFERS.—

''(A) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this section has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

''(B) TRANSFER OF FUNDS.—If, under subparagraph (A), the Secretary of the Treasury estimates that the enactment of this section has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such section.

''(g) LIMITATION ON ACTIONS.—

''(1) IN GENERAL.—Except as provided for in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) of section 502 by a participant or beneficiary seeking relief based on the application of any provision in this section.

''(2) PERMISSIBLE ACTIONS.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) of section 502 by a participant or beneficiary seeking relief based on the application of this section to the individual circumstances of that participant or beneficiary; except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action relief may only provide for the provision of (or payment for) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

''(h) EFFECTIVE DATE.—The provisions of this section shall apply to group health plans for plan year beginning after, and to health insurance issuer for coverage offered or sold after, October 1, 2000.''.

(b) INFORMATION REQUIREMENTS.—

(1) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than 4 times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 180 days after the date of the enactment of this Act.

(c) MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.—

(1) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(A) by striking ''in the second preceding taxable year,'', and

(B) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to credits arising in taxable years beginning after December 31, 2001.

(d) LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.—

(1) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) (relating to exception for 10 or more employer plans) is amended to read as follows:

''(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

''(i) Medical benefits.

''(ii) Disability benefits.

''(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.''

(2) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) (defining disqualified benefit) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

''(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

''(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

MOYNIHAN AMENDMENTS NOS. 738–860

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted 123 amendments intended to be proposed by him to the bill (S. 1143) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

AMENDMENT NO. 738

At the appropriate place, insert:

SEC. 3___. STATE AUTHORITY OVER CRUISES-TO-NOWHERE.

Section 5 of the Act entitled ''An Act to prohibit transportation of gambling devices in interstate and foreign commerce'', approved January 2, 1951 (15 U.S.C. 1175), (popularly known as the ''Johnson Act'') is amended—

(1) in subsection (b)(2)(A), by striking ''enacted'' and inserting ''in effect''; and

(2) by adding at the end the following:

''(d) NO PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed to preempt the law of any State, the District of Columbia, Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or possession of the United States.''.

AMENDMENT NO. 739

At the appropriate place in title III, insert the following:

SEC. 3___. TRANSFER OF MOTOR CARRIER SAFETY FUNCTIONS FROM THE FEDERAL HIGHWAY ADMINISTRATION TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

(a) TRANSFER OF FUNCTIONS FROM FEDERAL HIGHWAY ADMINISTRATION.—Section 104(c) of title 49, United States Code, is amended—

(1) in paragraph (1), by adding ''and'' at the end;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) TRANSFER OF FUNCTIONS TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—Section 105(c) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315; and''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

(2) ACTIONS BY THE SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and power, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

AMENDMENT NO. 740

On page 91, between lines 9 and 10, insert the following:

TITLE ____—HIGHWAY TAX EQUITY AND SIMPLIFICATION

SEC. ____1. SHORT TITLE.

This title may be cited as the ''Highway Tax Equity and Simplification Act of 1999''.

SEC. ____2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Congress should enact legislation to correct the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways;

(2) the most recent highway cost allocation study by the Department of Transportation found that owners of heavy trucks significantly underpay Federal highway user fees relative to the costs such vehicles impose on such highways, while owners of lighter trucks and cars overpay such fees;

(3) pavement wear and tear is directly correlated with axle-weight loads and distance traveled, and to the maximum extent possible, Federal highway user fees should be structured based on this fundamental fact of use and resulting cost;

(4) the current Federal highway user fee structure is not based on this fundamental fact of use and resulting cost; to the contrary—

(A) the 12-percent excise tax applied to the sales of new trucks has no significant relationship to pavement damage or road use and does the poorest job of improving tax equity,

(B) the heavy vehicle use tax does not equitably apply to heavy trucks (such tax is capped with respect to trucks weighing over 75,000 pounds) and does not vary by annual mileage, thus 2 heavy trucks traveling 10,000 miles and 100,000 miles, respectively, pay the same heavy vehicle use tax, and

(C) diesel fuel taxes do a poor job recovering pavement costs because such taxes only increase marginally with weight increases while pavement damage increases exponentially with weight, and increasing the rates for diesel fuel will not resolve this fundamental flaw;

(5) truck taxes based on a combination of the weight of vehicles and the distance such trucks travel provide greater equity than a tax based on either of these 2 factors alone; and

(6) the States generally have in place mechanisms for verifying the registered weight of trucks and the miles such trucks travel.

(b) PURPOSES.—The purposes of this title are—

(1) to replace the heavy vehicle use tax and all other Federal highway user charges (except fuel taxes) with a Federal weight-distance tax which is designed to yield at least equal revenues for highway purposes and to provide equity among highway users; and

(2) to provide that such a tax be administered in cooperation with the States.

SEC. ___3. REPEAL AND REDUCTION OF CERTAIN HIGHWAY TRUST FUND TAXES.

(a) REPEAL OF HEAVY VEHICLE USE TAX.—Subchapter D of chapter 36 of the Internal Revenue Code of 1986 (relating to tax on use of certain vehicles) is repealed.

(b) REPEAL OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—Section 4051(c) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(c) REPEAL OF TAX ON TIRES.—Section 4071(d) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(d) REDUCTION OF TAX RATE ON DIESEL FUEL TO EQUAL RATE ON GASOLINE.—Section 4081(a)(2)((A)(iii) of the Internal Revenue Code of 1986 (relating to rates of tax) is amended by striking ''24.3 cents'' and inserting ''18.3 cents''.

(e) CONFORMING AMENDMENTS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 (relating to certain tax-free sales) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(2) Subchapter A of chapter 62 of such Code (relating to place and due date for payment of tax) is amended by striking section 6156.

(3) The table of sections for subchapter A of chapter 62 of such Code is amended by striking the item relating to section 6156.

(4) Section 9503(b)(1) of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by striking subparagraphs (B) and (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively

SEC. ___4. TAX ON USE OF CERTAIN VEHICLES BASED ON WEIGHT-DISTANCE RATE.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986, as amended by section ___3(a), is amended by adding at the end the following:

"Subchapter D—Tax on Use of Certain Vehicles

''Sec. 4481. Imposition of tax.

''Sec. 4482. Definitions.

''Sec. 4483. Exemptions.

''Sec. 4484. Cross references.

"SEC. 4481. IMPOSITION OF TAX.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—A tax is hereby imposed on the use of any highway motor vehicle (either in a single unit or combination configuration) which, together with the semitrailers and trailers customarily used in connection with highway vehicles of the same type as such highway motor vehicle, has a taxable gross weight of over 25,000 pounds at the rate of—

''(A) the cents per mile rate specified in the table contained in paragraph (2), or

''(B) in the case of a highway motor vehicle with a taxable gross weight in excess of the weight for the highest rate specified in such table for such vehicle, the cents per mile rate specified in paragraph (3).

''(2) RATE SPECIFIED IN TABLE.—The table contained in this paragraph is as follows:

Taxable Gross Weight in Thousands of Pounds	Cents Per Mile								
	2-axle single unit	3-axle single unit	4-axle+ single unit	3-axle combination	4-axle combination	5-axle combination	6-axle combination	7-axle combination	8-axle+ combination
Over 25 to 30	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 30 to 35	1.00	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 35 to 40	3.00	0.50	0.00	0.50	0.00	0.00	0.00	0.00	0.00
Over 40 to 45	5.00	1.50	0.50	1.00	0.00	0.00	0.00	0.00	0.00
Over 45 to 50	8.00	3.00	1.00	1.50	0.25	0.00	0.00	0.00	0.00
Over 50 to 55	12.00	6.00	2.00	2.50	0.50	0.25	0.00	0.00	0.00
Over 55 to 60	21.00	10.00	4.00	3.50	1.00	0.50	0.00	0.00	0.00
Over 60 to 65	30.00	17.00	7.00	5.00	2.50	1.00	0.25	0.00	0.00
Over 65 to 70	.....	25.00	10.00	7.50	4.00	2.00	0.50	0.00	0.00
Over 70 to 75	.....	33.00	14.00	11.00	5.50	3.00	1.25	0.00	0.00
Over 75 to 80	.....	41.00	19.00	17.00	7.50	3.75	2.00	0.00	0.00
Over 80 to 85	.....	50.00	24.00	25.00	13.00	7.00	4.00	0.50	0.00
Over 85 to 90	.....	.....	30.00	.....	19.00	11.00	6.00	1.00	0.00
Over 90 to 95	.....	.....	36.00	.....	25.00	15.00	8.50	1.50	0.25
Over 95 to 100	.....	.....	42.00	.....	.....	20.00	11.00	2.00	0.50
Over 100 to 105	.....	.....	50.00	.....	.....	25.00	14.00	3.50	1.00
Over 105 to 110	.....	.....	.....	.....	.....	30.00	17.00	5.00	2.00
Over 110 to 115	.....	.....	.....	.....	.....	35.00	20.00	7.00	3.00
Over 115 to 120	.....	.....	.....	.....	.....	.....	23.00	9.00	4.00
Over 120 to 125	.....	.....	.....	.....	.....	.....	26.00	11.00	6.00
Over 125 to 130	.....	.....	.....	.....	.....	.....	29.00	13.00	8.00
Over 130 to 135	.....	.....	.....	.....	.....	.....	32.00	15.00	10.00
Over 135 to 140	.....	.....	.....	.....	.....	.....	35.00	17.00	12.00
Over 140 to 145	.....	.....	.....	.....	.....	.....	.....	19.00	14.00
Over 145 to 150	.....	.....	.....	.....	.....	.....	.....	21.00	16.00

''(3) RATE SPECIFIED IN PARAGRAPH.—The cents per mile rate specified in this paragraph is as follows:

''(A) In the case of any single unit highway motor vehicle with 2 or more axles or any combination highway motor vehicle with 3 or 4 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 10 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(B) In the case of any combination highway motor vehicle with 5 or 6 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 5 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(C) In the case of any combination highway motor vehicle with 7 or more axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 2 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(b) DETERMINATION OF NUMBER OF AXLES.—For purposes of this section—

''(1) IN GENERAL.—The total number of axles with respect to any highway motor vehicle shall be determined without regard to any variable load suspension axle, except if such axle meets the requirements of paragraph (2).

''(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are as follows:

''(A) All controls with respect to the variable load suspension axle are located outside of and inaccessible from the driver's compartment of the highway motor vehicle.

''(B) The gross axle weight rating of all such axles with respect to the highway motor vehicle shall conform to the greater of—

''(i) the expected loading of the suspension of such vehicle, or

''(ii) 9,000 pounds.

''(3) VARIABLE LOAD SUSPENSION AXLE DEFINED.—The term 'variable load suspension axle' means an axle upon which a load may be varied voluntarily while the highway motor vehicle is enroute, whether by air, hydraulic, mechanical, or any combination of such means.

''(4) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall not apply after June 30, 2004.

''(c) DETERMINATION OF MILES.—

''(1) USE OF CERTAIN TOLL FACILITIES EXCLUDED.—For purposes of this section, the number of miles any highway motor vehicle is used shall be determined without regard to the miles involved in the use of a facility described in paragraph (2).

''(2) TOLL FACILITY.—A facility is described in this paragraph if such facility is a highway, bridge, or tunnel, the use of which is subject to a toll.

''(d) BY WHOM PAID.—The tax imposed by this section shall be paid by the person in whose name the highway motor vehicle is, or is required to be, registered under the law of the State or contiguous foreign country in which such vehicle is, or is required to be, registered, or, in case the highway motor vehicle is owned by the United States, by the agency or instrumentality of the United States operating such vehicle.

''(e) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations.

''(f) PERIOD TAX IN EFFECT.—The tax imposed by this section shall apply only to use before October 1, 2005.

''SEC. 4482. DEFINITIONS.

''(a) HIGHWAY MOTOR VEHICLE.—For purposes of this subchapter, the term 'highway motor vehicle' means any motor vehicle which is a highway vehicle.

''(b) TAXABLE GROSS WEIGHT.—For purposes of this subchapter—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'taxable gross weight' means, when used with respect to any highway motor vehicle, the maximum weight at which the highway motor vehicle is legally authorized to operate under the laws of the State in which it is registered.

''(2) SPECIAL PERMITS.—If a State allows a highway motor vehicle to be operated for any period at a maximum weight which is greater than the weight determined under paragraph (1), its taxable gross weight for such period shall be such greater weight.

''(c) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

''(1) STATE.—The term 'State' means a State and the District of Columbia.

''(2) USE.—The term 'use' means use in the United States on the public highways.

''SEC. 4483. EXEMPTIONS.

''(a) STATE AND LOCAL GOVERNMENT EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any highway motor vehicle by any State or any political subdivision of a State.

''(b) EXEMPTION FOR UNITED STATES.—The Secretary may authorize exemption from the tax imposed by section 4481 as to the use by the United States of any particular highway motor vehicle, or class of highway motor vehicles, if the Secretary determines that the imposition of such tax with respect to such use will cause substantial burden or expense which can be avoided by granting tax exemption and that full benefit of such exemption, if granted, will accrue to the United States.

''(c) CERTAIN TRANSIT-TYPE BUSES.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any bus which is of the transit type (rather than of the intercity type) by a person who, for the last 3 months of the preceding year (or for such other period as the Secretary may by regulations prescribe for purposes of this subsection), met the 60-percent passenger fare revenue test set forth in section 6421(b)(2) (as in effect on the day before the day of the enactment of the Energy Tax Act of 1978) as applied to the period prescribed for the purposes of this subsection.

''(d) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 2005.

''SEC. 4484. CROSS REFERENCES.

''(1) For penalties and administrative provisions applicable to this subchapter, see subtitle F.

''(2) For exemption for uses by Indian tribal governments (or their subdivisions), see section 7871.''

(b) ADMINISTRATION OF TAX.—To the maximum extent possible, the Secretary of the Treasury shall administer the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by this section)—

(1) in cooperation with the States and in coordination with State administrative and reporting mechanisms, and

(2) through the use of the International Registration Plan and the International Fuel Tax Agreement.

SEC. ___5. COOPERATIVE TAX EVASION EFFORTS.

The Secretary of Transportation is authorized to use funds authorized for expenditure under section 143 of title 23, United States Code, and administrative funds deducted under 104(a) of such title 23, to develop automated data processing tools and other tools or processes to reduce evasion of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by section ___4(a)). These funds may be allocated to the Internal Revenue Service, States, or other entities.

SEC. ___6. STUDY.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall conduct a study of—

(1) the tax equity of the various Federal taxes deposited into the Highway Trust Fund,

(2) any modifications to the tax rates specified in section 4481 of the Internal Revenue Code of 1986 (as added by section ___4(a)) to improve tax equity, and

(3) the administration and enforcement under subsection (e) of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as so added).

(b) REPORT.—Not later than July 1, 2002, and July 1 of every fourth year thereafter, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with—

(1) recommended tax rate schedules developed under subsection (a)(2), and

(2) such recommendations as the Secretary may deem advisable to make the administration and enforcement described in subsection (a)(3) more equitable.

SEC. 7. EFFECTIVE DATE AND FLOOR STOCK REFUNDS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on July 1, 2000.

(b) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before July 1, 2000, tax has been imposed under section 4071 or 4081 of the Internal Revenue Code of 1986 on any article, and

(B) on such date such article is held by a dealer and has not been used and is intended for sale,

there shall be credited or refunded (without interest) to the person who paid such tax (hereafter in this subsection referred to as the ''taxpayer'') an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such article had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefore is filed with the Secretary of the Treasury before January 1, 2001, and

(B) in any case where an article is held by a dealer (other than the taxpayer) on July 1, 2000—

(i) the dealer submits a request for refund or credit to the taxpayer before October 1, 2000, and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR ARTICLES HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any article in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms ''dealer'' and ''held by a dealer'' have the respective meanings given to such terms by section 6412 of such Code; except that the term ''dealer'' includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 of such Code shall apply for purposes of this subsection.

AMENDMENT NO. 741

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. National standard to prohibit operation of motor vehicles by intoxicated individuals

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2003.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2002, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2003, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2004.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2004, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2004.—No funds withheld under this section from apportionment to any State after September 30, 2004, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall lapse.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall lapse.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''165. National standard to prohibit operation of motor vehicles by intoxicated individuals.''.

AMENDMENT NO. 742

At the appropriate place in title III, insert the following:

SEC. 3___. TRANSFER OF FUNCTION FROM FEDERAL HIGHWAY ADMINISTRATION.

Section 104(c) of title 49, United States Code, is amended by inserting ''and'' after the semicolon at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

SEC. 2. TRANSFER OF FUNCTION TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

Section 105(c) of title 49, United States Code, is amended by striking ''and'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of this title; and''.

SEC. 3. EFFECTIVE DATE.

The amendments made by sections 1 and 2 of this Act shall take effect on the 180th day following the date of enactment of this Act; except that the Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and powers, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

AMENDMENT NO. 743

At the appropriate place in title III, insert the following:

SEC. 3____. (a) IN GENERAL.—Section 845(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by adding ''and'' at the end; and

(2) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

AMENDMENT NO. 744

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. FEDERAL LANDS HIGHWAYS PROGRAM.

Section 1101(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended—

(1) by striking ''each of fiscal years 1999 through 2003'' each place it appears and inserting ''fiscal year 1999''; and

(2) by adding at the end the following:

''(E) APPORTIONMENT TO ALL STATES.—For apportionment equally among the 50 States, for use for any activity for which funds may be made available from the Highway Trust Fund, $706,000,000 for each of fiscal years 2000 through 2003.''.

AMENDMENT NO. 745

On page 91, between lines 9 and 10, insert the following:

SEC. 342. (a) STUDY.—The Secretary of the Treasury shall undertake a study of the following issues:

(1) FACTORS IN STATE ALLOCATION FORMULAS.—

(A) IN GENERAL.—The various factors described in subparagraph (B) used in State allocation formulas included in current Federal assistance programs and possible alternative factors described in subparagraph (C), including an analysis of the strengths and weaknesses of such factors and formulas.

(B) CURRENT FACTORS.—Factors described in this subparagraph include—

(i) rolling 3-year average of State per capita income,

(ii) State total taxable resources,

(iii) per capita income squared,

(iv) poverty population, including poverty population 5–17 years old, poverty population under 21, families with incomes between 130 percent and 185 percent of poverty level, children below 130 percent of poverty level, households below 150 percent of poverty level, and rural population in poverty, and

(v) population receiving benefits under a State program funded under part A of title IV of the Social Security Act, adult population receiving such benefits, children 5–17 years old in families above poverty level receiving such benefits.

(C) ALTERNATIVE FACTORS.—Factors described in this subparagraph include—

(i) State gross domestic product,

(ii) the representative tax system,

(iii) the inclusion of user fees in factors based on tax collections,

(iv) poverty measures which reflect State cost-of-living, and

(v) a more accurate measure of State fiscal capacity than State per capita income.

(2) FISCAL CONDITION AND CAPACITY.—The long-term outlook for the fiscal condition and fiscal capacity of Federal, State, and local governments.

(3) IMPACT OF PAYMENTS DEFICIT.—The impact on a State's economy of running a persistent balance of payments deficit with the Federal Government.

(4) MEASURES LEADING TO MORE EQUITABLE RETURNS ON TAX DOLLARS.—Measures, including changes to allocation formulas, which would provide that each State's return on each Federal tax dollar, including direct payments to individuals, grants to State and local government, procurement, salaries and wages, and other Federal spending, is at least $0.95.

(5) IMPACT OF OTHER FACTORS.—The impacts of the cyclical nature of the economy and other factors, such as employment, on the expenditures, needs, and fiscal capacities of Federal, State, and local governments.

(6) RESPONSIVENESS OF DISTRIBUTION OF FEDERAL ASSISTANCE.—The responsiveness of the distribution of Federal assistance to—

(A) the cyclical nature of the economy and other factors identified under paragraph (5),

(B) the fiscal capacities of State and local governments,

(C) the need for services of State and local governments, and

(D) cost-of-living and cost-of-government differentials.

(7) ADMINISTRATION OF ALLOCATION FORMULAS.—The mathematical models, underlying data, and administration of Federal grant formulas, including the formulas examined under paragraph (1).

(b) STUDY PLAN.—The Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that may receive substantially reduced funding under alternative methods of allocating Federal assistance, shall develop a plan for the completion of the study required by subsection (a). Such plan may provide for the participation of such individuals and organizations in the conduct of the study.

(c) REPORT OF STUDY.—Upon completion of the study required by subsection (a), the Secretary of the Treasury shall solicit the views of the persons and organizations with whom the Secretary was required to consult by subsection (b) and shall append such views to a final report to the President and Congress. Such report shall be submitted not later than June 30, 2000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated and is hereby appropriated $5,000,000 to carry out this section.

AMENDMENT NO. 746

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States (other than the State referred to in that section) for use for any activity for which funds may be made available from the Highway Trust Fund:''.

AMENDMENT NO. 747

At the appropriate place in title III, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF FUNDING UNDER NATIONAL AERONAUTICS AND SPACE ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) ADMINISTRATOR—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(2) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made by the Administrator to a State, a political subdivision of a State, or any other public or private person or entity in a State in the form of—

(A) a grant or other form of financial assistance;

(B) a payment under a contract; compensation of an employee or consultant; or

(C) any other form.

(3) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public and private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all of the States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the close of each fiscal year—

(1) the Secretary of the Treasury shall report to the Administrator the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year; and

(2) the Administrator shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Administrator, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all of the States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under—

(i) other programs administered by the Administrator; or

(ii) transfer funds to the Secretary of Transportation to fund programs that apportion funds to States that are administered by the Secretary under title 23 or 49 of the United States Code.

(2) IMPLEMENTATION.—If, but for this section, the Administrator would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Administrator shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Administrator to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 748

On page 91, between lines 9 and 10, insert the following:

SEC. 3____. EQUITABLE ALLOCATION OF FUNDING UNDER BUREAU OF LAND MANAGEMENT PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made by the Secretary to a State, a political subdivision of a State, or any other public or private person or entity in a State, in the form of—

(A) a share of revenues received from Federal land management activity;

(B) a grant or other form of financial assistance;

(C) a payment under a contract;

(D) compensation of an employee or consultant; or

(E) any other form.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public or private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the end of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year;

(2) the Secretary shall determine with respect to the Department of the Interior, and the head of each other Federal agency shall report to the Secretary with respect to the agency, the amount of user fees paid or any other payments made to the agency by all public or private persons or entities in each State during the fiscal year; and

(3) the Secretary shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Secretary, acting through the Director of the Bureau of Land Management, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under other programs administered by the Secretary.

(2) IMPLEMENTATION.—If, but for this section, the Secretary would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Secretary shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Secretary to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 749

On page 91, between lines 9 and 10, insert the following:

SEC. 3____. EQUITABLE ALLOCATION OF FUNDING UNDER FOREST SERVICE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made by the Secretary to a State, a political subdivision of a State, or any other public or private person or entity in a State, in the form of—

(A) a share of revenues received from Federal land management activity;

(B) a grant or other form of financial assistance;

(C) a payment under a contract;

(D) compensation of an employee or consultant; or

(E) any other form.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public or private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the end of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year;

(2) the Secretary shall determine with respect to the Department of Agriculture, and the head of each other Federal agency shall report to the Secretary with respect to the agency, the amount of user fees paid or any other payments made to the agency by all public or private persons or entities in each State during the fiscal year; and

(3) the Secretary shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Secretary, acting through the Chief of the Forest Service, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under other programs administered by the Secretary.

(2) IMPLEMENTATION.—If, but for this section, the Secretary would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Secretary shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Secretary to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 750

At the appropriate place in title III, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF AIRPORT IMPROVEMENT PROGRAM FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(6) STATE PERCENTAGE CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State percentage contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that the State dollar contribution to the Airport and Airway Trust Fund bears to the aggregate of the State dollar contributions to the Airport and Airway Trust Fund collected from all of the States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the close of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the fiscal year that are transferred to the Airport and Airway Trust Fund; and

(2) the Secretary shall determine the State dollar contribution to the Airport and Airway Trust Fund and State percentage contribution to the Airport and Airway Trust Fund of each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—

(A) ALLOCATION.—Notwithstanding any other provision of law, each State shall be entitled to receive under each program administered by the Secretary for which funds are authorized to be transferred from the Airport and Airway Trust Fund, an amount for a fiscal year that is not less than 90 percent of the amount that is equal to the aggregate amount to be paid under that program to all of the States for the fiscal year (adjusted for any administrative costs referred to in section 9502(d)(1)(C) of the Internal Revenue Code of 1986) multiplied by the State percentage contribution to the Airport and Airway Trust Fund for the fiscal year.

(B) RULE OF CONSTRUCTION.—Nothing in this section is intended to permit a use of amounts made available to a State under this section in a manner that does not meet the applicable requirements of part B of subtitle VII of title 49, United States Code.

(2) IMPLEMENTATION.—If, but for this section, a State would be entitled to receive less than the amount of its equitable State allocation under a program administered by the Secretary, the Secretary shall deduct from the amounts to be paid to States that would be entitled to receive more than the equitable State allocations for those States, pro rata, the amount necessary to enable the Secretary to pay the State the full amount of its equitable State allocation.

AMENDMENT NO. 751

On page 80, line 11 strike ''.'' and insert:

''*Provided further*, for any state to receive funding under this provision it must match the Federal funding made available under this provision with a commensurate amount of State funding: Provided further, notwithstanding any other provision of law, no funds made available under this provision shall be eligible for use on any title 23 programs.''

AMENDMENT NO. 752

At the appropriate place in title III, insert the following:

SEC. 3___. (a) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking ''With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered to be a non-divisible load,''; and

(2) by striking ''The State of Louisiana may allow, by special permit'' and all that follows through the end of the subsection.

(b) Section 1212 of the Transportation Equity Act for the 21st Century (112 Stat. 194) is amended by striking subsection (d).

AMENDMENT NO. 753

On page 80, line 11 strike ''.'' and insert:

''*Provided further*, for any state to receive funding under this provision it must match the Federal funding made available under this provision with a commensurate amount of State funding: Provided further, notwithstanding any other provision of law, no funds made available under this provision shall be eligible for use on any title 23 programs.''

AMENDMENT NO. 754

At the appropriate place in title III, insert the following:

SEC. 3___. (a) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking ''With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered to be a non-divisible load,''; and

(2) by striking ''The State of Louisiana may allow, by special permit'' and all that follows through the end of the subsection.

(b) Section 1212 of the Transportation Equity Act for the 21st Century (112 Stat. 194) is amended by striking subsection (d).

AMENDMENT NO. 755

On page 80, strike line 1 and all that follows through page 81, line 11.

AMENDMENT NO. 756

On page 2, line 6 strike ''$1,900,000'' and insert ''$5,000,000.''

AMENDMENT NO. 757

On page 10 line 5 insert the following: ''U.S. Coast Guard Air Facility (AIRFAC) Long Island''

For necessary expenses, not otherwise provided for, for the operation and maintenance of the AIRFAC Long Island, $2,900,000.

AMENDMENT NO. 758

Beginning on page 80, strike line 1 and all that follows through page 81, line 2 and insert:

''Section 321. Notwithstanding any provision of law, no state shall receive of the total budgetary resources made available by this Act to carry 49 U.S.C. 5307, 5309, 5310, and 5311, a percentage less than that state's percentage of the total annual ridership of programs funded by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311: *Provided further*, That the Secretary of Transportation will use ridership figures of the previous fiscal year in the determination of each state's ridership percentage.''

AMENDMENT NO. 759

On page 80, line 6 strike ''12.5 percent'' and insert ''50 percent.''

AMENDMENT NO. 760

On page 80, line 2 strike ''12.5 percent'' and insert ''75 percent.''

AMENDMENT NO. 761

At the appropriate place in title II, insert the following:

''REIMBURSEMENT FOR SALARIES AND EXPENSES.—The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 2000, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.''

AMENDMENT NO. 762

On page 2, line 9 strike ''$600,000.'' and insert ''1,500,000''

AMENDMENT NO. 763

On page 9, line 25 strike ''$12,450,000'' and insert ''$25,000,000''

AMENDMENT NO. 764

On page 19, line 22 strike ''$20,000,000'' and insert ''$100,000,000.''

AMENDMENT NO. 765

On page 69, line 9 strike ''100'' and insert ''107.''

AMENDMENT NO. 766

On page 4, line 4, strike ''$1,222,000'' and insert ''$2,500,000.''

AMENDMENT NO. 767

On page 4, line 10, strike ''$7,200,000'' and insert ''$12,500,000.''

AMENDMENT NO. 768

On page 4, line 7, strike ''$5,100,000'' and insert ''$12,500,000.''

AMENDMENT NO. 769

On page 5, line 25, strike ''$2,900,000, of which $2,635,000 shall remain available'' and insert ''$12,500,000, of which $11,300,000 shall remain available''.

AMENDMENT NO. 770

On page 17, line 7, strike ''.25 percent'' and insert ''7 percent''.

AMENDMENT NO. 771

On page 20, line 16, strike ''$6,000,000'' and all that follows through ''and'' on line 17.

AMENDMENT NO. 772

On page 25, line 1, strike ''$2,000,000'' and insert ''$12,500,000''.

AMENDMENT NO. 773

On page 29, line 13, strike ''$571,000,000'' and insert ''$650,000,000''.

AMENDMENT NO. 774

On page 82, line 23, strike ''210 miles'' and insert ''1,000 miles''.

AMENDMENT NO. 775

On page 34, line 2, following ''projects,'' insert: ''giving primary consideration to those projects located in states with the highest state expenditures on public transportation,''.

AMENDMENT NO. 776

On page 20, line 3, strike ''$31,000,000'' and insert ''35,000,000''.

AMENDMENT NO. 777

On page 67, line 19, strike ''$1,000,000'' and insert ''2,000,000''.

AMENDMENT NO. 778

On page 20, line 18, strike ''$5,000,000'' and insert ''$10,400,000''.

AMENDMENT NO. 779

Beginning on page 86, strike line 5 and all that follows through page 87, line 7.

AMENDMENT NO. 780

On page 63, line 13, strike ''$11,496,000'' and insert ''$12,500,000''.

AMENDMENT NO. 781

On page 3, line 5, strike ''$45,000'' and insert ''$60,000''.

AMENDMENT NO. 782

On page 84, line 11, strike ''12 per centum'' and insert ''50 per centum''.

AMENDMENT NO. 783

On page 83, line 19, strike ''80 percent'' and insert ''50 percent''.

AMENDMENT NO. 784

On page 15, line 25, strike ''$150,000,000'' and insert ''$173,000,000''.

AMENDMENT NO. 785

On page 19, line 16, strike ''$391,450,000'' and insert ''$641,450,000''.

AMENDMENT NO. 786

On page 55, line 12, strike ''.'' and insert the following in lieu thereof:

''Rochester Central Bus facility, New York; Long Beach Central Bus Facility, New York; Broome County Buses and Related Equipment, New York:'.

AMENDMENT NO. 787

Beginning on page 34, strike line 4 and all that follows through page 35, line 12.

AMENDMENT NO. 788

On page 38, strike lines 12 and 13.

AMENDMENT NO. 789

On page 38, strike lines 16 and 17.

AMENDMENT NO. 790

On page 39, strike lines 8 and 9.

AMENDMENT NO. 791

On page 41, strike lines 12 and 17.

AMENDMENT NO. 792

On page 54, strike lines 17 and 18.

AMENDMENT NO. 793

On page 56, strike lines 19 and 20.

AMENDMENT NO. 794

Beginning on page 57, strike lines 23 and all that follows through page 58, line 8.

AMENDMENT NO. 795

On page 58, strike lines 13 and 19.

AMENDMENT NO. 796

Beginning on page 59, strike line 5 and all that follows through page 60, line 4.

AMENDMENT NO. 797

On page 78, strike lines 16 and 23.

AMENDMENT NO. 798

On page 83, line 17, strike ''$950,000,'' and insert ''$1,500,000,''.

AMENDMENT NO. 799

Beginning on page 78, strike line 24 and all that follows through page 79, line 4.

AMENDMENT NO. 800

Beginning on page 84, strike line 15 and all that follows through page 85, line 11.

AMENDMENT NO. 801

On page 66, line 22, strike ''$4,500,000'' and insert ''$5,000,000''.

AMENDMENT NO. 802

On page 41, strike line 24.

AMENDMENT NO. 803

On page 42, strike lines 3 through 5.

AMENDMENT NO. 804

On page 42, strike lines 23 and 24.

AMENDMENT NO. 805

On page 43, strike lines 3 and 4.

AMENDMENT NO. 806

On page 43, strike lines 5 and 6.

AMENDMENT NO. 807

On page 43, strike lines 7 and 8.

AMENDMENT NO. 808

On page 43, strike lines 18 and 19.

AMENDMENT NO. 809

On page 44, strike lines 5 and 6.

AMENDMENT NO. 810

On page 53, strike line 1.

AMENDMENT NO. 811

On page 55, strike line 12.

AMENDMENT NO. 812

On page 55, strike lines 10 and 11.

AMENDMENT NO. 813

On page 55, strike lines 8 and 9.

AMENDMENT NO. 814

On page 55, strike line 7.

AMENDMENT NO. 815

On page 55, strike lines 5 and 6.

AMENDMENT NO. 816

On page 55, strike lines 3 and 4.

AMENDMENT NO. 817

On page 55, strike lines 1 and 2.

AMENDMENT NO. 818

On page 54, strike lines 17 and 18.

AMENDMENT NO. 819

On page 54, strike lines 15 and 16.

AMENDMENT NO. 820

On page 54, strike lines 13 and 14.

AMENDMENT NO. 821

On page 54, strike line 12.

AMENDMENT NO. 822

On page 54, strike line 11.

AMENDMENT NO. 823

On page 54, strike lines 9 and 10.

AMENDMENT NO. 824

On page 54, strike lines 7 and 8.

AMENDMENT NO. 825

On page 54, strike lines 5 and 6.

AMENDMENT NO. 826

On page 54, strike lines 3 and 4.

AMENDMENT NO. 827

On page 54, strike line 1.

AMENDMENT NO. 828

On page 53, strike lines 24 and 25.

AMENDMENT NO. 829

On page 53, strike lines 22 and 23.

AMENDMENT NO. 830

On page 53, strike line 21.

AMENDMENT NO. 831

On page 53, strike lines 19 and 20.

AMENDMENT NO. 832

On page 53, strike line 18.

AMENDMENT NO. 833

On page 53, strike lines 16 and 17.

AMENDMENT NO. 834

On page 53, strike lines 14 and 15.

AMENDMENT NO. 835

On page 53, strike lines 12 and 13.

AMENDMENT NO. 836

On page 53, strike lines 10 and 11.

AMENDMENT NO. 837

On page 53, strike lines 8 and 9.

AMENDMENT NO. 838

On page 53, strike lines 6 and 7.

AMENDMENT NO. 839

On page 53, strike lines 3 and 4.

AMENDMENT NO. 840

On page 53, strike line 2.

AMENDMENT NO. 841

On page 52, strike line 25.

AMENDMENT NO. 842

On page 52, strike line 24.

AMENDMENT NO. 843

On page 52, strike lines 23.

AMENDMENT NO. 844

On page 52, strike lines 21 and 22.

AMENDMENT NO. 845

On page 52, strike lines 19 and 20.

AMENDMENT NO. 846

On page 52, strike lines 17 and 18.

AMENDMENT NO. 847

On page 52, strike lines 15 and 16.

AMENDMENT NO. 848

On page 52, strike line 14.

AMENDMENT NO. 849

On page 52, strike lines 12 and 13.

AMENDMENT NO. 850

On page 52, strike lines 10 and 11.

AMENDMENT NO. 851

On page 52, strike lines 8 and 9.

AMENDMENT NO. 852

On page 52, strike lines 4 and 5.

AMENDMENT NO. 853

On page 52, strike line 3.

AMENDMENT NO. 854

On page 52, strike lines 1 and 2.

AMENDMENT NO. 855

On page 51, strike lines 23 and 24.

AMENDMENT NO. 856

On page 51, strike lines 21 and 22.

AMENDMENT NO. 857

On page 51, strike lines 17 and 18.

AMENDMENT NO. 858

On page 51, strike line 16.

AMENDMENT NO. 859

On page 51, strike line 8.

AMENDMENT NO. 860

On page 51, strike lines 6 and 7.

FEINSTEIN AMENDMENTS NOS. 861–904

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted 44 amendments intended to be proposed by her to the bill, S. 1143, supra; as follows:

AMENDMENT NO. 861

On page 80, line 2, strike ''12.5 percent'' and insert ''16 percent''.

AMENDMENT NO. 862

On page 80, line 4, strike ''5309''.

AMENDMENT NO. 863

On page 80, strike lines 1 through 11 and redesignate the following sections accordingly.

AMENDMENT NO. 864

On page 80, line 2, strike ''12.5'' and insert ''15.8''.

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 5336 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by striking ''33.29 percent'' and inserting ''53.29 percent'';

(2) in subsection (c), by striking ''66.71 percent'' and inserting ''46.71 percent'';

(3) in subsection (c)(1), by striking ''73.39 percent'' and inserting ''83.39 percent''; and

(4) in subsection (c)(2), by striking ''26.61 percent'' and inserting ''16.61 percent''.

AMENDMENT NO. 865

On page 80, line 11, insert after ''apportionments'' the following: ''*Provided further*, That the limitation set forth in this section shall not apply to a State if the Secretary of Transportation determines that such a State has transit capital and operating funding needs that are in excess of the funding that would be provided pursuant to the 12.5 percent limitation''.

AMENDMENT NO. 866

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further*, That the limitation set forth in this section shall not apply to a State if the total annual transit trips in such State is equal to 12.5 percent or more of the total annual transit trips in all States''.

AMENDMENT NO. 867

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further*, That the limitation set forth in this section shall not apply to a State if the total net project cost of all new fixed guideway projects in final design or construction in such State is equal to 12.5 percent or more of the total net project cost of all new fixed guideway projects in final design or construction in all States''.

AMENDMENT NO. 868

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further*, That the limitation set forth in this section shall not apply to any State in which public transportation authority has entered into a Consent Decree that arises out of litigation commenced in Federal Court under title VI of the Civil Rights Act of 1964 and that results in the increased expenditure of public funds for bus services''.

AMENDMENT NO. 869

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit directional route miles in such State bears to the total annual transit directional route miles in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 870

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total net project cost of all fixed guideway projects in final design or construction in such State bears to the total net project cost of such projects in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 871

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit trips in such State bears to the total annual transit trips in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 872

On page 34, strike line 7.
On page 35, strike lines 15 and 16.
On page 35, strike line 25.
On page 36, strike line 1.
On page 38, strike lines 16 and 17.
On page 39, strike lines 8 and 9.
On page 39, strike line 24 and 25.
On page 41, strike lines 13 through 17.
On page 46, strike lines 1 and 2.
On page 46, strike lines 7 through 10.
On page 54, strike line 2.
On page 59, strike line 22.

AMENDMENT NO. 873

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(1)(A) of title 23, United States Code, relating to the National Highway System Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''50 percent''.

AMENDMENT NO. 874

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Surface Transportation Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''40 percent'' in clause (ii) and inserting ''55 percent''.

AMENDMENT NO. 875

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(4) of title 23, United States Code, relating to the Interstate Maintenance Program, is amended by striking ''33⅓ percent'' in subparagraph (A) and inserting ''23⅓ percent'' and by striking ''33⅓ percent'' in subparagraph (B) and inserting ''43⅓ percent''.

AMENDMENT NO. 876

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended—

(1) in subparagraph (B)(i), by striking ''0.8'' and inserting ''0.6'';

(2) in subparagraph (B)(vi), by striking ''1.4'' and inserting ''1.6'';

(3) in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''; and

(4) in subparagraph (D), by striking ''½of 1 percent'' and inserting ''¼of 1 percent''.

AMENDMENT NO. 877

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(e) of title 23, United States Code, relating to the Highway Bridge Program, is amended by adding the end of thereof the following new sentence: ''Notwithstanding any other provision of this subsection, the ratio which the amount of funding apportioned to a State under this section in any fiscal year bears the amount of such funding apportioned to all States in such year shall not exceed 110 percent of the ratio which the population in such State bears to the population in all States.

AMENDMENT NO. 878

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 114(e) of title 23, United States Code, is amended by striking ''more than 10 per centum or less than 0.25 per centum'' and inserting ''more than 15 per centum or less than 0.10 per centum''.

AMENDMENT NO. 879

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the mass transit ridership of each State, as compared to the total mass transit ridership of the United States, as determined by the Federal Transit Administration.

AMENDMENT NO. 880

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the population of each State, as compared to the total population of the United States, based on the most recent population statistics compiled by the Bureau of the Census of the Department of Commerce.

AMENDMENT NO. 881

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the population of each State, as compared to the total population of the United States, based on the most recent population statistics compiled by the Bureau of the Census of the Department of Commerce.

AMENDMENT NO. 882

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM FUNDS.

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Administrator of the Environmental Protection Agency, for the purpose of carrying out any activity that the Administrator is authorized to carry out under any law.

AMENDMENT NO. 883

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) PERISHABLE AGRICULTURAL COMMODITY.—The term ''perishable agricultural commodity'' has the meaning given the term in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(3) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the quantity of perishable agricultural commodities produced in the State during the most recent year for which data are available (as determined by the Secretary of Agriculture); bears to

(2) the quantity of perishable agricultural commodities produced in all States during that year (as determined by the Secretary of Agriculture).

AMENDMENT NO. 884

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. MAXIMUM HIGHWAY FUNDS APPORTIONMENT TO EACH STATE.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) DETERMINATION OF RATIO.—For each State, the Secretary of Transportation shall determine the ratio that—

(1) the population of the State (as determined using the latest available annual estimates prepared by the Secretary of Commerce); bears to

(2) the population of all States (as determined using the latest available annual estimates prepared by the Secretary of Commerce).

(c) MAXIMUM APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, a State shall not receive an amount of highway funds that is greater than the State's percentage of the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

(d) REDISTRIBUTION OF HIGHWAY FUNDS.—The amount of highway funds made available by application of subsection (c) shall be redistributed among the States in the ratio determined under subsection (b).

AMENDMENT NO. 885

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. MAXIMUM HIGHWAY FUNDS APPORTIONMENT TO EACH STATE.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) DETERMINATION OF RATIO.—For each State, the Secretary of Transportation shall determine the ratio that—

(1) the population of the State (as determined using the latest available annual estimates prepared by the Secretary of Commerce); bears to

(2) the population of all States (as determined using the latest available annual estimates prepared by the Secretary of Commerce).

(c) MAXIMUM APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, a State shall not receive an amount of highway funds that is greater than the amount obtained by multiplying—

(1) the amount that is equal to 120 percent of the amount of highway funds made available to all States; by

(2) the ratio determined under subsection (b) for the State.

(d) REDISTRIBUTION OF HIGHWAY FUNDS.—The amount of highway funds made available by application of subsection (c) shall be redistributed among the States in the ratio determined under subsection (b).

AMENDMENT NO. 886

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further*, That the limitation set forth in this section shall not apply unless authorized by the appropriate authorization committees.

AMENDMENT NO. 887

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the percentage of transit riders in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the national totals of transit riders (as determined by the Secretary of Transportation).

AMENDMENT NO. 888

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount of coastline of each state-excluding Alaska and Hawaii during the most recent year for which data are available (as determined by the Secretary of Commerce); bears to

(2) the amount of coastline of all States—excluding Alaska and Hawaii—during that year (as determined by the Secretary of Commerce).

AMENDMENT NO. 889

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of registered vehicles in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of registered vehicles in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 890

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of licensed drivers in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of licensed drivers in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 891

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount of combined tons of imports and exports that arrive and depart the United States from each state during the most recent year for which data are available (as determined by the Secretary of Commerce); bears to

(2) the amount of combined tons of imports and exports that arrive and depart the United States from all States during that year (as determined by the Secretary of Commerce).

AMENDMENT NO. 892

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of vehicle occupants who comply with passenger restraint laws in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of vehicle occupants who comply with passenger restraint laws in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 893

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount, as a percentage, spent of its own money on highway spending by each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the amount, as a percentage, spent of its own money on highway spending by all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 894

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF SURFACE TRANSPORTATION PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(4) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 895

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF NATIONAL HIGHWAY SYSTEM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 896

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF BRIDGE PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 897

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF INTERSTATE MAINTENANCE PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 898

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF RECREATIONAL TRAILS PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 899

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total population of the State bears to the total population of the United States.

AMENDMENT NO. 900

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total boardings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such boardings in the United States for that fiscal year.

AMENDMENT NO. 901

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total takeoffs and landings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such takeoffs and landings in the United States for that fiscal year.

AMENDMENT NO. 902

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total population of the State bears to the total population of the United States.

AMENDMENT NO. 903

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total boardings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such boardings in the United States for that fiscal year.

AMENDMENT NO. 904

At the appropriate place in title III, insert the following:

SEC. 3___. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total takeoffs and landings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such takeoffs and landings in the United States for that fiscal year.

BOXER AMENDMENTS NOS. 905–951

(Ordered to lie on the table.)

Mrs. BOXER submitted 47 amendments intended to be proposed by her to the bill, S. 1143, supra as follows:

AMENDMENT NO. 905

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States (other than the State referred to in that section) and the District of Columbia for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 906

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States of California and New York for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 907

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be distributed in the manner described in section 110 of title 23, United States Code (as added by section 1105(a) of the Transportation Equity Act for the 21st Century (112 Stat. 130)):''.

AMENDMENT NO. 908

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5308 of title 49, United States Code:''.

AMENDMENT NO. 909

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by

section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5506 of title 49, United States Code:''.

AMENDMENT NO. 910

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5309 of title 49, United States Code:''.

AMENDMENT NO. 911

On page 30, line 13, insert before the period the following: '': *Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be available for these purposes''.

AMENDMENT NO. 912

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 352 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–476), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5506 of title 49, United States Code:''.

AMENDMENT NO. 913

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. REPEAL OF CERTAIN AUTHORITY.

Section 365 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–477), is repealed.

AMENDMENT NO. 914

On page 33, line 22, insert before the colon the following: '': *Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by line items 5 through 16 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–454), that is unobligated as of the date of enactment of this Act shall be distributed equally between the States of California and New York''.

AMENDMENT NO. 915

On page 69, strike lines 8 through 13.

AMENDMENT NO. 916

On page 20, at the beginning of line 20, insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States and the District of Columbia for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 917

On page 80, strike lines 1 through 11.

AMENDMENT NO. 918

On page 13, lines 12 through 14, strike ''*Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program:''.

AMENDMENT NO. 919

On page 21, at the beginning of line 1, insert ''*Provided further*, That, notwithstanding the preceding proviso, a State shall not receive funds made available under the preceding proviso if the State receives a distribution of amounts recovered from reductions under section 321''.

AMENDMENT NO. 920

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. CONDITION ON RECEIPT OF TRANSPORTATION FUNDS.

Notwithstanding any other provision of law, a State shall not receive funds made available by this Act if the State received an exemption from the application of Federal environmental laws to a highway extension linked to a private toll bridge project under section 365 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–477).

AMENDMENT NO. 921

On page 80, line 9, insert before the colon the following: '': *Provided further*, That no State may receive any funding increase by operation of this section if the State has any funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544) that are unobligated as of the date of enactment of this Act''.

AMENDMENT NO. 922

On page 80, line 11, insert before the period the following: '': *Provided further*, That, notwithstanding any other provision of law, if any such funding reduction is made with respect to the State of California, that State shall receive an amount equal to the amount made available to that State by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544) that is unobligated as of the date of enactment of this Act''.

AMENDMENT NO. 923

On page 62, line 20, insert before the period the following: '': *Provided further*, That no State shall receive any funds under this heading if the State receives a funding increase by operation of section 321 of this Act''.

AMENDMENT NO. 924

On page 80, line 4, insert before the colon the following: '', unless the State also has more than 12.5 percent of the passenger miles reported by the Federal Transit Administration''.

AMENDMENT NO. 925

On page 17, line 2, before the period, insert the following: '': *Provided further*, That the amount that a State would otherwise receive under this heading shall be reduced by any amount that the State receives in accordance with section 321 of this Act to carry out sections 5307, 5309, 5310, and 5311 of title 49, United States Code''.

AMENDMENT NO. 926

On page 80, line 2, strike ''12.5 percent'' and insert ''16 percent''.

AMENDMENT NO. 927

On page 80, line 4, strike ''5309''.

AMENDMENT NO. 928

On page 80, line 2, strike ''12.5'' and insert ''15.8''.

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 5336 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by striking ''33.29 percent'' and inserting ''53.29 percent'';

(2) in subsection (c), by striking ''66.71 percent'' and inserting ''46.71 percent'';

(3) in subsection (c)(1), by striking ''73.39 percent'' and inserting ''83.39 percent''; and

(4) in subsection (c)(2), by striking ''26.61 percent'' and inserting ''16.61 percent''.

AMENDMENT NO. 929

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further*, That the limitation set forth in this section shall not apply to a State if the Secretary of Transportation determines that such State has transit capital and operating funding needs that are in excess of the funding that would be provided pursuant to the 12.5 percent limitation''.

AMENDMENT NO. 930

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further*, That the limitation set forth in this section shall not apply to a State if the total annual trips in such State is equal to 12.5 percent or more of the total annual transit trips in all States''.

AMENDMENT NO. 931

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further*, That the limitation set forth in this section shall not apply to any State in which a public transportation authority has entered into a Consent Decree that arises out of litigation commenced in Federal court under title VI of the Civil Rights Act of 1964 and that results in the increased expenditure of public funds for bus services''.

AMENDMENT NO. 932

Page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further*, That the limitation set forth in this section shall not apply to a State if the total net project cost of all new fixed guideway projects in final design or construction in such State is equal to 12.5 percent or more of the total net project cost of all new fixed guideway projects in final design or construction in all States''.

AMENDMENT NO. 933

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit directional route miles in such State bears to the total annual transit directional route miles in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 934

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total net project cost of all fixed guideway projects in final design or construction in such State bears to the total net project cost of such projects in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate State distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 935

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit trips in such State bears to the total annual transit trips in all States: *Provided*, That for purposes of this calculation the Federal Transit Administration shall include the appropriate State distribution of the funding provided to urbanized areas: *Provided further*, That the amounts recovered from such reductions shall be distributed equally: *Provided further*, That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 936

Page 34, strike line 7.
Page 35, strike lines 15 and 16.
Page 35, strike line 25.
Page 36, strike line 1.
Page 38, strike lines 16 and 17.
Page 39, strike line 8 and 9.
Page 39, strike lines 24 and 25.
Page 41, strike lines 13 through 17.
Page 46, strike lines 1 and 2.
Page 46, strike lines 7 through 10.
Page 54, strike line 2.
Page 59, strike line 22.

AMENDMENT NO. 937

Page 91, after line 9, insert the following new Section:

SEC. 342 Section 104(b)(1)(A) of title 23, United States Code, relating to the National Highway System program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''50 percent''.

AMENDMENT NO. 938

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Surface Transportation Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''55 percent''.

AMENDMENT NO. 939

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(4) of title 23, United States Code, relating to the Interstate Maintenance Program, is amended by striking ''33⅓ percent'' in subparagraph (A) and inserting ''23⅓ percent'' and by striking ''33⅓ percent'' in subparagraph (B) and inserting ''43⅓'' percent''.

AMENDMENT NO. 940

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended—

(1) in subparagraph (B)(i), by striking ''0.8'' and inserting ''0.6'';

(2) in subparagraph (B)(vi), by striking ''1.4'' and inserting ''1.6'';

(3) in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''; and

(4) in subparagraph (D), by striking ''½of 1 percent'' and inserting ''1.4 of 1 percent''.

AMENDMENT NO. 941

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 144(e) of title 23, United States Code, relating to the Highway Bridge Program, is amended by adding at the end thereof the following new sentence: ''Notwithstanding any other provision of this subsection, the ratio which the amount of funding apportioned to a State under this section in any fiscal year bears to the amount of such funding apportioned to all States in such year shall not exceed 110 percent of the ratio which the population in such State bears to the population in all States.''

AMENDMENT NO. 942

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (B)(vi), by strking ''1.4'' and inserting ''1.6''.

AMENDMENT NO. 943

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''.

AMENDMENT NO. 944

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (D), by striking ''½of 1 percent'' and inserting ''¼of 1 percent''.

AMENDMENT NO. 945

On page 44, line 15, insert the following:

''Los Angeles/City of El Segundo Douglas Street Green Line connection;''.

AMENDMENT NO. 946

On page 61, line 1, strike the word ''Sepulveda'' and insert ''El Segundo''.

AMENDMENT NO. 947

On page 44, line 15, insert the following:

''Los Angeles/City of El Segundo Douglas Street Green Line connection;''.

On page 61, line 1–2, strike the following:

''Los Angeles/City of Sepulveda Douglas Street Green Line connection;''.

AMENDMENT NO. 948

On page 20, line 11, after the colon, insert ''and 5,000,000 shall be made available to carry out section 1207(c)(1)(C) of Public Law 105–178:''.

AMENDMENT NO. 949

On page 91, after line 11, insert the following new section:

SEC. 342. TRANSPORTATION EQUITY FOR FERRY SERVICES.

(a) FINDINGS.—Congress finds that

(1) The San Francisco Bay Area Regional Ferry Plan contains two phases. The first phase of the Plan is devoted to the existing ferry services operating on the Bay. The second phase considers the feasibility of new origins and destinations for passenger ferry services and institutional arrangements to best operate the ferry services on the Bay.

(2) This study is a result of initiatives to improve ferry service in the Bay Area and to develop better ways of evaluating ferry proposals. These include Senate Bill 2169 (Kopp, 1990), which suggests preparation of a Bay Area ferry plan by the Metropolitan Transportation Commission, and Proposition 116, a 1990 initiative which included $30,000,000 in capital funding for ferry improvement projects, including $10,000,000 dedicated for Vallejo service.

(3) Ferry transit has played a significant role in San Francisco Bay for almost 150 years. Vessels which brought people during gold rush days were utilized for San Francisco-Sacramento and cross-bay service. Eclipsed by highway and bridge construction during the 1930's, a faster generation of ferries are once more becoming valuable cross-bay connectors offering alternatives to congestion in some corridors, and as emergency alternatives to these same highways and bridges.

(4) The summary of Phase 1 of the Plan includes (1) goals and objectives for the region's ferry services, (2) description of current ferry services, (3) an evaluation of the existing ferry services, and (4) recommendations to improve the existing ferry services. Funding has been secured for many of the recommended improvements (e.g., vessel purchases and terminal improvements), which will be implemented over the next few years and are expected to significantly increase ferry ridership in the Bay Area.

(5) The summary of Phase 2 of the Plan includes (1) a detailed evaluation of and recommendations for potential new ferry routes throughout the region, and (2) an evaluation of and recommendations for institutional arrangements to best operate ferry services. The evaluation of new routes analyzes the expected performance and the implementation steps needed for potential new services. An important factor for all Phase 2 services is that current services consume all existing funding available.

(6) Any implementation of Phase 2 requires additional new revenue sources.

(7) As regional and local agencies look to the future of the San Francisco Bay Area, goals include transportation mobility, transit coordination, clean air, fully accessible transit, reduction in dependence on the automobile, emergency preparedness transit alternatives, access to recreation and tourism, energy-saving transportation, and environmentally superior and cost-effective alternatives to new highway construction. When applied to the appropriate corridors, ferries can provide the means for achieving all of these regional objectives.

(7) Experience in other metropolitan areas of North America is indicating increasing utilization of ferries for commute and non-commute travel, particularly in New York, Boston, Vancouver, and Seattle. Goals and

objectives vary, but providing attractive alternatives to congested highways and transit linkages are universal, as are goals to reduce the use of automobiles in congested central cities.

(8) A set of goals and polices for Bay Area ferry service are proposed based on the regional transportation and air quality goals, and experience with ferry service in other areas. In sum, the proposed goals are to enhance regional mobility and support regional planning policies, create a transit option that is an attractive alternative to the automobile, offer a transit option that can be initiated in a timely environmentally benign, and cost effective manner, provide transit service that operates efficiently and reduces the need for high cost alternative transportation investments, provide ferry service that is reliable, safe, and fully accessible and develop terminals that are consistent with local and regional plans.

(9) The Plan has developed a comprehensive set of criteria to evaluate the existing services and potential new ferry services. It is important to have a set of evaluation criteria in place for two purposes.

(10) First, criteria are essential for the evaluation of competing proposals for ferry service, where operating and capital funds are limited. Second, the criteria are important for the evaluation of ferry service as a temporary or permanent alternative to other transportation investments such as building a new bridge, widening a freeway, or building an alternative transit project.

(11) This list of criteria can also act as a checklist for consideration when ferries are proposed as traffic mitigation or emergency service providers.

(12) Golden Gate Bridge, Highway, and Transportation District's (GGBHTD) and Red & White both serve Sausalito, but at different times of the day. Geographically, Sausalito is ideally suited for the six mile commute to San Francisco. The terminal facilities in Sausalito are spartan and not accessible to persons with disabilities.

(13) Golden Gate's eleven mile Larkspur to San Francisco route is the most integrated and efficient ferry system in the Bay Area. Three large, medium speed ferries, operating from well engineered terminal facilities, provide very nearly a shuttle service from Marin County to San Francisco. Of approximately 2,000 daily Marin County ferry commuters, the Larkspur service carries 1,400 of them. The two mile Larkspur Channel with its wake restriction is a significant constraint to Larkspur service, and present PM peak period traffic conditions preclude greater use of autos for terminal access.

(14) Like Sausalito, Tiburon has ideal geographic conditions, but rudimentary terminal facilities. Red & white operates nonsubsidized service between Tiburon and San Francisco, providing commuter service to downtown San Francisco via the Ferry Building (Pier 1/2) and non-commute service to Fisherman's Wharf.

(15) Subsidized ferry service has been provided from Oakland and Alameda to San Francisco since the 1989 Loma Prieta earthquake. Seventy five percent of the riders are commuters and most of these come from Alameda where the facilities have just been substantially improved. The service is currently provided by a leased vessel which is slow in both loading and crossing. While commute times from Alameda are competitive with auto, bus and BART, the Oakland service is not.

(16) Red & White provides subsidized service to Vallejo in the longest current Bay Area ferry route. The single commute trips in the morning and afternoon are essentially full, while the three non-commute round trips in between account for nearly an equal number of passengers. As is the case in Larkspur, a two mile wake restricted channel adds extra time to the Vallejo commute. The current vessels make the trip in about 70 minutes.

(17) The findings of the evaluation of the existing services fall into three main categories: travel time of ferry services is not competitive with the automobile, frequency of ferry services are not adequate and ferry terminal facilities do not offer basic amenities or adequate accessibility.

(18) The current commute time between Sausalito and San Francisco is 30 minutes, which is not competitive with the automobile.

(19) The terminal facilities in Sausalito do not provide adequate accessibility to persons with disabilities. The terminal facilities do not meet published guidelines for barrier free access in the areas of gangway slope, tactile makings for the sight impaired, and protective railing on floats.

(20) The current Larkspur to San Francisco service is well conceived and provides excellent shoreside facilities. The terminals, both in Larkspur and San Francisco, are well designed for passenger flow, passenger safety, and passenger comfort.

(21) The ferry commute time between Larkspur and San Francisco is excessive (45 minutes), which is not competitive with the automobile.

(22) The access into and out of the parking lot at the Larkspur terminal is not adequate. On the return trips from San Francisco it can take up to 15 minutes to get out of the parking lot, which significantly adds to overall travel time.

(23) The Red & White ferry service to Tiburon is efficient and could accommodate increased patronage.

(24) The terminal facilities in Tiburon do not provide adequate accessibility to persons with disabilities or covered passenger waiting areas.

(25) The total ridership on the Alameda/Oakland service has been increasing. Approximately 70% of commute period ridership is from Alameda.

(26) Alameda shows strong potential as a commute terminal.

(27) With a short channel speed restricted zone, auto commute time is significantly longer than the current ferry travel time of 20 minutes.

(28) The Oakland terminal has limited residential access to the ferry terminal, which results in limited commute trips. However, midday and weekend service from Oakland is and is expected to continue to be productive.

(29) The current vessel on the Alameda/Oakland service is not suitable, both by loading arrangement (accessibility) and speed for commuter service from Alameda and Oakland.

(30) Given the traffic congestion on I–80, Vallejo is an excellent candidate for high speed ferry service.

(31) The current service consists of one commute trip each day, which does not provide adequate capacity or a real commute option for commuters from Solano County.

(32) Ferry travel time between Vallejo and San Francisco is approximately 65–70 minutes, which is marginally competitive with the automobile.

(33) The Pier ½ terminal facility in San Francisco is served by the ferry services from Alameda, Oakland, Tiburon, and Vallejo. The Pier ½ terminal facility is deficient in a number of areas, including:

(34) Ramps and floats are not adequately accessible to persons with disabilities.

(35) There is not adequate sheltered passenger waiting area.

(36) There is no area for convenient and easily accessible connecting bus service, so that ferry passengers can easily transfer to buses servicing Union Square, the Civic Center, and the City's various institutions.

(37) The recommended ferry service improvement plan for the existing services is based on: (1) a plan to resolve the service deficiencies identified in the evaluation of the existing services, and (2) a service plan that supports ridership projections.

(38) In order to carry out one of the major goals of the Plan that the recommendations lead to the implementation of improved services, the plan set out parameters in developing the recommended service improvement plan.

(39) The major parameters/guidelines used in developing the service improvement plan are as follows: a plan that could be implemented, accounts for the current planning of the individual operators, and can be financed (operating and capital), maximizes ridership in relation to funding investment, provides incremental approach to service improvements, coordinate ferry services to extent possible with other transit services.

(40) In general, the major service and capital improvement recommendations in the plan include interlining some of the existing services, so in a sense there are three routes provided: a Larkspur-San Francisco-Sausalito route, an Oakland-Alameda-San Francisco-Tiburon route and a Vallejo to San Francisco route; purchasing five to six new high speed catamarans; constructing terminal improvements at Pier ½ in San Francisco, and in Vallejo, Sausalito and Tiburon; and improving the current feeder bus services to all of the ferry terminals.

(41) The recommended service improvement plan for GGBHTD's Larkspur and Sausalito services include purchasing two high speed catamarans to operate on the Larkspur and Sausalito services, operating a 68 weekday trip schedule (38 Larkspur-San Francisco, 30 Sausalito San Francisco), compared to 46 at present. Hourly midday service would encourage peak hour patronage because of the additional flexibility. This service plan would allow the district to operate 15 to 30 minute headways between Larkspur and San Francisco during the a.m. peak period as opposed to the 30 to 40 minute headways currently being provided, reduce the travel time between Larkspur and San Francisco from the current 45 to 50 minutes down to 30 minutes, which is faster than the automobile between the Larkspur area and San Francisco, allow the District to provide a total of 45% more service in about the same number of operating hours as currently being operated, due to the faster vessels. Therefore, the total operating cost for the increased service level is not that much more than for the current operations, improve parking access to/from the Larkspur ferry terminal (The City of Larkspur is currently improving the access into/out of the terminal), and improving terminal facilities in Sausalito.

(42) It is estimated that this service plan will generate 7,000 daily riders on the Sausalito and Larkspur services compared to about 5,500 riders at present. Service would begin upon the delivery of new, fast vessels and the 1994–95 fiscal year would represent the first full year of operation.

(43) The recommended service improvement plan for the Tiburon-Alameda-Oakland services includes the purchase of two high speed catamarans to provide service on one continuous route between Oakland-Alameda-San Francisco and Tiburon, operating 64 weekday trips compared to 37 on the two routes at present, including hourly service during the midday. This service plan would use vessels more efficiently—one high speed vessel will have difficulty maintaining hourly headways between Oakland-Alameda-San Francisco.

(44) While one vessel would have slack time in operating hourly headways between Tiburon and San Francisco, it will provide more commute service between Alameda and San Francisco, which has the most potential of the three locations for ridership gains. The commute service level for Oakland and Tiburon would remain about the same as it is now.

(45) Improvements to feeder bus services are proposed, including both rerouted Alameda buses and better service to the Tiburon terminal.

(46) It is estimated with this level of service that ridership on these services would increase about from about 1,500 daily riders to over 2,600 daily riders. However, given that Red & White Fleet operates un-subsidized service to Tiburon, some type of coordination between those entities or some type of different institutional arrangement would have to be worked out before this service improvement could be implemented. Given this, at this time, the Plan is recommending that initially one high speed vessel be purchased for the Alameda-Oakland-San Francisco service and the Tiburon service remain unchanged.

(47) The recommended service improvement plan for the Vallejo-San Francisco service includes purchase and operation of two high speed vessels on a 28 day weekday trip schedule in contrast with six trips at present, (this service plan would reduce the one way travel time between Vallejo and San Francisco to about 55 minutes, compared to about a 65 to 70 minute travel time on that service now), provide three to four a.m. commute trips (compared to the one a.m. commute trip currently provided), construct an intermodal facility in Vallejo, and improve local connecting bus services and connecting bus services from locations throughout Solano County.

(48) With this service level and anticipated growth in Solano County, the Plan projects that ridership on the Vallejo service would increase significantly—from about 800 riders per day to about 2,500 riders per day. Expanded service is expected to begin in 1994 and the 1994–95 fiscal year would represent the first full year of operation.

(49) The recommended service improvement plan for the Pier ½ terminal facility are: provision of an adequate number of ferry slips (these slips should accommodate the required number of peak period vessels in an efficient and convenient method), central control over the ferry docking facilities in San Francisco by the Port Commission to ensure that any potential provider of viable ferry service has access to a convenient and coordinated facility, provision of barrier free accessibility for disabled persons to all ferry docks, provision of a convenient passenger environment sheltered from poor weather and featuring comfortable waiting areas, provision of convenient and easily accessible connecting bus service.

(50) The plan looked at a number of different vessel types to operate the recommended service levels. Including conventional monohulls, catamarans, hydrofoils, hovercrafts and surface effect ships.

(51) The vessel types were evaluated on a number of factors including, capital and operating cost, speed, size of the vessel, comfort, reliability, accessibility and ability to be build in the U.S.

(52) Several vessels exist which meet the requirements developed for the individual routes. At the time of bid, other possibilities may exist, but in 1991 the supply of adequate high speed, high capacity boats is limited.

(53) To operate the recommended service plan for the Vallejo and Larkspur services, vessels capable of around 35 knots (38 mph), are necessary to provide transit speeds that are competitive with the automobile. The recommended vessels for these services are either the 37 meter Westamarin catamaran from Norway or the 35(S) meter Incat design from Australia. Both vessels can be build in the U.S., although to date neither has, are capable of appropriate commute speeds, represent existing proven technology and are suitable for all sea and climatic conditions. It is recommended that the GGBHTD and City of Vallejo jointly procure vessels, which result in ship-builder economies of scale and lower costs to the public. The cost of each vessel is projected at $5–5.5 million.

(54) At this time, it is recommended that initially one new vessel be purchased for the Alameda/Oakland-San Francisco service, pending resolution of institutional issues with the Tiburon service and pending successful testing of Alameda service. It it appears that this arrangement can be achieved, it is recommended that a second vessel be procured to operate the service. A 25–26 knot vessel is recommended for the Alameda/Oakland service—at an estimated cost of $2.5–3 million per vessel.

(55) The Plan recommends that the Alameda, Oakland, and Vallejo ferry services continue to be operated by private ferry operators under contract to public agencies. The public agencies would purchase and own the recommended vessels and contract out the operations of those vessels to a private operator(s). It is believed that the free market provides a powerful incentive to the private sector to make a profit and that this motivation can be harnessed to increase overall system productivity.

(56) The Plan evaluated 17 potential ferry routes throughout the Bay Area. The routes that were evaluated were determined by review of past and current ferry service proposals and the routes evaluated as part of MTC's Bay Crossing Study. Considerations were also given to the potential to interline routes—either making multiple stops or alternating service routes with a single vessel in order to gain greater efficiency in the utilization of vessels and crew. While commute routes are the primary focus for this analysis, consideration has also been given to recreational ferry services, facilitation of bicycle access, accommodation of freight, and emergency preparedness capabilities of ferry services. Each of the potential routes was evaluated on number of criteria, including projected patronage levels, financial performance (e.g. cost per passenger), environmental impacts, and capital and operating costs and requirements.

(57) A key factor regarding implementation of new services is that operating and capital subsidy funds for transportation projects are extremely limited. In general, there are limited capital funds available for new projects; however, existing operating funds are used to their maximum. In fact, many transit operators in the region are reducing their services due to the lack of operating support. Therefore, a crucial component of implementing any new ferry service is securing additional fund sources.

(58) The evaluation criteria were assessed individually and as a whole for each route. For example, if a particular route did not perform well on a certain criteria (e.g. no facilities in Place), but performed well on all other criteria, it could be given favorable consideration. At the same time, there could be one criteria (e.g. major environmental issues or other planned transit improvements in the same corridor) that could override other more favorable factors and make the route not feasible. Based on this analysis, the routes were grouped into the three categories, as follows:

(59) Four routes are recommended for further consideration in this Plan. Further study does not represent a recommendation for implementation at this time, but preparation of a more detailed consideration in the regional plan to determine the feasibility of implementation. The four routes are:

—Port Sonoma/Marin—San Francisco
—Martinez—San Francisco
—Berkeley/Albany—San Francisco
—Alameda (Bay Farm Island)—San Francisco

(60) These routes are the best performing routes in terms of patronage and financial performance. All of the routes are projected to recover more than 50% of their costs from the farebox and require subsidy levels that are consistent with other transbay transit services in the region. Major adverse environmental concerns (dredging, wake impact) are not expected with these services.

(61) Port Sonoma-Marin-San Francisco: Of the routes evaluated, this route is projected to have the highest ridership (438 passengers for three A.M. peak departures) and the best financial performance. Ferry travel time (one-way) is projected at about 45 to 50 minutes, which is about 30 minutes faster than driving between Novato and San Francisco (single occupant auto). This service has been proposed by a private organization as a mitigation to a development in the Bel Marin Keys area. The developer has indicated that it will at least partially fund the service. No dredging or major wake impacts are expected due to this service.

(61) Martinez-San Francisco: Ridership projections for this route are 250 peak passengers for one A.M. peak departure. Ferry travel time (one-way) is projected to be about 55 minutes, which is about 30 minutes faster than driving between Martinez and San Francisco (single occupant auto). The Martinez area does not have a high level of other transit options to San Francisco. No dredging or major wake impacts are expected due to this service.

(62) Berkeley/Albany-San Francisco: Morning peak patronage is expected to exceed 270 passengers for three peak trips. The Golden Gate Fields option at Gilman Street promises stronger midday patronage and also serves portions of Berkeley and Albany that are not well served by other transbay transit. It is estimated that on race days total daily ridership would be approximately 1,200 passengers per day for this 20 minute crossing. There would be some dredging needed at the Golden Gate Fields terminal location.

(63) Alameda (Bay Farm Island)-San Francisco: This service was implemented in March, 1992. The proposed service has docking facilities in-place in Alameda and in San Francisco. A.M. peak ridership is expected to

be 217 passengers for three 23 minute trips; current ridership is about 75% of projections. The route is currently supported by a private development firm. No dredging or major wake impacts are expected due to this service.

(64) The routes in this category do not perform as well as the routes recommended for further evaluation. Given limited operating resources, these routes are not recommended for further evaluation at this time, but are worthy of future consideration as circumstances change. These circumstances include population increases near terminal facilities, delays or elimination of other planned transportation improvements, ability to provide lower cost ferry service, and new sources of operating subsidies. The routes recommended in this category are Richmond-San Francisco, San Leandro-San Francisco, Rodeo-San Francisco.

(65) In general, these routes are projected to recover less than 50% of their costs from the farebox and require subsidy levels that are between $3.00 and $5.00 per passenger, which is higher than existing transbay transit services in the region.

(66) Richmond-San Francisco: Of the routes in this group the Richmond service using the Point Richmond docking site has the best overall performance. Projected ridership is about 240 A.M. peak riders generating about a 41% farebox recovery ratio; the subsidy per passenger is projected to be $3.40 per passenger. The major limiting factors for a Richmond service are that patronage is constrained because at this time there is no midday travel generator and there are good commute services between central Richmond and San Francisco provided by AC Transit and BART. Bus services and shared ride auto travel is expected to improve between Richmond and San Francisco with the planned construction of high occupancy vehicle (HOV) lanes on Interstate 80 between Richmond and the San Francisco Bay Bridge. Also, during the construction project period, a number of transit improvements are planned for the I–80 corridor as mitigation measures. As the I–80 improvement project begins and mitigation measures are implemented and evaluated, it is recommended that the City work with Caltrans to determine if there is the need and available mitigation funding to consider ferry service from Richmond as a mitigation project. The City of Richmond has indicated that the commercial and industrial base in Richmond is growing and further developments are expected. As residential and commercial densities grow in the terminal areas, ferry patronage would be expected to increase which would enhance the feasibility of ferry service from Richmond. MTC will be assisting the transit operators in the I–80 corridor to develop a long range finance plan for transit services in the corridor. It is recommended that the City of Richmond participate in these planning efforts so that ferry services between Richmond and San Francisco can be further considered as a long-term transit project for the I–80 corridor. Additionally, the East Bay Regional Park District has expressed interest in examining alternate uses for the Point Richmond docking facility (e.g. shared ferry maintenance facility, etc.). It is recommended that the Park District and City explore alternate uses of these facilities in conjunction with the proposed Ferry Consortium.

(67) Rodeo-San Francisco: Projected ridership for service between Rodeo and San Francisco is about 250 A.M. peak rider for a one vessel service. Projected riders are fairly high for this service because there are not good transit service options to San Francisco from the Rodeo, Crockett, and Pinole areas. The greatest limiting factor for a service from Rodeo is the need to widen and dredge the marina, build a dock, and provide parking, which is estimated to cost about $4.0 million.

(68) San Leandro-San Francisco: Projected ridership for service between San Leandro and San Francisco is about 200 a.m. peak riders. The subsidy per passenger is projected to be $4.77, which is significantly higher than other ferry services. Ridership for a San Leandro service is constrained because the major population centers in the area are east of I–880 and are served by the BART system, while the area near the marina is primarily industrial. Ferry service from San Leandro would only be feasible if higher density residential areas developed near the San Leandro marina.

(69) Based on the evaluation, the routes listed below are not feasible for ferry services. Ridership levels are projected to be low and for many of these areas there are other existing or planned transit services serving the same corridors. These routes are Benicia-San Francisco, Pittsburg-San Francisco, Redwood City-San Franciso, South San Francisco-San Francisco, Redwood City-San Leandro, Benicia-Martinez, and South San Francisco-San Leandro.

(70) In each case, the potential ridership was projected to be under 200 during the a.m. peak period, farebox recovery ratios were projected to be less than 35%, and the subsidy per passenger required to support the services is between $6.00 and $12.00 per passenger, which is significantly higher than current ferry services and other transbay transit services.

(71) Based on the preliminary analysis of airport, recreational and vehicle/freight ferry services, it appears there could be potential for these types of services, but a more thorough analysis of each type is needed. Therefore, it is recommended that MTC, Caltrans, the proposed Ferry Consortium and other interested parties should discuss and examine the need and the method to further evaluate ferry services related to ferry services feeding the San Francisco and Oakland airports, recreational ferry services, and vehicle, truck and freight movement ferry services.

(71) The Plan refined the patronage forecasting, service planning, vessel and facility analysis, and financial analysis for the four routes that were recommended for further evaluation: Port Sonoma-Marin to San Francisco, Martinez to San Francisco, Berkeley/Albany to San Francisco and Alameda/Bay Farm Island to San Francisco.

(72) One of the routes, the Bay Farm Island to San Francisco service, also known as the Harbor Bay Isle Ferry, recently initiated operation. This is a privately funded service intended to operate as a demonstration for at least three years. At the end of this period this service should be evaluated against the goals and objectives outlined in this study.

(73) Of the potential ferry services analyzed, service from Port Sonoma-Marin is found to be overall the most effective. A high speed ferry service from Port Sonoma would significantly reduce the travel time between the Port Sonoma/Novato area and San Francisco.

(74) The financial performance of the Port Sonoma-Marin service is also very good. The required subsidy per passenger trip is estimated to be about $1.60 and the farebox recovery ratio for the Port Sonoma ferry service is approximately 70%, which are both significantly better than most transit systems operating in the San Francisco Bay Area.

(75) The capital cost requirements for the service are significantly greater than the other ferry service analyzed in this report. The contributing factor is that this service requires two high speed vessels to be successful. The capital costs for the vessels and terminal improvements are projected to be about $12.5 million, which is almost twice as much as any of the other services.

(76) At present there is not a midday market for the service. Lack of service during the midday could reduce commute ridership.

(77) Ferry service from Martinez would be effective. One way travel time between Martinez and San Francisco on the ferry service (55–60 minutes) is estimated to be 35% faster than by automobile (drive alone) and 29% faster than the combination of BART express bus and BART rail service.

(78) A major concern regarding the Martinez service is that the proposed level of service (one a.m. and one p.m. departure) does not offer enough of an option for commuters to sustain projected ridership for the long-term. The limited peak period service limits total ridership levels.

(79) There is not a midday market for the service between Martinez and San Francisco. Lack of service during the midday could reduce commute ridership, since returning during the midday is not an option for the commuter. To adequately use the vessel for this service, midday uses for the vessel should be explored.

(80) The Martinez service has the best financial performance and the lowest amount of operating subsidy required of the services analyzed. The required subsidy per passenger trip would be about $1.30 and the estimated farebox recovery ratio for the Martinez ferry service is approximately 75%.

(81) Although its travel time is comparable to BART service and AC Transit express bus service between Berkeley/Albany and San Francisco, this service may be slightly less convenient because it does not offer as frequent service during peak periods.

(82) The Berkeley/Albany service is the only one of the services analyzed that offers a viable midday trip generator. The service would provide direct Golden Gate Fields racetrack access, which reduces traffic during the midday on I–80 and maximizes the use of the vessel and should help support the commute period riders by having the option of returning to their point of origin during the midday.

(83) The financial performance of the Berkeley/Albany service is not as good as the other new ferry services analyzed. The required subsidy per passenger trip is estimated to be about $2.70 and the farebox recovery ratio for the Berkeley/Albany service is approximately 45%. The Berkeley/Albany service also requires the most annual operating subsidy of the services analyzed. It is estimated that this service will require about $700,000 in annual subsidy support.

(84) The Harbor Bay Isle service is currently averaging about 310 total passengers per weekday day, which is about 100 daily riders less than anticipated by Harbor Bay Maritime and about 70% of the ridership projections in this plan.

(85) The current service is significantly faster than other modes of travel between Bay Farm Island and San Francisco. Current one way travel time, including access time, on the Harbor Bay service is approximately 30 minutes including access time, which is about 20 minutes faster than by automobile

(drive alone) and about 14 minutes faster than AC Transit express bus service. However, the ferry service is more costly to the passenger than AC Transit's express bus service.

(86) Based on projected ridership levels and the plan's estimate of costs (excludes vessel lease costs), the required subsidy per passenger is estimated to be about $2.15 per passenger and the estimated farebox recovery ratio for the service is approximately 62%.

(87) Overall, all of the potential new services (Port Sonoma, Martinez and Berkeley/Albany) would represent a beneficial enhancement to the matrix of transportation options available in the Bay Area. While the new services would not have a large impact on San Francisco bound commute traffic, together with existing transit services they offer another viable option to the private automobile. The Alameda Bay FarmIsland/Harbor Bay service has expanded ridership levels from the City of Alameda without significantly diverting patronage from the preexisting Alameda ferry service. AR of the services would: (1) be faster than autos; (2) provide new transit service without significant capital investment compared to alternatives; (3) provide an emergency preparedness option; and (4) take vehicles completely off of the bridge/highway system. Also, a few of the routes include opportunities for long-term private investment which is of critical importance during this period of greatly constrained public revenues. Private investment in ferries increases the overall economic viability of the services.

(88) However, the implementation of any of the new services relies on a number of outstanding factors. The most important include determining a project sponsor(s) to pursue the implementation of the services, and securing capital funds and long-term operating support for the services.

(89) The first step for a new service is to determine what entity or entities (local jurisdiction, private party, etc.) will implement and operate the services. This plan analyses the expected performance, the operating and capital needs, and the remaining implementation steps for each of the services. It will ultimately be up to the project sponsors to use this analysis and their own information to determine if the implementation of the ferry services are consistent with their plans and within current resources. At present, there are inadequate federal, state, and regional funds to support the operations of the new services without adversely affecting existing transit services.

(90) The report recommendations are presented as: (1) the step(s) on the part of the project sponsors that need to take place to begin implementation and/or continuation of the services; and (2) policy direction and role for the Metropolitan Transportation Commission (MTC) in the review, planning, and funding of new ferry services.

(91) The steps required for implementation of the potential services address the critical issues that will need to be resolved by the local jurisdictions/project sponsors for each route to determine their ultimate ability to be implemented. These issues include securing operating and capital funds for the services, completing access improvements to the terminals, finding sponsoring agencies to manage and operate the services, and securing required governmental approvals. Many of these issues hinge upon one another and most will need to be fully satisfied prior to investments in the services. It is recommended that MTC support and public fund investments in any of these services be contingent upon completion and/or substantial progress being made on all of the outstanding implementation issues. For example, it would not be prudent to invest public funds into capital requirements (e.g. vessels purchases) for any service until required governmental approvals (e.g. BCDC, PUC, local jurisdiction approvals) or adequate operating funds have been secured. The implementation steps are outlined for each service below.

(92) Operating and Capital Financial Support. A commitment on the part of the private sponsor is needed for the required capital equipment and to support long term operations. The proposed sponsor's interest (Venture Corporation) is contingent upon approval of the Bel Marin Keys development. Without approval and construction of that project, Venture Corporation will not develop the system. If Venture Corporation does not exceed with its current plans, another public and/or private sponsor will be required to implement the service. Such entity will need to secure funding and obtain landing rights at Port Sonoma.

(93) Terminal Access: Access improvements are needed to the terminal facility (traffic light at the intersection of the marina access road and Highway 37) and additional traffic impact analysis would be needed to fully determine the traffic impacts on Lakeville Road and Highway 37 to determine other needed roadway improvements. The sponsor will need to discuss with GGBHTD re-routing and expanding its bus service to the proposed ferry terminal.

(94) Project Sponsor: The sponsor should contract the management of the service with the Golden Gate Bridge, Highway and Transportation District.

(95) Governmental Approvals: Approvals must be secured from Sonoma County, BCDC, and the Corps of Engineers for required terminal construction or any other required shoreside improvements.

(96) Operating and Capital Financial Support: A commitment of funding is needed from local jurisdictions/transit operation(s) for the required capital equipment (vessel and terminal construction) and to support long-term service operations.

(97) Terminal Access: Local jurisdictions and CCCTA will need to work together for CCCTA to extend buses to provide feeder bus service to the ferry terminal.

(98) Project Sponsor Project sponsor(s) will need to be determined. Local jurisdictions will need to work with CCCTA to sponsor the service.

(99) Governmental Approvals: Approvals are needed from BCDC for required terminal construction, terminal parking use and improvements and any other shoreside improvements. The East Bay Regional Park District and City approvals are also required.

(100) Project Sponsor: Project sponsor(s) will need to be determined; it is recommended that AC Transit sponsor the service.

(101) Operating and Capital Financial Support: A commitment of funding is needed from local jurisdictions/transit operator(s) for the required capital (vessel and terminal construction), channel dredging costs, and to support long-term operations. Given that the midday service would serve patrons of Golden Gate Fields racetrack, local jurisdictions should work with Golden Gate Fields.

(102) Terminal Access: Local jurisdictions will need to work with AC Transit to reroute buses to provide feeder bus service to the ferry terminal.

(103) Governmental Approvals: Approvals must be secured from BCDC for required terminal construction, dredging or any other shoreside improvements. Corps of Engineers approval will be needed for dredging and the protective breakwater. Because of the more complex facility approvals required in addition to construction, implementation of this route would take longer than others.

(104) The service has been implemented as a privately operated and funded service and is expected to remain so for at least three years. If Harbor Bay Maritime does not intend to operate and fund the service beyond the current agreement, a project sponsor(s) for the service will need to be determined. It has been indicated that the City of Alameda may consider taking over the operation and financing of the service after Harbor Bay's commitment. If the City is going to pursue the service, it is recommended that the first step to determine the continuation of this service be that the City of Alameda further evaluate the service based on its performance as a privately operated service over the next two years.

(105) Operating and Capital Financial Support: A commitment of long-term operating funding will be needed if Harbor Bay Maritime does not operate and fund the project beyond the current agreement.

(106) Potential service sponsors/operators should be required to participate in the proposed Ferry Consortium (see Institutional Analysis), to increase the level of coordination between services and identification of potential benefits of joint activity.

(107) MTC should require the long-term operating support be identified and secured for new services before any public fund investments (federal, state and regional funds) are granted for new services. It is recommended that existing funding not be diverted from other projects.

(108) MTC should require that other approvals (BCDC, U.S. Army Corp of Engineers, etc) and other identified service requirements (e.g. terminal access improvements) are in place prior to investments of public funds in the services.

(109) MTC should work with project sponsors/operators to find additional fund sources that can be used for capital and operating purposes. If new, stable operating fund sources are secured for transit service, these new ferry services should be considered for regional financing to add to the Bay Area transportation network.

(110) MTC should require inter-operator coordination for all new services, so that the potential ferry services operate in conjunction with planned feeder transit service. MTC could facilitate local jurisdictions and transit operators to exploring varying institutional arrangements to operate and manage the services.

(111) MTC should not be in a lead position on the implementation of the proposed services, but it should provide planning assistance and provide guidance on funding issues, where needed. Planning assistance could include further examination of ways vessels could be best utilized for ferry services on the Bay, including sharing vessels between services, interlining existing services with new points of origin, finding midday markets/uses for vessels used only during commute periods, and assessing the need for 'spare' vessels.

(112) MTC should require that project sponsors purchasing new vessels consider the ability to interchange parts with other vessels operating in the region and the coordination of maintenance activities as part of their vessel bid and specifications and vessel maintenance planning.

(113) MTC should work with regulatory agencies (BCDC, PUC and U.S. Army Corps of Engineers, PUC, U.S. Coast Guard) to make governmental approval process understandable, coordinated and as streamlined as possible.

(114) MTC, Caltrans, the proposed Ferry Consortium and other interested parties should participate in examining the need to further evaluate ferry services related to: (1) ferry services feeding the San Francisco and Oakland airports including serving the United Airlines maintenance/operational facilities, (2) ferry services as they relate to emergency preparedness, (3) recreational ferry services, and (4) vehicle, truck and freight movement ferry services.

(115) There are a number of opportunities to improve the planning and operation of ferry services on the Bay by coordinating and/or consolidating ferry service operations. Based on our review of the varying institutional arrangements, a two pronged approach is recommended to immediately improve the coordination, planning and operations of ferry services on the Bay:

(116) First, existing and potential publicly operated or funded ferry services should be institutionally merged with existing transit operators/ districts, where feasible; and

(117) Second, a consortium or working group of public and private ferry operators should be established. The consortium would include public and private ferry operators, ports, cities, connecting transit operators, and concerned citizens, who would meet on a regular basis to discuss policy, planning and operational objectives to advance and coordinate ferry services on the Bay.

(118) The combination of these options would facilitate bus/ferry coordination, faster and coordinate regional and sub-regional policy and planning for ferry services, and increase funding to the region and for ferry operations, and could be implemented readily and immediately.

(119) Although not recommended at this time, the possibility remains that some form of a regional ferry agency may eventually be both warranted and readily feasible. As described above, a regional ferry agency, either a JPA or a legislated regional ferry district could provide many operational improvements, such as coordinated maintenance and marketing, ability to share vessels between services to maximize labor efficiencies, and savings from consolidated vessel and equipment purchases. Therefore, it is further recommended that MTC in conjunction with the ferry operators further examine the opportunities that may exist with a regional ferry agency, especially as the network of ferry services grow on the Bay.

(120) This arrangement includes incorporating the operational and planning functions for the Bay's publicly operated ferry services into the existing operations of connecting bus services. This is already the situation for GGBH&TD and the City of Vallejo, which operate both the bus systems and ferry services within their respective service areas. For example, under this arrangement ferry services from the East Bay would be operated by AC Transit, or BART; services from Marin, Sonoma and San Francisco Counties would be operated by GGBH&TD or San Francisco Muni; and services started from San Mateo County would be operated by SamTrans.

(121) This arrangement limits the number of transit operators, thereby not duplicating transit planning and operational activities: facilitates better bus/ferry schedule and transfer connections; and allows ferry services to be part of comprehensive transit planning activities.

(122) The Bay Ferry Consortium appears to be an immediately feasible option for ferry services. This arrangement would provide a forum for ferry operators to share information, be involved jointly in activities, coordinate planning and form regional objectives for ferry services. Initial consortium membership should include public and private ferry operators (GGBH&TD, Red & White Fleet, Blue & Gold Fleet, the Cities of Alameda, Vallejo, Oakland), MTC, BCDC, representatives of intermodal transit agencies which would connect with the ferries (MUNI, AC Transit, etc.), Caltrans, rider group representatives, and others as determined by the membership. The Consortium would be expected to meet as a committee of the whole quarterly or on an as needed basis.

(123) The activities of the consortium would be the basis for implementing the recommendations of the Regional Ferry Plan and for continued regional ferry planning. However, the major shortcoming of the consortium is that it does not have policy authority over individual ferry operators; therefore, the operators are not bound to follow the direction of the consortium. To offset this, it is recommended that the consortium be advisory to MTC on ferry issues.

(124) MTC already provides substantial operating and capital funds for ferry services and is responsible for certain coordination activities for transit systems in the region. The consortium should explicitly acknowledge the role of MTC as the lead agency in coordinating regional ferry planning and in reconciling differences and coordinating the activities of the individual ferry operators and other transit operators. While the concept of a consortium would be to establish mutually beneficial relationships between the parties providing ferry services, it is recommended that MTC make operator participation in the consortium a requirement for the receipt of operating and capital funding. This would give policy direction to and the ability to implement the recommendations of the consortium.

(125) The Regional Ferry Plan contains two phases. The first phase of the Plan is devoted to the existing ferry services operating on the Bay. The second phase considers the feasibility of new origin and destinations for passenger ferry services and institutional arrangements to best operate the ferry services on the Bay. Phase I of the Plan includes (1) goals and objectives for the region's ferry services, (2) description of current ferry services, (3) an evaluation of the existing ferry services, and (4) recommendations to improve the existing ferry services. Phase 2 of the Plan includes (1) a detailed evaluation of and recommendations for potential new ferry routes throughout the region, and (2) an evaluation of and recommendations for institutional arrangements to best operate ferry services.

(126) The City of Vallejo and the Metropolitan Transit Commission, in response to legislative mandate, bond issue direction, and local and regional transit plans, have jointly undertaken this Regional Ferry Plan to analyze existing ferry transit resources and to plan for new ferry services in San Francisco Bay. The two specific mandates for the study are Senate Bill 2169 (1990) and Proposition 116 from the June 1990 general election.

(127) The key legislation which shapes the San Francisco Bay Ferry Study is California Senate Bill No. 2169. Filed in response to the experience of the 1989 Loma Prieta Earthquake, and increasing interest in ferry transit by a variety of interests, including the Bay Area Water Transit Task Force, it is intended to give transit planners an evaluative tool in decision-making for ferry systems in the future.

(128) Senate Bill 2169 (Kopp, 1990) authorizes the Metropolitan Transportation Commission to develop and adopt a long-range plan implementing high-speed water transit on the bay. Its language indicates: ''The commission may develop and adopt a long-range plan for implementing high-speed water transit on San Francisco Bay, including, but not limited to, all of the following:

''a. Policies and procedures for allocating capital and operating assistance from local, state, or federal funds.

''b. Criteria and standards for evaluating and selecting services to be funded with local, state, or federal funds, based upon, but not limited to fare box revenue to operating cost ratio, amount of subsidy per passenger and local financial support, local support in providing ground access, and impact on bridge traffic.''

(129) The California Clean Air and Transportation Improvement Act of 1990 initiative measure, passed by the voters in June 1990, while primarily oriented to investment in rail improvements, contained an element for capital improvements to ferry service. This included the following sections:

''99646. Ten million dollars ($10,000,000) shall be allocated to the City of Vallejo for expenditures on water-borne ferry vessels and terminal improvements.

''99651. Twenty million dollars ($20,000,000) shall be allocated to fund a program of competitive grants to local agencies for the construction, improvement, acquisition, and other capital expenditures associated with water-borne ferry operations for the transportation of passengers or vehicles, or both.''

(130) This study has been undertaken within the framework of existing regional transit and environmental Policies with the aim of establishing a short-term action plan for the implementation of expanded ferry service in San Francisco Bay and specifically for Vallejo. It builds on the 1985 High Speed Water Transit Study for the San Francisco Bay Area prepared by MTC.

(131) The recently completed San Francisco Bay Crossing Study (mandated by Senate Concurrent Resolution 20) also studied a ferry alternative including up to 17 terminals served by a fleet of fast ferries as an option to additional bridge or rail crossings of the Bay, but that study focused on a more conceptual approach and longer time frame for implementation than this current study which will evaluate more specific options and develop more refined implementation projects.

(132) Today's visitor to the San Francisco Bay area is never far away from the great recreational, scenic and working resource which is the Bay. From every hill, bridge or high-rise office building, the Bay is the focal point. Of the San Francisco work force of 570,000, some 130,000 commute into San Francisco each day for work over the Golden Gate and Bay Bridges, or on BART. An additional 3,500 commute by water over the Bay from Larkspur, Sausalita, Tiburon, Vallejo, Alameda and Oakland.

(133) Water transportation was the earliest mode used to cross San Francisco Bay. Rowboats, sailing craft and packets provided the first connections. Steam ferries appeared in 1847. Steamships bringing Gold Rush adventurers, such as the ''New World'', which arrived from New York in 1850, sailed in from the East Coast, and became part of the San

Francisco Bay and river ferry system. ''New World'', used in Sacramento service, was eventually sold to Oregon, but returned finally to Vallejo, where she provided ferry service until she was dismantled in 1879. These steamers provided the links that connected the early mining and farming communities.

(134) Transbay ferry service began in 1850, with the establishment of a route between San Francisco and the Oakland Estuary, served by the ''Kangaroo''. In 1852, Oakland granted what was to be the first Bay ferry franchise to a ''reliable'' operator of a public ferry. Over the last century and a half, up to thirty major cross-bay ferries existed, serving 29 destinations. The great period of ferry transit reached its peak in the 1930's when 60 million persons crossed the bay annually, along with 6 million autos.

(135) The Ferry Building was the second busiest transportation terminal in the world in the early 1930s. Each day, some 250,000 persons travelled through the Ferry Building to work or other destinations. Ferries made approximately 170 landings a day at this time, and the Ferry Building was served by trolley lines which left every 20 seconds for city destinations. Ferries to Oakland could carry 4,000 persons, and were designed to incorporate restaurants, shoe shine parlors, and luxury surroundings, including mohair hangings, teak chairs, hammered copper lighting fixtures, and leather chairs in the ladies lounges. The highly efficient Key Route ferry/train transfer at the Oakland Mole enabled 9,000 commuters to load and unload in less than 20 minutes.

(136) As in most cities in the United States, the building of bridges and tunnels and the expansion of the use of the train and then the automobile led to the demise of ferry routes. These same cities are now dealing with the result of suburban development patterns—severe bridge, highway and tunnel congestion, and, in some cases, the need to provide alternate transportation routes during reconstruction of these aging structures. In San Francisco, for example, the Golden Gate Bridge, Highway and Transportation District, which the state created in 1923 to construct the Golden Gate Bridge, recognized 32 years after its completion that increasing bridge congestion suggested a need for a wider choice of modes. Studies in the early 1970s recommended establishing an integrated system of buses, ferries, and park-and-ride facilities in an attempt to delay the need for a more costly second deck, tunnel, or additional bridge.

(137) After a series of vessel and terminal modifications, Bridge District ferry service from Larkspur to San Francisco now carries about 4,000 passengers a day, and continues to grow. Buses meet the ferries on peak commuter runs, and serve 12 Marin County routes. District ferry service to Sausalito carries some 1,700 passengers daily, both commuters and tourists.

(138) East Bay ferry service to San Francisco ended in 1958. With the temporary resumption of Berkeley-San Francisco ferry service during the 1979 BART Transbay Tube closure, Harbor Bay Island demonstrations, and, more recently, service to Vallejo, supplemental post earthquake service, and continuing Alameda/Oakland service, East Bay water transit access to San Francisco is gradually being restored.

(139) Throughout the world, more passengers are transported by ferry each day than by air. In the United States, the two largest ferry systems, Washington State (50,000 passengers per day) and Staten Island (80,000 passengers per day) carry the bulk of United States' ferry commuters, even though there are over 275 separate ferry operations in the country. The ''Wall Street Journal'' estimated in a recent article that there were only 150,000 passengers travelling by ferry every day in the entire United States, which is equivalent to a day's ferry usage in the city of Lisbon, Portugal.

(140) Fast ferries (over 25 knots) have become key to successful ferry operations in many countries since World War II. Today, there are about 155 operators of fast ferries worldwide. (83) Of these, six are located in the United States. The three operators which provide commuter service (Washington State, Red & White Fleet, TNT) all use Incat catamarans. Because of US restrictions on foreign hulls, fast ferries have, with few exceptions, not been available for United States use. US manufacturers of fast vessels have chosen to focus on military applications with four exceptions: the Boeing Jetfoil (now only produced in Japan), glass-hulled planing craft, a demonstration Air Ride surface-effect vessel and the Incat catamaran of Australian design. Several US shipyards have licenses to build Scandinavian catamarans, British hovercraft and surface-effect vessels; these have not yet been constructed. New SWATH (small water area twin hull) craft in San Diego and Hawaii have generated interest in the marine community.

(141) During the 60's and 1970's, there were two high-speed ferry demonstrations on San Francisco Bay, utilizing a hydrofoil and an amphibious hovercraft. A year-long hovercraft demonstration served the Oakland and San Francisco Airports, and, according to the Port of Oakland's Air Cushion Vehicle Mass Transportation Demonstration Project Final Report' (April 1967), was favorably received passengers. According to the 1984 UMTA review 'Existing and Former High Speed Water-borne Transportation Operations in the United States', the service, which was ''the first use of hovercraft for a revenue service in the United States'' carried 12,510 passengers during the year, with an overall load factor of 27.3 percent. Wind gusts, wave height, and vessel reliability adversely affected the particular vessel used. Hydrofoil service was demonstrated by the FMC Corporation in the early 1970s as a potential market opportunity.

(142) Additionally, a short-term demonstration with a surface-effect craft was put into place by Harbor Bay Maritime in 1985 from Bay Farm Island (Alameda) to San Francisco. This rigid sidewall, air cushion Hovermarine vessel was built in England, and required a Jones Act waiver to operate between two points in the Bay. Like the hovercraft, the speed of the service was attractive to riders. However, ride comfort was not acceptable. Harbor Bay Maritime intends to initiate regular ferry service during 1991 with a fast planing monohull to connect Bay Farm Island with the San Francisco Ferry Building.

(143) San Francisco Bay today has a ferry fleet of approximately twenty-five vessels, with a passenger capacity of 10,500 persons. Speeds range from 25 knots provided by the catamarans, to 12 knots, the speed of the harbor tour vessels. Seven of these vessels provide commuter transportation, and the remainder provide transportation to recreational and tourist destinations, or are dedicated to charter work. Each year, about two million commuter trips are made on San Francisco Bay. There are about one million tourist trips to Alacatraz, Angel Island (180,000 visitors a year), Vallejo, Sausalito, Tiburon, Alameda and Oakland each year. It is estimated that there are about two million harbor tour and charter passengers as well.

(144) The Red & White Fleet has been the chief private provider of commuter service, and operates both non-subsidized routes to Sausalito and Tiburon, as well as subsidized services to Vallejo and to Alameda and Oakland in the East Bay. Red & White also runs ferries to Angel Island State Park, tour service to Alcatraz under an agreement with the National Park Service, and provides mid-day connections to Vallejo.

(145) Other passenger vessel operators in San Francisco Bay in 1991 include Blue and Gold, which carries 300,000 tour visitors a year, and Hornblower Dining Yachts, which provides dinner and charter cruises on San Francisco Bay. The Angel Island Ferry provides a short connection between Tiburon and the Island, and carries about half of the 180,000 visitors each year. The California Parks Department has purchased a new 48-passenger crew boat 'Ayala' to serve park functions between Tiburon and Angel Island. Finally, a small crew boat, based in Vallejo, is used to transport refinery workers to Pacific Refinery's terminal off Rodeo. Mare Island ferry service carried Shipyard workers between Vallejo and the Island until 1988.

(146) During the 1989 Loma Prieta Earthquake recovery period, Caltrans, the Metropolitan Transportation Commission, the City of Vallejo, and other East Bay communities participated in an extension of commuter ferry services. The Golden Gate District also augmented service from Marin County. From a normal situation, where 6,000 persons travel by ferry each day, ferries met a demand of 20,000 riders each day while the Bay Bridge was closed to automobiles. Although ferry service expanded by more than 300% while the Bay Bridge was closed, commuter numbers dropped shortly after the restoration of bridge service. Realizing that an attractive, dependable, reliable, stress-free transportation mode exists, public interest in cross-bay ferries has grown since the earthquake.

(147) Along the waterfront in San Francisco, the Port of San Francisco is exploring new maritime uses for its property, and directing investment of earthquake emergency monies (from the Federal Highway Administration and Caltrans) into initial improvements of the ferry landing at Pier 1/2. Oakland and Alameda are also using similar funds for terminal improvements. Recent passage of Proposition 116 will make $30 million available state-wide for investment in ferries and related infrastructure, with $10 million targeted to the Vallejo-San Francisco ferry link. Caltrans, under its Traffic Mitigation Program for the reconstruction of the Cypress Street freeway in Oakland, has designated monies for ferry marketing and terminal improvements in Alameda and Oakland.

(148) Key legislators and individuals, agencies, such as the Metropolitan Transportation Commission, Caltrans, and the Golden Gate Bridge, Highway, and Transportation District, and key communities, such as Alameda, Oakland and Vallejo, have moved the Bay Area towards restoration of a greater San Francisco Bay ferry network. In addition, state legislative interest in decreased traffic congestion, regional interest in transit service coordination, and local efforts to promote waterfront development also contributed to desire for an overall ferry plan.

(149) The study team has conducted comprehensive interviews, reviewed existing

studies, policies, and legislation from San Francisco Bay and appropriate sources outside the Bay Area, and participated in public meetings in order to build the background from which to view this project. A review of ferry experiences—both historical and current—has provided unique hands-on perspectives. Ferry captains who deal each day with channel siltation and debris, herring and other fishing activity, high speed ferry technology in action, and the dilemmas of mixing commuter and tourist traffic added valuable observations to the study. Ferry operators, who continue to refine the day-to-day management and operations issues, and ferry commuters, who have made a definite transit mode choice, and who recognize the benefits and shortcomings of existing services, offered suggestions for future ferry service as well. Public agency planners and decision-makers generously shared their own transit and environmental plans, polices and objectives.

(150) A roster of those interviewed during the course of the study is appended to this report. Additionally, a bibliography is appended which lists historical volumes, as well as ferry and transit studies from the Bay Area, and others which seem appropriate from other cities and countries. These reports and policies have been collected and reviewed by the study team, and cited where appropriate. Other ferry system goals and service standards, terminal and vessel designs, lessons learned, and government policies can be found among these reports. Bay Area ferry and transit schedules have been collected and are incorporated into the analyses. Federal transportation documents, ferry system analyses and agency standards, and transportation texts have also been reviewed for relevant criteria, and extensive commuter surveys have been undertaken for the Phase I analysis.

(151) This section includes goals and policies and evaluation criteria for ferry services operating in the San Francisco Bay Area. They have been created based on three primary sources: transportation and related goals by Bay Area regional agencies, counties and cities; goals and policies of ferry operations elsewhere; and the views of key informants expressed in interviews.

(152) A description of ferry operations elsewhere, and associated goals, objectives, and policies is contained in Appendix B. The lessons learned from these operations include the fact that there is no single approach to initiating new ferry service. Congestion relief and alternatives to new bridge construction have been successfully implemented goals for several services. Intermodal connections have also been important components. Appropriate and reliable vessels, attention to vessel access, and attention to environmental constraints, particularly wake restraints, have been important. Finally, in order to compete for scarce public subsidy funds for transit service, it is important to develop cost-effective and efficient operations.

(153) Summarizing the goals, ferries on San Francisco Bay will be considered where they offer the potential to: improve mobility; alleviate bridge and highway congestion; provide a cost-effective, flexible, dependable, comfortable, attractive and safe mode of transportation that helps the region to meet air quality, energy consumption, and accessibility goals; and enhance tourism, recreation and regional economic development.

(154) Goal 1. Enhance regional mobility and support regional planning policies.

Policy 1. Ferry services must enhance mobility in congested corridors and help meet goals of Congestion Management Plans.

Policy 2. Ferry services should reduce the number of vehicles entering San Francisco.

Policy 3. Ferry service projects must help achieve regional air quality and environmental goals.

Policy 4. Ferries must provide a seamless network of interconnecting regional services with other public transit and para-transit programs.

Policy 5. A set of core ferry facilities and equipment suitable for rapid expansion should be available if alternative modes become inoperable as a result of natural or man-made disasters.

Policy 6. Ferry service alternatives should be considered for vehicles transporting hazardous materials or other vehicles that reduce the efficiency of the regional highway network.

Policy 7. Ferry services should support bikeway programs.

(155) Goal 2. Create a transit option that is an attractive alternative to the automobile.

Policy 1. Ferry service must be competitive with the automobile in travel time, cost, reliability and comfort.

Policy 2. Schedules, intermodal facilities, fare policy, and marketing must be oriented to provide a single integrated system.

Policy 3. A ferry system should provide an amenity and comfort level that win attract commuters, off-peak and weekend riders, and new riders unfamiliar with water transportation.

Policy 4. Ferry services should increase public access to recreational destinations.

Policy 5. Ferry and terminal concessions which enhance the ferry experience should be provided.

(156) Goal 3. Offer a transit option that can be initiated in a timely, environmentally benign, and cost effective manner.

Policy 1. Ferry vessels to be acquired for the Bay Area must be cost-effective and represent proven technology.

Policy 2. Public/private partnerships should be utilized, maintaining the most cost-effective role for each sector.

Policy 3. Terminals must be functional, attractive and cost-effective, while providing shelter, amenities, efficient access and egress, and adequate intermodal connections.

Policy 4. Improvements should be developed incremental as required to meet ridership.

Policy 5. Ferry service should be expanded within the institutional framework of agencies that now exist.

Policy 6. The application/permit process for new ferry services should be simplified and coordinated by a single agency.

Policy 7. Ferry services must complement the navigational waterways of the Bay, reflecting draft, wake, speed, and harbor traffic constraints.

(157) Goal 4. Provide transit service that operates efficiently and reduces the need for high cost alternative transportation investments.

Policy 1. Ferry transit should be implemented to reduce or delay the need for high capital cost highway and transit projects where the projected fare box recovery ratio and subsidy per passenger indicate fiscal benefits.

Policy 2. Vessels selected should be of appropriate size and speed to meet the need, and of sufficient number to provide the desired schedule frequency.

Policy 3. Competitive bidding should be used to procure and operate boats efficiently.

Policy 4. Joint purchasing, service interlining, recreational sub-lets, and joint use of spare equipment should be utilized to reduce system cost.

Policy 5. Local financial and in-kind support should be required for new and continuing ferry services.

(158) Goal 5. Provide ferry service that is reliable, safe, and fully accessible.

Policy 1. Require vessels of proven reliability and terminals compatible with the vessels.

Policy 2. Vessels must meet or exceed all Coast Guard safety requirements.

Policy 3. All terminals and vessels should meet all state and federal accessibility standards.

(159) Goal 6. Develop terminals that are consistent with local and regional plan.

Policy 1. Terminals must meet the requirements of the BCDC Plan, the Corps of Army Engineers permitting procedures, the Bikeways Program, transit coordination objectives, and accessibility standards.

Policy 2. Terminals must support local planning, economic development, tourism, regional marketing, environmental and design objectives.

Policy 3. Terminals should be developed as local (and regional where appropriate) transit hubs.

(160) It is important to have a set of criteria in place for two purposes. First, criteria are essential for the evaluation of competing proposals for ferry service, where operating and capital fund are limited. Second, the criteria are important for the evaluation of ferry service as a temporary or permanent alternative to other transportation investments such as building a new bridge, widening a freeway, or building an alternative transit project. This list of criteria can also act as a checklist for consideration when ferries are proposed as traffic mitigation or emergency service providers. Criteria are categorized into the following categories:

—Mobility/Performance
—Energy and Environment
—Socio-economic
—Financial
—Service
—Ease of Implementation

(b) of the funds appropriated under the heading ''Federal-Aid Highways'', $5,000,000 shall be made available to carry out section 1207(c)(1) of Public Law 105–178.''

AMENDMENT NO. 950

Page 91, strike lines 10–12, and insert:

''This Act may be cited as the 'No TEA for Two Department of Transportation and Related Appropriations Act, 2000' ''.

AMENDMENT NO. 951

At the appropriate place in title III, insert the following:

SEC. 3___. TRANSFER OF MOTOR CARRIER SAFETY FUNCTIONS FROM THE FEDERAL HIGHWAY ADMINISTRATION TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

(a) TRANSFER OF FUNCTIONS FROM FEDERAL HIGHWAY ADMINISTRATION.—Section 104(c) of title 49, United States Code, is amended—

(1) in paragraph (1), by adding ''and'' at the end;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) TRANSFER OF FUNCTIONS TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—Section 105(c) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315; and''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

(2) ACTIONS BY THE SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and power, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

SCHUMER AMENDMENTS NOS. 952–1036

(Ordered to lie on the table.)

Mr. SCHUMER submitted 85 amendments intended to be proposed by him to the bill, S. 1143, supra; as follows:

AMENDMENT NO. 952

On page 31, line 3, strike ''$29,500,000'' and insert ''$28,000,000''.

On page 31, line 25, strike ''$1,500,000'' and insert ''$3,000,000''.

AMENDMENT NO. 953

On page 27, line 9, strike ''$1,000,000'' and insert ''$999,000''.

On page 27, line 21, strike ''$22,364,000'' and insert ''$22,365,000''.

AMENDMENT NO. 954

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,500,000''.

On page 31, line 12, strike ''$1,000,000'' and insert ''$1,500,000''.

AMENDMENT NO. 955

On page 17, line 23, strike ''$370,000,000'' and insert ''$363,000,000''.

On page 30, line 17, strike ''$21,000,000'' and insert ''$27,000,000''.

AMENDMENT NO. 956

On page 17, line 23, strike ''$370,000,000'' and insert ''$350,000,000''.

On page 33, line 2, strike ''$60,000,000'' and insert ''$80,000,000''.

AMENDMENT NO. 957

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,250,000''.

On page 30, line 20, strike ''$5,250,000'' and insert ''$7,000,000''.

AMENDMENT NO. 958

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,800,000''.

On page 33, line 4, strike ''$1,960,800,000'' and insert ''$1,961,000,000''.

AMENDMENT NO. 959

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,600,000''.

On page 30, line 21, strike ''$4,000,000'' and insert ''$5,400,000''.

AMENDMENT NO. 960

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,990,000''.

On page 33, line 12, strike ''$2,451,000,000'' and insert ''$2,461,000,000''.

AMENDMENT NO. 961

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,789,000''.

On page 26, line 14, strike ''$91,789,000'' and insert ''$92,000,000''.

AMENDMENT NO. 962

On page 17, line 23, strike ''$370,000,000'' and insert ''$364,500,000''.

On page 28, line 19, strike ''$20,500,000'' and insert ''$26,000,000''.

AMENDMENT NO. 963

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,232,000''.

On page 30, line 25, strike ''$49,632,000'' and insert ''$50,400,000''.

AMENDMENT NO. 964

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,100,000''.

On page 31, line 10, strike ''$1,500,000'' and insert ''$2,400,000''.

AMENDMENT NO. 965

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,600,000''.

On page 31, line 12, strike ''$1,000,000'' and insert ''$1,400,000''.

AMENDMENT NO. 966

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,850,000''.

On page 31, line 15, strike ''$250,000'' and insert ''$400,000''.

AMENDMENT NO. 967

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, line 17, strike ''$3,000,000'' and insert ''$4,000,000''.

AMENDMENT NO. 968

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, line 18, strike ''$3,000,000'' and insert ''$4,000,000''.

AMENDMENT NO. 969

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, between lines 12 and 13, insert the following:

''New York, bus and garage equipment, $1,000,000;''.

AMENDMENT NO. 970

On page 17, line 23, strike ''$370,000,000'' and insert ''$354,000,000''.

On page 29, between lines 8 and 9, insert the following:

STATEN ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a connection between the Staten Island Railroad and the Chemical Coast Line in Union County, New Jersey, $16,000,000, to remain available until expended: *Provided,* That the Port Authority of New York and New Jersey (or a designee thereof) shall provide matching funds from non-Federal sources on a dollar-for-dollar basis.

AMENDMENT NO. 971

On page 28, line 20, insert before the period the following: '', of which $250,000 shall be provided to the State of New York for a High Speed Rail Program Land Access Study''.

AMENDMENT NO. 972

On page 28, line 20, insert before the period the following: '', of which $250,000 shall be made available to the State of New York for the Empire Corridor Advanced Train Control''.

AMENDMENT NO. 973

On page 28, line 20, insert before the period the following: '', of which $5,750,000 shall be made available to the State of New York for the Empire Corridor High Speed Safety Program''.

AMENDMENT NO. 974

On page 17, line 23, strike ''$370,000,000'' and insert ''$355,000,000''.

On page 31, line 20, strike ''$5,000,000'' and insert ''$20,000,000''.

AMENDMENT NO. 975

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,700,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Rochester ITS Evaluation and Integration Initiative, NY	300,000

AMENDMENT NO. 976

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Statewide ITS Deployment, NY	4,000,000

AMENDMENT NO. 977

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,200,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Lower Hudson Multi-Operator Transit Communications Standards Implementation, NY	3,800,000

AMENDMENT NO. 978

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Rural Transit Automated Vehicle Location System Network, NY	4,000,000

AMENDMENT NO. 979

On page 17, line 23, strike ''$370,000,000'' and insert ''$360,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Capital District Regional Traffic Signal System Improvements, NY	10,000,000

AMENDMENT NO. 980

On page 17, line 23, strike ''$370,000,000'' and insert ''$367,500,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Hudson Line High Speed Smart Rail/Highway Crossings	2,500,000

AMENDMENT NO. 981

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

FDR Drive Traffic Management System	5,000,000

AMENDMENT NO. 982

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

System Integration of Subregional ITS in New York City	4,000,000

AMENDMENT NO. 983

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Cross Westchester Expressway Advanced Transportation Management System, Westchester County	5,000,000

AMENDMENT NO. 984

On page 17, line 23, strike ''$370,000,000'' and insert ''$367,500,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Long Island Railroad Intelligent Grade Crossing Expansion	2,500,000

AMENDMENT NO. 985

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Capital District Smart Transit System, NY	4,000,000

AMENDMENT NO. 986

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

New York State-Rural Transit Automated Vehicle Location System Network	4,000,000

AMENDMENT NO. 987

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,500,000''.

On page 21, in the table preceding line 1, and insert the following:

State of New York	1,500,000

AMENDMENT NO. 988

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Monroe County traffic operations center, NY	2,000,000

AMENDMENT NO. 989

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Statewide ITS Urban Integration, NY	4,000,000

AMENDMENT NO. 990

On page 48, between lines 8 and 9, insert the following:

''Oneida County buses for bus consortium, New York''.

AMENDMENT NO. 991

On page 44, between lines 10 and 11, insert the following:

''Long Beach Central Bus Facility, New York''.

AMENDMENT NO. 992

On page 48, between lines 8 and 9, insert the following:

''Oneida County bus facilities, New York''.

AMENDMENT NO. 993

On page 50, between lines 8 and 9, insert the following:

''Rochester alternative fuel buses, New York''.

AMENDMENT NO. 994

On page 50, between lines 8 and 9, insert the following:

''Rochester Central Bus Facility, New York''.

AMENDMENT NO. 995

On page 52, between lines 24 and 25, insert the following:

''Staten Island Rapid Transit Demonstration, New York''.

AMENDMENT NO. 996

On page 53, between lines 2 and 3, insert the following:

''Suffolk County Automated Vehicle Locator System, New York''.

AMENDMENT NO. 997

On page 53, between lines 2 and 3, insert the following:

''Sullivan County coordinated public transportation, New York''.

AMENDMENT NO. 998

On page 53, between lines 11 and 12, insert the following:

''Tompkins County Transit Center, New York''.

AMENDMENT NO. 999

On page 53, between lines 15 and 16, insert the following:

''Town of Huntington paratransit vehicles, New York''.

AMENDMENT NO. 1000

On page 34, between lines 11 and 12, insert the following:

''Albany Paratransit Bus Facility and replacement vehicles, New York''.

AMENDMENT NO. 1001

On page 58, between lines 8 and 9, insert the following:

''Poughkeepsie Intermodal Project, New York''.

AMENDMENT NO. 1002

On page 54, between lines 24 and 25, insert the following:

''Westchester County, replace 40 commuter coaches, New York''.

AMENDMENT NO. 1003

On page 55, between lines 11 and 12, insert the following:

''Yonkers Intermodal Center, New York''.

AMENDMENT NO. 1004

On page 36, between lines 16 and 17, insert the following:

''Broome County, buses and related equipment, New York''.

AMENDMENT NO. 1005

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. MAXIMUM HIGHWAY APPORTIONMENT TO EACH STATE.

(a) DEFINITION OF STATE.—In this section, the term ''State'' means any of the 50 States and the District of Columbia.

(b) IN GENERAL.—Notwithstanding any other provision of law, no State shall receive more than $120 per capita of the total budget resources made available by this Act to carry out sections 103(b), 105, 119, 133, 144, and 149 of title 23, United States Code.

(c) REDISTRIBUTION OF BUDGET RESOURCES.—The amount of funds made available by application of subsection (b) shall be redistributed equally among the States.

(d) AFFECTED APPORTIONMENTS.—Reductions and increases required under subsections (b) and (c) shall be made only to the formula apportionments under the sections referred to in subsection (b).

AMENDMENT NO. 1006

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. REPEAL OF GUARANTEE OF 90.5 PERCENT RETURN.

Section 105 of title 23, United States Code, is amended by striking subsection (f).

AMENDMENT NO. 1007

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Section 9502 of the Internal Revenue Code of 1986 (relating to the Airport and Airway Trust Fund) is repealed.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 9503(b) is repealed.

(c) EFFECTIVE DATE.—The repeals made by this section take effect on October 1, 1999.

AMENDMENT NO. 1008

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 (relating to the Highway Trust Fund) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) takes effect on October 1, 1999.

AMENDMENT NO. 1009

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF EXCISE TAX ON HIGHWAY MOTOR FUELS.

(a) IN GENERAL.—Section 4041 (other than subsections (c) and (d)(2)) and subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 (relating to special fuels and gasoline) are repealed.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) take effect on October 1, 1999.

AMENDMENT NO. 1010

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF EXCISE TAX ON AVIATION FUELS.

(a) IN GENERAL.—Subections (c) and (d)(2) of section 4041 and subpart B of part III of

subchapter A of chapter 32 of the Internal Revenue Code of 1986 (relating to aviation fuels) are repealed.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) take effect on October 1, 1999.

AMENDMENT NO. 1011

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. SURFACE TRANSPORTATION.

(a) HIGH PRIORITY PROJECTS FLEXIBILITY.—Section 117 of title 23, United States Code, is amended by adding at the end the following:

''(i) USE OF OTHER FUNDS.—

''(1) IN GENERAL.—

''(A) PROJECTS ELIGIBLE FOR APPORTIONED FUNDS.—A State may use for a project under this section any funds apportioned under this title for which the project is eligible.

''(B) PROJECTS NOT ELIGIBLE FOR APPORTIONED FUNDS.—If a project under this section is not eligible for funds apportioned under this title, a State may use for the project funds apportioned to the State under section 104(b)(3), other than funds set aside or suballocated under section 133(d).

''(2) REIMBURSEMENT.—Apportioned funds used under paragraph (1) shall be reimbursed from amounts allocated for the project under this section in an amount equal to the amount used under paragraph (1), but not to exceed the total of the amounts allocated for the project under this section.''.

(b) FUNDING FLEXIBILITY AND HIGH SPEED RAIL CORRIDORS.—

(1) ELIGIBILITY OF PASSENGER RAIL FOR HIGHWAY FUNDING.—

(A) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

''(Q) Acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity rail passenger facilities and rolling stock.''.

(B) SURFACE TRANSPORTATION PROGRAM.—Section 133(b)(2) of title 23, United States Code, is amended by inserting before the period at the end the following: '', rail, or a combination of bus and rail''.

(C) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(i) in paragraph (4), by striking ''or'' at the end;

(ii) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(6) if the project or program will have air quality benefits through acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity rail passenger facilities and rolling stock.''.

(2) TRANSFER OF HIGHWAY AND TRANSIT FUNDS TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Section 104(k) of title 23, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by inserting after paragraph (2) the following:

''(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.''; and

(C) in paragraph (4) (as redesignated by subparagraph (A)), by striking ''paragraphs (1) and (2)'' and inserting ''paragraphs (1) through (3)''.

(c) HISTORIC BRIDGES.—Section 144(o) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by inserting ''amount of'' before ''costs eligible''; and

(B) by striking ''subsection shall not'' and inserting ''subsection that are funded with funds made available to carry out this section shall not''; and

(2) in paragraph (4)—

(A) in the second sentence, by striking ''up to an amount not to'' and inserting '', except that the amount of reimbursable project costs that are funded with funds made available to carry out this section shall not''; and

(B) in the last sentence, by striking ''title'' and inserting ''section''.

(d) ACCOUNTING SIMPLIFICATION.—Section 1102(c)(4) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended by striking ''$2,000,000,000'' each place it appears and inserting ''$2,161,000,000''.

AMENDMENT NO. 1012

Beginning on page 80, strike line 14 and all that follows through page 81, line 2, and insert the following:

(1) by striking the section heading and inserting the following:

''SEC. 3021. PILOT PROGRAM FOR INTERCITY PASSENGER RAIL SERVICE FUNDED FROM HIGHWAY TRUST FUND (OTHER THAN MASS TRANSIT ACCOUNT).'';

(2) in subsection (a)—

(A) by striking the first sentence and inserting ''The Secretary shall establish a pilot program to determine the benefits of allowing States to use funds from the Highway Trust Fund (other than the Mass Transit Account) for intercity passenger rail service.''; and

(B) in the second sentence, by striking ''Any'' and all that follows through ''United States Code'' and inserting ''The funds made available to the State of Oklahoma and the State of Vermont to carry out sections 5307 and 5311 of title 49, United States Code, and sections 133 and 149 of title 23, United States Code'';

(3) in subsection (b)(1), by striking ''the Committee on Banking, Housing, and Urban Affairs'' and inserting ''the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation''; and

(4) by adding at the end the following:

AMENDMENT NO. 1013

On page 69, strike lines 14 through 18.

AMENDMENT NO. 1014

On page 91, insert the following new section:

''SEC. . (a) None of the funds make available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

AMENDMENT NO. 1015

On page 91, insert the following new section:

SEC. . (a) FINDINGS.—Congress finds that—

(1) the serious ground level ozone, noise, water pollution, and solid waste disposal problems attendant to airport operations require a thorough evaluation of all significant sources of pollution;

(2) the Clean Air Act (42 U.S.C. 7401 et seq.)—

(A) requires each State to reduce emissions contributing to ground level ozone problems and maintain those reductions; and

(B) requires the Administrator of the Environmental Protection Agency to study, in addition to other sources, the effects of sporadic, extreme noise (such as jet noise near airports) on public health and welfare;

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) establishes a regulatory and enforcement program for discharges of wastes into water;

(4) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) establishes primary drinking water standards and a ground water control program;

(5) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) regulates management and disposal of solid and hazardous waste;

(6) a study of air pollution problems in California—

(A) has determined that airports are significant sources of air pollution; and

(B) has led to the creation of an airport bubble concept; and

(7) the airport bubble concept is an approach that—

(A) treats an airport and the area within a specific radius around the airport as a single source of pollution that emits a range of pollutants, including air, noise, water, and solid waste; and

(B) seeks, by implementation of specific programs or regulations, to reduce the pollution from each source within the bubble and thereby reduce the overall pollution in that area.

(b) PURPOSE.—The purpose of this Act is to require the Administrator to conduct—

(1) a feasibility study for applying airport bubbles to airports as a method of assessing and reducing, where appropriate, air, noise, water, and solid waste pollution in and around the airports and improving overall environmental quality; and

(2) a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

SEC. . DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AIRPORT BUBBLE.—The term ''airport bubble'' means an area—

(A) in and around an airport (or other facility using aircraft) within which sources of pollution and levels of pollution from those sources are to be identified and reduced; and

(B) containing a variety of types of air, noise, water, and solid waste sources of pollution in which the aggregate of each type of pollutant from the respective sources is regulated as if the various sources were a single source.

SEC. . STUDY OF USING AIRPORT BUBBLES.

(a) IN GENERAL.—The Administrator shall conduct a study to determine the feasibility of regulating air, noise, water, and solid waste pollution from all sources in and around airports using airport bubbles.

(b) WORKING GROUP.—In conducting the study, the Administrator shall establish and consult with a working group comprised of—

(1) the Administrator of the Federal Aviation Administration (or a designee);

(2) the Secretary of Defense (or a designee);

(3) the Secretary of Transportation (or a designee);

(4) a representative of air quality districts;

(5) a representative of environmental research groups;

(6) a representative of State Audubon Societies;

(7) a representative of the Sierra Club;

(8) a representative of the Nature Conservancy;

(9) a representative of port authorities of States;

(10) an airport manager;

(11) a representative of commanding officers of military air bases and stations;

(12) a representative of the bus lines that serve airports who is familiar with the emissions testing and repair records of those buses, the schedules of those lines, and any problems with delays in service caused by traffic congestion;

(13) a representative of the taxis and limousines that serve airports who is familiar with the emissions testing and repair records of the taxis and limousines and the volume of business generated by the taxis and limousines;

(14) a representative of local law enforcement agencies or other entities responsible for traffic conditions in and around airports;

(15) a representative of the Air Transport Association;

(16) a representative of the Airports Council International-North America;

(17) a representative of environmental specialists from airport authorities; and

(18) a representative from an aviation union representing ground crews.

(c) REQUIRED ELEMENTS.—In conducting the study, the Administrator shall—

(1) collect, analyze, and consider information on the variety of stationary and mobile sources of air, noise, water, and solid waste pollution within airport bubbles around airports in the United States, including—

(A) aircraft, vehicles, and equipment that service aircraft (including main and auxiliary engines); and

(B) buses, taxis, and limousines that serve airports;

(2) study a statistically significant number of airports serving commercial aviation in a manner designed to obtain a representative sampling of such airports;

(3) consider all relevant information that is available, including State implementation plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and airport master plans;

(4) consider the air quality implications of airport and ground and in-flight aircraft operations, such as routing and delays;

(5) assess the role of airports in interstate and international travel and commerce and the environmental and economic impact of regulating airports as significant sources of air, noise, water, and solid waste pollution;

(6) propose boundaries of the areas to be included within airport bubbles;

(7) propose a definition of air pollutant emissions for airport bubbles that includes hydrocarbons, volatile organic compounds, and other ozone precursors targeted for reduction under Federal air pollution law;

(8) develop an inventory of each source of air, noise, water, and solid waste pollution to be regulated within airport bubbles and the level of reduction for each source;

(9) list and evaluate programs that might be implemented to reduce air, noise, water, and solid waste pollution within airport bubbles and the environmental and economic impact of each of the programs, including any changes to Federal or State law (including regulations) that would be required for implementation of each of the programs;

(10) evaluate the feasibility of regulating air, noise, water, and solid waste pollutants in and around airports using airport bubbles and make recommendations regarding which programs should be included in an effective implementation of airport bubble methodology; and

(11) address the issues of air and noise pollution source identification and regulation that are unique to military air bases and stations.

(d) Report.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this section.

SEC. ___. STUDY OF EMISSION STANDARDS FOR AIRPLANE ENGINES.

(a) In general.—The Administrator shall conduct a study of air pollutant emission standards established by the Environmental protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(b) Report.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this section.

SEC. ___. PROGRESS REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter until the reports under sections 4 and 5 are submitted, the Administrator shall submit to Congress a report that details the progress being made by the Administrator in carrying out sections 4 and 5.

SEC. ___. REPORTING OF TOXIC CHEMICAL RELEASES.

(a) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each airport that regularly serves commercial or military jet aircraft to report, under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13106), releases and other waste management activities associated with the manufacturing, processing, or other use of toxic chemicals listed under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023), including toxic chemicals manufactured, processed, or otherwise used—

(1) during operation and maintenance of aircraft and other motor vehicles at the airport; and

(2) in the course of other airport and airline activities.

(b) Treatment as a facility.—For the purpose of subsection (a), an airport shall be considered to be a facility as defined in section 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049).

SEC. ___. FUNDING.

The Administrator shall carry out this Act using existing funds available to the Administrator.

AMENDMENT NO. 1016

On page 82, line 22, strike ''$200'' and insert ''$90''.

AMENDMENT NO. 1017

On page 82, line 22, strike ''$200'' and insert ''$100''.

AMENDMENT NO. 1018

On page 82, line 20, strike ''70'' and insert ''60''.

AMENDMENT NO. 1019

On page 82, line 20, strike ''70'' and insert ''300''.

AMENDMENT NO. 1020

On page 82, line 22, strike ''$200'' and insert ''$140''.

AMENDMENT NO. 1021

On page 17, line 23, strike ''$370,000,000'' and insert ''$341,000,000''.

On page 29, line 13, strike ''$571,000,000'' and insert ''$600,000,000''.

AMENDMENT NO. 1022

On page 69, line 9, strike ''100'' and insert ''115''.

AMENDMENT NO. 1023

On page 18, line 24, after ''Code:'', insert the following: ''*Provided further,* That none of the funds appropriated by this Act may be obligated or expended to fund the Office of Highway Policy Information:''.

AMENDMENT NO. 1024

On page 34, line 1, insert after ''Appropriations'' the following: '', the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1025

On page 55, line 20, insert after ''tions'' the following: '', the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1026

On page 84, line 14, before the period, insert the following: '', the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on

Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1027

On page 27, strike lines 17 and 18 and insert the following:

proved by the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee Appropriations and the Committee on Transportation and Infrastructure of the House of Representatives.

AMENDMENT NO. 1028

On page 27, line 16, strike ''10 percent'' and insert ''85 percent''.

AMENDMENT NO. 1029

On page 35, strike line 25.

AMENDMENT NO. 1030

On page 35, strike lines 15 and 16.

AMENDMENT NO. 1031

On page 34, strike line 7.

AMENDMENT NO. 1032

On page 91, insert the following new section:

SEC. .

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

SECTION 1. DESIGNATION OF DANIEL PATRICK MOYNIHAN STATION.

The Amtrak station to be constructed in the James A. Farley Post Office Building in New York, New York, shall be known and designated as the ''Daniel Patrick Moynihan Station''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Amtrak station referred to in section 1 shall be deemed to be a reference to the ''Daniel Patrick Moynihan Station''.

AMENDMENT NO. 1033

On page 91, insert the following new section:

SEC. .

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Acid Deposition and Ozone Control Act''.

SEC. 2. FINDINGS AND PURPOSES.

(A) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term ''affected facility'' means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) NO_X ALLOWANCE.—The term ''NO_X allowance'' means a limited authorization under section 4(3) to emit, in accordance with this Act, quantities of nitrogen oxide.

(4) MMBTU—The term ''mmBtu'' means 1,000,000 British thermal units.

(5) PROGRAM.—The term ''Program'' means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term ''State'' means the 48 contiguous States and the District of Columbia.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(A) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the ''Nitrogen Oxide Allowance Program''.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO_X ALLOWANCES.—

(A) ALLOCATION.—The Administrator shall allocate under paragraph (4)—

(i) for each of calendar years 2002 through 2004, 5,400,000 NO_X allowances; and

(ii) for calendar year 2005 and each calendar year thereafter, 3,000,000 NO_X allowances.

(B) USE.—Each NO_X allowance shall authorize an affected facility to emit—

(i) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; or

(ii) ½ ton of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) ALLOCATION.—

(A) DEFINITION OF TOTAL ELECTRIC POWER.—In this paragraph, the term ''total electric power'' means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar, wind, hydro power, nuclear power, cogeneration facilities, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual NO_X allowances to each of the States in proportion to the State's share of the total electric power generated in all of the States.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's NO_X allowance allocation—

(i) by December 1, 2000, for calendar years 2002 through 2004;

(ii) by December 1, 2002, for calendar years 2005 through 2007; and

(iii) by December 1 of each calendar year after 2002, for the calendar year that begins 61 months thereafter.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit to the Administrator a report detailing the distribution of NO_X allowances of the State to affected facilities in the State—

(i) not later than September 30, 2001, for calendar years 2002 through 2004;

(ii) not later than September 30, 2003, for calendar years 2005 through 2012; and

(iii) not later than September 30 of each calendar year after 2013, for the calendar year that begins 61 months thereafter.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NO_X allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of a specified year shall be of no effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall, not later than November 30 of that calendar year, distribute the NO_X allowances for the calendar years specified in subparagraph (A) to each affected facility in the State in proportion to the affected facility's share of the total electric power generated in the State.

(ii) DETERMINATION OF FACILITY'S SHARE.—In determining an affected facility's share of total electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be—

(I) for calendar years 2002 through 2004, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999;

(II) for calendar years 2005 through 2012, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1999 through 2001; and

(III) for calendar year 2013 and each calendar year thereafter, the amount of electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) JUDICIAL REVIEW.—A distribution of NO_X allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) NO_X ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate a NO_X allowance system regulation under which a NO_X allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulation shall establish the NO_X allowance system under this section, including requirements for the allocation, transfer, and use of NO_X allowances under this Act.

(3) USE OF NO_X ALLOWANCES.—The regulation shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any NO_X

allowance before the calendar year for which the NO_X allowance is allocated; and

(B) provide that the unused NO_X allowances shall be carried forward and added to NO_X allowances allocated for subsequent years.

(4) CERTIFICATION OF TRANSFER.—A transfer of a NO_X allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) NO_X ALLOWANCE TRACKING SYSTEM.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NO_X allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NO_X allowance system.

(d) PERMIT REQUIREMENTS.—A NO_X allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of each affected facility's operating permit requirements, without a requirement for any further permit review or revision.

(e) NEW SOURCE RESERVE.—

(1) IN GENERAL.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NO_X allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2002 through 2005, to sources that commence operation after 1998;

(B) for calendar years 2006 through 2011, to sources that commence operation after 2000; and

(C) for calendar year 2012 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) SHARE.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of NO_X allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro rata for the number of months of the year during which the source operates.

(3) UNUSED NO_X ALLOWANCES.—

(A) IN GENERAL.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a NO_X allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) OPEN AUCTIONS.—An auction under subparagraph (A) shall be open to any person.

(C) CONDUCT OF AUCTION.—

(i) METHOD OF BIDDING.—A person wishing to bid for a NO_X allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of NO_X Allowances at a specified price.

(ii) SALE BASED ON BID PRICE.—A NO_X Allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all NO_X allowances for sale at the auction have been sold.

(iii) NO MINIMUM PRICE.—A minimum price shall not be set for the purchase of a NO_X allowance auctioned under subparagraph (A).

(iv) REGULATIONS.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate a regulation to carry out this paragraph.

(D) USE OF NO_X ALLOWANCES.—A NO_X allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a NO_X allowance under this Act.

(E) PROCEEDS OF AUCTION.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) NATURE OF NO_X ALLOWANCES.—

(1) NOT A PROPERTY RIGHT.—A NO_X allowance shall not be considered to be a property right.

(2) LIMITATION OF NO_X ALLOWANCE.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NO_X allowance.

(g) PROHIBITIONS.—

(1) IN GENERAL.—After January 1, 2000, it shall be unlawful—

(A) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits nitrogen oxides in excess of the amount permitted by the quantity of NO_X allowances held by the designated representative of the affected facility; or

(B) for any person to hold, use, or transfer a NO_X allowance allocated under this Act, except as provided under this Act.

(2) OTHER EMISSION LIMITATIONS.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) TIME OF USE.—A NO_X allowance may not be used before the calendar year for which the NO_X allowance is allocated.

(4) PERMITTING, MONITORING, AND ENFORCEMENT.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(B) the requirements and liabilities of an affected facility under that Act.

(h) SAVINGS PROVISIONS.—Nothing in this section—

(1) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

SEC. 5. INDUSTRIAL SOURCE MONITORING.

Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by inserting ", or of any industrial facility with a capacity of 100 or more mmBtu's per hour," after "The owner and operator of any source subject to this title".

SEC. 6. EXCESS EMISSIONS PENALTY.

(a) IN GENERAL.—

(1) LIABILITY.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the NO_X allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) CALCULATION.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of NO_X allowances that would authorize the nitrogen oxides emitted by the facility or the calendar year; minus

(B) the quantity of NO_X allowances that the owner or operator holds for use for the facility for that year.

(3) OVERLAPPING PENALTIES.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) EXCESS EMISSIONS OFFSET.—

(1) IN GENERAL.—The owner or operator of a affected facility that emits nitrogen oxide during a calendar year in excess of the NO_X allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of NO_X allowances equal to the number of NO_X allowances that would authorize the excess nitrogen oxides emitted.

(2) PROPOSED PLAN.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1).

(3) CONDITION OF PERMIT.—On approval of the proposed plan by the Administrator, as submitted, or as modified or conditioned by the Administrator, the plan shall be considered a condition of the operating permit for the affected facility without further review or revision of the permit.

(c) PENALTY ADJUSTMENT.—The Administrator shall annually adjust the amount of the penalty specified in subsection(a) to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402 of the Clean Air Act (42 U.S.C. 7651a) is amended by striking paragraph (3) and inserting the following:

"(3) ALLOWNCE.—The term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year—

"(A) in the case of allowance allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide; and

"(B) in the case of allowances allocated for calendar year 2005 and each calendar year thereafter, ½ ton of sulfur dioxide.".

SEC. 8. REGIONAL ECOSYSTEMS.

(a) REPORT.—

(1) IN GENERAL.—Not later than December 21, 2002, the Administrator shall submit to Congress a report identifying objectives for scientifically credible environmental indicators, as determined by the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, mid-Appalachian Mountains, Rocky Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator; and

(B) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas with an acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report updating the report

under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall be subject to the requirements applicable to a report under section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)).

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2008, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives stated in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this Act, compliance with this Act shall not exempt or exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate a regulation requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate a regulation controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulation shall take into account technological feasibility, cost, and the projected reduction in levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(2) CHEMISTRY OF LAKES AND STREAMS.—

(1) INITIAL REPORT.—Not later than September 30, 2001, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (104 Stat. 2632).

(2) FOLLOWING REPORT.—Not later than 2 years after the date of the report under paragraph (1), the Administrator shall submit a report updating the information contained in the initial report.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 2000 through 2005; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 2000, 2001, 2007, and 2008.

AMENDMENT NO. 1034

At the end of the bill add the following:

TITLE ____—PATIENTS' BILL OF RIGHTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Patients' Bill of Rights Act of 1999''.

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider without prior authorization by the plan or issuer, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan or issuer; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. ___102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage; and

(B) one or more coverage options that do not provide benefits only through participating health care providers.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term ''point-of-service coverage'' means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring

the offering of such coverage with respect to another employer.

SEC. ___103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. ___104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term ''special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. ___105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care

was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. ____106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. ____107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section ____121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section ____115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. ____108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage. This subsection shall only

apply to a plan's or issuer's application of restrictions on the participation of health care providers in a network and shall not be construed as requiring a plan or issuer to create or establish new health care providers in an area.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. ___109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage. Pursuant to section ___192(b), except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance issuer to provide specific benefits under the terms of such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. ___111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section ___112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section ___114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least a stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. ___112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction (including satisfaction with respect to services to children) of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section ___121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

(e) EXCEPTION FOR NON-MEDICAL, RELIGIOUS CARE PROVIDERS.—The requirements of subsection (a), insofar as they may apply to a provider of health care, do not apply to a provider that provides no medical care and that provides only a religious method of healing or religious nonmedical nursing care.

SEC. ___113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term ''health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ___101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section ___132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. ___116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section ___112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—PATIENT INFORMATION

SEC. ___121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section ___103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section ___112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section ___112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section ___115, including under any drug formulary program under section ___107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section ___122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees

through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. ___122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. ___123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ___131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ___111(a) of all grievances and appeals relating to quality of care.

SEC. ___132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section ___133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section ___121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term ''appealable decision'' means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section ___101.

(C) Failure to provide a choice of provider under section ___103.

(D) Failure to provide qualified health care providers under section ___103.

(E) Failure to provide access to specialty and other care under section ___104.

(F) Failure to provide continuation of care under section ___105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section ___106.

(H) Failure to provide access to needed drugs under section ___107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section ___109.

(J) An adverse determination under a utilization review program under section ___115.

(K) The imposition of a limitation that is prohibited under section ___151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, or enrollee, or any provider or other person acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section ___191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee (including in the case of a child, development) or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. ___133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term ''externally appealable decision'' means an appealable decision (as defined in section ___132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized (including, in the case of a child, development) as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section ___132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the State has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. ___141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term ''medical communication'' means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term ''medical communication'' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. ___142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. ___143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. ___144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved

demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. ____151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term ''manner or setting'' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term ''medically necessary or appropriate'' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. ____152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. ____191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2707 and 2753 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 714 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. ___192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. ___193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage under Public Health Service Act

SEC. ___201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. ___202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Subpart 3 of part B of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.''.

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. ___301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) section ___101 (relating to access to emergency care).

''(B) section ___102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

''(C) section ___103 (relating to choice of providers).

''(D) section ___104 (relating to access to specialty care).

''(E) section ___105(a)(1) (relating to continuity in case of termination of provider contract) and section ___105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(F) section ___106 (relating to coverage for individuals participating in approved clinical trials.)

''(G) section ___107 (relating to access to needed prescription drugs).

''(H) section ___108 (relating to adequacy of provider network).

''(I) Chapter 2 of subtitle A (relating to quality assurance).

''(J) section ___143 (relating to additional rules regarding participation of health care professionals).

''(K) section ___152 (relating to standards relating to benefits for certain breast cancer treatment).

''(2) INFORMATION.—With respect to information required to be provided or made available under section ___121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances

under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections ____131 and ____132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section ____133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) section ____109 (relating to nondiscrimination in delivery of services).

''(B) section ____141 (relating to prohibition of interference with certain medical communications).

''(C) section ____142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

''(D) section ____144 (relating to prohibition on retaliation).

''(E) section ____151 (relating to promoting good medical practice).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section ____144(b)(1) of the Patients' Bill of Rights Act of 1999, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section ____144(b)(1) of the Patients' Bill of Rights Act of 1999 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section ____115) of subtitle A of the Patients' Bill of Rights Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 144(b))'' after ''part 7''.

SEC. ____302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

''(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

''(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

''(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against an employer or other plan sponsor maintaining the group health plan or against an employee of such an employer or sponsor acting within the scope of employment, or

''(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

''(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by such employer or other plan sponsor (or employee of such authority) resulted in personal injury or wrongful death.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.

''(4) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

Subtitle D—Application to Group Health Plans under the Internal Revenue Code of 1986

SEC. ____401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient freedom of choice.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

Subtitle E—Effective Dates; Coordination in Implementation; Limitation

SEC. ____501. EFFECTIVE DATES AND RELATED RULES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections ____201(a), ____301, and ____401 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2000 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections ____201(a), ____301, and ____401 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan

which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section ___202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this title (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

SEC. ___502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and subtitle A of the Patients' Bill of Rights Act of 1999''.

SEC. ___503. LIMITATION.

Notwithstanding any other provision of law, the provisions of section 321 of this Act shall not apply and shall be considered null and void.

AMENDMENT NO. 1035

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Section 701 of title 49, United States Code, is amended to read as follows:

''§ 701. Establishment of Board

''(a) ESTABLISHMENT.—There is established within the Department of Transportation the Surface Transportation Board referred to in this section as the 'Board'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Board shall consist of 11 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 6 members may be appointed from the same political party.

''(2) QUALIFICATIONS OF MEMBERS.—At any given time, at least 8 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least 3 members shall be individuals with professional or business experience (including agriculture) in the private sector. The members of the Board shall be representative of the major rail-dependent regions of the United States.

''(3) TERMS.—

''(A) IN GENERAL.—The term of each member of the Board shall—

''(i) be 5 years; and

''(ii) begin when the term of the predecessor of that member ends.

''(B) VACANCIES.—An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year.

''(C) REMOVAL.—The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

''(4) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no individual may serve as a member of the Board for more than 2 terms.

''(B) EXCEPTIONS.—Any individual who, as of the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 2000, is serving as a member of the Board for the remainder of a term for which that member was originally appointed to the Interstate Commerce Commission or is appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, may not be appointed for more than 1 additional term.

''(5) PROHIBITION.—A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(6) ADMINISTRATION.—A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

''(c) CHAIRMAN.—

''(1) IN GENERAL.—There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) RESPONSIBILITIES OF CHAIRMAN.—Subject to the general policies, decisions, findings, and determinations of the Board, the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

''(A) appoint and supervise, other than regular and full-time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

''(B) appoint the heads of offices with the approval of the Board;

''(C) distribute Board business among officers, employees, and offices of the Board;

''(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

''(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.''.

AMENDMENT NO. 1036

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. AIRLINE COMPETITION.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102(2) of title 49, United States Code.

(2) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102(6) of title 49, United States Code.

(3) AIRPORT.—The term ''airport'' has the meaning given that term in section 40102(9) of title 49, United States Code.

(4) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) PREFERENCE FOR LOW-COMPETITION AIRPORTS.—

(1) DEFINITIONS.—Section 41714(h) of title 49, United States Code, is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) LARGE HUB AIRPORT.—The term 'large hub airport' means an airport described in section 47134(d)(2).

''(4) LOW-COMPETITION AIRPORT.—The term 'low-competition airport' means an airport that—

''(A) is not a large hub airport; and

''(B) the Secretary determines has substantially—

''(i) less service than the average service at airports in the United States; or

''(ii) higher airfares than average airfares for airports in the United States.''.

(2) PREFERENCE.—Section 41714(c)(1) of title 49, United States Code, is amended by adding at the end the following: ''In granting exemptions under this paragraph, the Secretary shall give preference to air transportation provided to low-competition airports that are located within a 500-mile radius of a high density airport.''.

(c) UNFAIR COMPETITION.—

(1) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, shall issue regulations that define predatory practices and unfair methods of competition of air carriers for the purposes of applying this subsection to complaints of predatory practices or unfair methods of competition filed under section 41712 of title 49, United States Code, or any other applicable provision of law.

(2) DETERMINATIONS REGARDING ACTIONS FILED.—

(A) ACTIONS FILED BEFORE THE DATE OF ENACTMENT OF THIS ACT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall complete action on any complaint alleging a predatory practice or unfair method of competition by an air carrier that was filed with the Secretary under section 41712 of title 49, United States Code, or any other applicable provision of law before the date of enactment of this Act.

(B) ACTIONS FILED ON OR AFTER THE DATE OF ENACTMENT OF THIS ACT.—

(i) IN GENERAL.—Not later than 90 days after a complaint alleging a predatory practice or unfair method of competition by an air carrier is filed with the Secretary under section 41712 of title 49, United States Code, or any other applicable provision of law, the Secretary shall make an initial finding concerning whether the practice that is the subject of the complaint constitutes a predatory practice or unfair method of competition.

(ii) APPLICABILITY.—Clause (i) shall apply to a complaint filed with the Secretary on or after the date of enactment of this Act.

(3) RESTRAINING ORDERS.—

(A) IN GENERAL.—In a manner consistent with section 41712 of title 49, United States Code, or any other applicable provision of law, the Secretary shall enjoin, pending final determination, any action of an air carrier that the Secretary finds to be a predatory practice or unfair method of competition under paragraph (2).

(B) PERIOD FOR TAKING ACTION.—The Secretary shall carry out the requirements of subparagraph (A) not later than 15 days after an initial finding is made with respect to a complaint under paragraph (2) (or if the initial finding is made before the date of enactment of this Act, not later than 15 days after the date of enactment of this Act).

(d) LIMITS ON COMPETITION IN AVIATION INDUSTRY.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall transmit to Congress a report concerning barriers to entry, predatory practices (including pricing), and other limits on competition in the aviation industry.

(e) PROVISIONS TO PREVENT INCREASED AIRCRAFT NOISE.—

(1) SECRETARIAL AUTHORITY UNDER THIS SECTION.—Nothing in this section or the amendments made by this section shall authorize the Secretary to take any action that would increase aircraft noise in any community in the vicinity of an airport.

(2) STAGE 4 NOISE LEVELS.—

(A) PROPOSED REGULATIONS.—Section 47523 of title 49, United States Code, is amended by adding at the end the following:

''(c) STAGE 4 NOISE LEVELS.—

''(1) PROPOSED REGULATIONS.—Not later than 1 year after the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary shall issue proposed regulations that—

''(A) establish, in a manner consistent with this chapter, stage 4 noise levels applicable to aircraft designated by the Secretary as stage 4 aircraft; and

''(B) provide for the implementation of the stage 4 noise level requirements by the date that is 36 months after the date of issuance of the proposed regulations.

''(2) CRITERIA FOR NOISE LEVELS.—The stage 4 noise levels established under this subsection shall—

''(A) provide for a significant reduction in the level of noise generated by aircraft; and

''(B) be consistent with the noise levels attainable through the use of the most effective noise control technology available for stage 3 aircraft (as that term is used under section 47524(c)), as of January 1, 1999.''.

(2) LEGISLATIVE PROPOSALS.—At the same time as the Secretary issues proposed regulations under section 47523(c) of title 49, United States Code, as added by paragraph (1) of this subsection, the Secretary shall submit to Congress such proposed legislation (including amendments to chapter 475 of title 49, United States Code) as is necessary to ensure the implementation of stage 4 noise levels (as that term is used in such section 47523(c)).

(f) CLARIFICATION OF LEGAL STANDING.—Section 41713(b) of title 49, United States Code, is amended by adding at the end the following:

''(5) ACTIONS NOT BARRED.—This subsection shall not bar any cause of action brought against an air carrier by 1 or more private parties seeking to enforce any right under the common law of any State or under any State statute, other than a statute purporting to directly prescribe fares, routes, or levels of air transportation service.''.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

CLELAND AMENDMENT NO. 1037

(Ordered to lie on the table.)

Mr. CLELAND submitted an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. REDESIGNATION OF NATIONAL SCHOOL LUNCH ACT AS RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT.—(a) IN GENERAL.—The first section of the National School Lunch Act (42 U.S.C. 1751 note) is amended by striking ''National School Lunch Act'' and inserting ''Richard B. Russell National School Lunch Act''.

(b) CONFORMING AMENDMENTS.—The following provisions of law are amended by striking ''National School Lunch Act'' each place it appears and inserting ''Richard B. Russell National School Lunch Act'':

(1) Sections 3 and 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237).

(2) Section 404 of the Agricultural Act of 1949 (7 U.S.C. 1424).

(3) Section 201(a) of the Act entitled ''An Act to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes'', approved September 21, 1959 (7 U.S.C. 1431c(a); 73 Stat. 610).

(4) Section 211(a) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4004(a)).

(5) Section 245A(h)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(A)).

(6) Sections 403(c)(2)(C), 422(b)(3), 423(d)(3), 741(a)(1), and 742 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(C), 1632(b)(3), 1183a note, 42 U.S.C. 1751 note, 8 U.S.C. 1615; Public Law 104–193).

(7) Section 2243(b) of title 10, United States Code.

(8) Sections 404B(g)(1)(A), 404D(c)(2), and 404F(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–22(g)(1)(A), 1070a–24(c)(2), 1070a–26(a)(2); Public Law 105–244).

(9) Section 231(d)(3)(A)(i) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341(d)(3)(A)(i)).

(10) Section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)).

(11) Section 1397E(d)(4)(A)(iv)(II) of the Internal Revenue Code of 1986.

(12) Sections 254(b)(2)(B) and 263(a)(2)(C) of the Job Training Partnership Act (29 U.S.C. 1633(b)(2)(B), 1643(a)(2)(C)).

(13) Section 3803(c)(2)(C)(xiii) of title 31, United States Code.

(14) Section 602(d)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(9)(A)).

(15) Sections 2(4), 3(1), and 301 of the Healthy Meals for Healthy Americans Act of 1994 (42 U.S.C. 1751 note; Public Law 103–448).

(16) Sections 3, 4, 7, 10, 13, 16(b), 17, and 19(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773, 1776, 1779, 1782, 1785(b), 1786, 1788(d)).

(17) Section 658O(b)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)(3)).

(18) Subsection (b) of the first section of Public Law 87–688 (48 U.S.C. 1666(b)).

(19) Section 10405(a)(2)(H) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2489).

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 13, 1999 at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 729, the National Monument Public Participation Act of 1999. A bill to ensure that Congress and the public have the right to participate in the declaration of national monuments on Federal land.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mike Menge (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday June 24, 1999. The purpose of this meeting will be to discuss agricultural issues related to a variety of trade topics

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 24, 1999, to conduct a hearing on ''Export Administration Act Reauthorization: Private Sector Views.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 24, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to examine the implications of the proposed acquisition of the Atlantic Richfield Company by BP Amoco, PLC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, June 24, 1999 beginning at 10:00 a.m. in room SD–215, to conduct a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for an executive business meeting, during the session of the Senate on Thursday, June 24, 1999, at 11:00 a.m. in Senate Dirksen, Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 24, 1999, at 2:15 pm on FAA research and development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing on NO_X/State Implementation Plans Thursday, June 24, 9:00 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 2:45 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. THOMAS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be permitted to meet on Thursday, June 24, 1999 at 11:00 a.m. for a hearing on H.R. 974—The District of Columbia College Access Act and S. 856—Expanded Options in Higher Education for District of Columbia Students Act of 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING THREE GEORGIAN HEROES

• Mr. CLELAND. Mr. President, I am deeply honored to rise today to recognize Douglas Scales, Floyd Eugene Collins, Jr., and Richard Floyd Burnham, Jr., three young men from my home town of Lithonia, Georgia who fought in Vietnam, but tragically, did not come home. On July 5, 1999, the city of Lithonia will dedicate the Lithonia Vietnam Veterans Memorial to honor the sacrifices of these heroic young men. It is said, ''Poor is the nation which has no heroes. Poorer still is the nation which has them, but forgets,'' We will dedicate this memorial to remember, and to show our heart-felt appreciation to these young men for fighting for our country, and to say thank you to their families for their own sacrifices in the name of our freedom.

As I mentioned, this memorial will be dedicated on July 5, one day after we will celebrate July 4, our Independence Day. On July 4, 1776, the Continental Congress signed the Declaration of Independence in Philadelphia. In that powerful and historic document, the thirteen colonies declared themselves a self-governing body, and rightly stated that King George VIII had ''plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.''

It strikes me that those words could have applied to many situations and many cruel and despotic rulers since 1776. I think of Hitler's Germany, I think of Vietnam, I think even of Bosnia and Kosovo. But because of the principals of our founding fathers and because of many great American presidents who have followed, the United States has been in a unique but sobering position to defend not only its own freedom, but the very concept of freedom across the globe. That was the case in 1967 when Specialist Collins was in Bien Hoe. That was the case in 1968 when Private First Class Scales was in Tay Ninh. That was the case in 1968 when Specialist Burnham was in Quan Nam. It is still the case today.

Three Georgians signed the Declaration of Independence in 1776. On July 5, we will unveil and honor the names of three Georgians. Winston Churchill described his concept of duty in this way, ''What is the use of living if it be not to strive for noble causes and to make this muddled world a better place for those who will have it after we are gone.'' Doug Scales, Floyd Eugene Collins, Jr. and Richard Floyd Burnham, Jr. strove for noble causes and made this world a better place for us. My colleague and fellow Vietnam Veteran Senator JOHN KERREY described what he remembered most about his experience. ''The shared struggle to do more than survive,'' he said. ''And most of all to bestow honor on our service and to our friends who were lost.'' In this small way, we in Lithonia hope to bestow honor on our friends, our brothers, our sons and husbands who were lost. Not, we say, in vain.•

TRIBUTE TO ORION COMPUTER SOURCING GROUP

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the Orion Computer Sourcing Group for being named one of Entrepreneur Magazine's ''Hot 100'' fastest growing businesses in the country. Orion was the highest ranking of the three New Hampshire business included on this prestigious list and one of only seven New England businesses recognized by the magazine.

This Portsmouth based company, which purchases excess computer hardware from manufacturers and sells it to clients like Hewlett-Packard, Compaq, and Packard Bell, is definitely on the move. Orion's president, Grant Guilbeault, started the company in his basement in October of 1997 with just $30,000. It has grown to a work force of 14, and continues to expand as business increases. Orion has more than doubled last year's revenue, and similar growth is expected for next year.

Orion Computer Sourcing is not content with resting on its laurels. Grant Guilbeault and the entire Orion team have set their goals for the future and are currently in the process of making

plans to grow the company into a $100-million dollar business in the next few years. If their efforts of the past 18 months are any indication, I have no doubt they will reach their goals.

Part of Orion's tremendous success has been their ability to come together as a team and have a good time. One of the centerpieces of the office is a pool table where all the employees can gather to enjoy themselves, escape the pressures of building a business, and get to know each other. It has obviously been a very successful formula for everyone at Orion.

Once again, I wish to congratulate the employees of Orion on their achievement. I am proud to serve you in the United States Senate.●

RETIREMENT OF SAM HARMAN

● Mr. CLELAND. Mr. President, I rise today to recognize a most outstanding and accomplished citizen of Georgia, Mr. Sam Harman, on the eve of his retirement from the public schools system. As an educator for 36 years, Sam Harman's work ethic, coupled with his goal of excellence at each of his schools has earned him the sincere respect and admiration of his Dunwoody, Georgia community.

Mr. Harman began his career as a math, social studies and science teacher. Later, he coached football and driver's education. His first administrative job was as principal of one of Georgia's largest middle schools, in Cobb County, Georgia. In 1987, he was named the principal of Vanderlyn Elementary in Dunwoody, Georgia, where he remains today.

Throughout his tenure at Vanderlyn, Mr. Harman has always put his duties to his school ahead of anything else to make this school an example of excellence not only in the community, but in the public school system at large. He arrives at school at 6 o'clock each morning and stays until 6 o'clock every night. He is a remarkable person with energy to spare.

Sam Harman's dedication to education and his contributions to the community are numerous. To really get an understanding of this wonderful man, you only have to look at his school's many accomplishments. Under his watch, Vanderlyn Elementary has expanded from 400 to more than 700 students. Scholastically, Vanderlyn ranks in the top five schools in Georgia. National test scores for the past five years show Vanderlyn students averaging above the 90th percentile in virtually every academic subject. Teacher transfer rates are extremely low while pupil and teacher attendance rates are among the highest in the country. These statistics are the direct result of Sam Harman's commitment to this school.

Mr. Harman takes a personal interest in every child in his school, and knows each by name. He visits each classroom daily, and supervises both lunchroom and bus duty both to reduce the work of his teachers and to interact with the children. Strong pride exists at Vanderlyn because students, parents and staff know that Principal Harman cares about them as individuals.

While his compassion for others is unique, he is also a firm mediator and strict disciplinarian. Mr. Harman has a rule that students must come to school to learn. Students are well aware that anyone who performs differently will be dealt with swiftly and directly. Simply put, Mr. Harman will not allow any students to disrupt the learning process.

After eleven years at Vanderlyn and 36 years in education, Mr. Harman has now decided to retire. Instead of rising at dawn to herd children, he will be getting up to herd cattle on his farm, where he hopes to spend much more time.

Mr. President, I warmly request that you and my colleagues join me in paying tribute to a most outstanding man, Mr. Sam Harman of Atlanta, GA. We have been richly blessed to find such a caring and dedicated school leader who has positively touched the lives of many. I thank him, as well as his family, for allowing us to occupy so much of his time for these past 36 years.●

TRIBUTE TO PHILLIP I. EARL

● Mr. REID. Mr. President, I rise today to pay tribute to Phillip I. Earl, the Curator of History for the Nevada Historical Society in Reno. Phillip Earl will be retiring from the Nevada Historical Society on June 30, 1999 after 30 years of service to the State of Nevada.

Allow me to introduce Phillip Earl. He grew up in Boulder City, Nevada and graduated from high school there in 1955. After high school, Phillip Earl started working in construction and later in 1957, he joined the U.S. Army and served in Europe until 1960.

After his service to his country, Phillip Earl began attending classes at Nevada Southern university in Las Vegas. He transferred to Reno for his senior year and graduated with a degree in history/political science and education. Phillip Earl was a graduate assistant for two years following his graduation. During that time he taught school in Reno and was married.

In 1973 Phillip Earl began his career at the Nevada Historical Society. During his tenure, he has worked under six governors, two acting directors, and three directors. He has worked with four assistant directors. Phillip Earl has also worked with many photo curators, accountants, registrars, and volunteers. Phillip Earl has survived them all. He has provided his expertise and passion for history with editors, copy writers, authors, curriculum specialists, teachers, exhibit designers and many others whose jobs reflect on history in one way or another.

He started at the Nevada Historical Society as a Museum Attendant and worked his way up to Curator of Exhibits and later Curator of History, his present role at the Historical Society.

Phillip Earl has many achievements since serving as Curator of History. He is best known in Nevada for his popular history column, ''This Was Nevada,'' which went out to some 26 newspapers around the state. When the column's first edition came out in May of 1975, there were six people on the column's staff. But the column eventually fell into the very capable hands of Phillip Earl who became it's only author. In 1986, the Historical Society published the first volume of articles from the column and a second volume is under production and scheduled to be released this summer. This second volume of Phillip Earl's column will probably be a very popular item, because his column, ''This Was Nevada'' retires with Phillip Earl later this month making his retirement even more special for Nevada and the history he has been able to capture for over 20 years.

Phillip Earl also writes scholarly essays for the Nevada Historical Society Quarterly and the Humboldt Historian, the journal of the North Central Nevada Historical Society.

He has explored many historical topics in depth over his career. Some of these are the Spanish-American War, World Wars I and II, early aviation, automobiling, shortline railroads, outlaw and lawmen history, the movie industry, race relations, boxing, ethnic history, women's history, the Lincoln Highway, county seat fights, county boundary controversies, the Great Spanish Flu Epidemic of 1918 to 1919, and even Searchlight, Nevada. And there is much more, too numerous to list.

Phillip Earl's love for Nevada and the rich history that the State is on display every week during the school year. Since 1976 Phillip Earl has been teaching Nevada History at Truckee Meadows Community College in Reno. He helps bring Nevada's past to life for hundreds of college students who may never have had exposure to the Silver State's rich history before.

Capturing the history of the Great State of Nevada will always be the legacy of Phillip I. Earl. He has preserved Nevada's history for all future generations to reflect upon, to learn from, and to enjoy. As one who has a great deal of respect for Nevada's proud history, it is this Senator's privilege to pay tribute to Phillip I. Earl, a great historian, Nevadan, and American.●

IN RECOGNITION OF FRANK D. STELLA

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a special person

who will be honored on June 28, Frank D. Stella.

A ballroom in Cobo Hall in my hometown of Detroit will be filled next Monday with people from all walks of life who have been touched by this remarkable man. In 1946, after serving in World War II, Frank Stella established The F.D. Stella Products Company, a food service and dining equipment design and distribution company, in Detroit. He built his business into one of the most successful of its kind in Michigan, and throughout the years he has used his success to give back to his community. But he is also recognized across the country and worldwide as a leader in the Italian-American community.

I will not list all of the business, national, international, civic, fraternal, religious, veterans and social organizations that Frank Stella belongs to—the list is so long, my colleagues might accuse me of trying to filibuster. But I would like to highlight a few of the honors he has received because I believe that they illustrate just how many lives he has touched. In Metro Detroit, Frank has been recognized for his commitment to the community with many awards, including the Special Distinguished Humanitarian Award by the Arab and Chaldean Community Council, the Distinguished Service Award by Detroit Symphony Orchestra Hall, the State of Israel Bonds Award and the Summit Award by the Greater Detroit Chamber of Commerce. Frank's humanitarian works have also received recognition outside Michigan. He has been invested as a Knight of the Equestrian Order of the Holy Sepulchre of Jerusalem, received the Ellis Island Medal of Honor and was given Italy's highest decoration by the President and Prime Minister of Italy in 1991.

Frank Stella is a man of countless talents and immeasurable dedication. But Frank has something else, too, something he uses periodically to the benefit of the people of Metro Detroit, to wit, clout. While we all know people with clout, Frank's clout is unique. Yes, he has known Presidents, from Richard Nixon to Bill Clinton. He has met the Pope and Mother Teresa. He counts among his friends famous entertainers like Sophia Loren, John Travolta and Tony Bennett. But Frank Stella may be the only individual in the United States who could convince the ''Three Tenors,'' Luciano Pavarotti, Placido Domingo and Jose Carreras to make their only U.S. concert appearance this year (and one of only three worldwide) at Tiger Stadium in Detroit on July 17. This concert will not only be the rarest of treats for Metro Detroit music lovers, but it will also raise a significant amount of money for the Michigan Opera Theatre's $25 million capital campaign.

Mr. President, Frank Stella wears many hats, including those of a businessman, a humanitarian, a community leader and a father. But for those in attendance at Cobo Hall next Monday night, the most important hat that Frank wears is that of friend. The invitation to the gala encourages people to ''Please be Frank with us.'' But, as everyone knows, there is only one Frank Stella. I know my colleagues will join me in congratulating Frank on his years of success in so many arenas, and in thanking him for the truly remarkable contributions he has made to our country.●

TREATMENT OF RELIGIOUS MINORITIES IN THE ISLAMIC REPUBLIC OF IRAN

On June 23, 1999, the Senate passed S. Con. Res. 39, the text of which follows:

S. CON. RES. 39

Whereas 10 percent of the citizens of the Islamic Republic of Iran are members of religious minority groups;

Whereas, according to the State Department and internationally recognized human rights organizations, such as Human Rights Watch and Amnesty International, religious minorities in the Islamic Republic of Iran—including Sunni Muslims, Baha'is, Christians, and Jews—have been the victims of human rights violations solely because of their status as religious minorities;

Whereas the 55th session of the United Nations Commission on Human Rights passed Resolution 1999/13, which expresses the concern of the international community over ''continued discrimination against religious minorities'' in the Islamic Republic of Iran, and calls on that country to moderate its policy on religious minorities until they are ''completely emancipated'';

Whereas more than half the Jews in Iran have been forced to flee that country since the Islamic Revolution of 1979 because of religious persecution, and many of them now reside in the United States;

Whereas the Iranian Jewish community, with a 2,500-year history and currently numbering some 30,000 people, is the oldest Jewish community living in the Diaspora;

Whereas five Jews have been executed by the Iranian government in the past five years without having been tried;

Whereas there has been a noticeable increase recently in anti-Semitic propaganda in the government-controlled Iranian press;

Whereas, on the eve of the Jewish holiday of Passover 1999, thirteen or more Jews, including community and religious leaders in the city of Shiraz, were arrested by the authorities of the Islamic Republic of Iran; and

Whereas, in keeping with its dismal record on providing accused prisoners with due process and fair treatment, the Islamic Republic of Iran failed to charge the detained Jews with any specific crime or allow visitation by relatives of the detained for more than two months: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States should—

(1) continue to work through the United Nations to assure that the Islamic Republic of Iran implements the recommendations of resolution 1999/13;

(2) continue to condemn, in the strongest possible terms, the recent arrest of members of Iran's Jewish minority and urge their immediate release;

(3) urge all nations having relations with the Islamic Republic of Iran to condemn the treatment of religious minorities in Iran and call for the release of all prisoners held on the basis of their religious beliefs; and

(4) maintain the current United States policy toward the Islamic Republic of Iran unless and until that country moderates its treatment of religious minorities.

PLEDGE OF ALLEGIANCE

On June 23, 1999, the Senate passed S. Res. 113, the text of which follows:

S. RES. 113

Whereas the Flag of the United States of America is our Nation's most revered and preeminent symbol;

Whereas the Flag of the United States of America is recognized and respected throughout the world as a symbol of democracy, freedom, and human rights;

Whereas, in the words of the Chief Justice of the United States, the Flag of the United States of America ''in times of national crisis, inspires and motivates the average citizen to make personal sacrifices in order to achieve societal goals of overriding importance . . . and serves as a reminder of the paramount importance of pursuing the ideals that characterize our society'';

Whereas the House of Representatives of the United States has opened each of its daily sessions with the Pledge of Allegiance to the Flag of the United States of America since 1988; and

Whereas opening each of the daily sessions of the Senate of the United States with the Pledge of Allegiance to the Flag of the United States would demonstrate reverence for the Flag and serve as a daily reminder to all Senators of the ideals that it represents: Now, therefore, be it

Resolved, That paragraph 1(a) of rule IV of the Standing Rules of the Senate is amended by inserting after ''prayer by the Chaplain'' the following: ''and after the Presiding Officer, or a Senator designated by the Presiding Officer, leads the Senate from the dais in reciting the Pledge of Allegiance to the Flag of the United States''.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

On June 22, 1999, the Senate passed S. 886, the text of which follows:

S. 886

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Admiral James W. Nance Foreign Relations Authorization Act, Fiscal Years 2000 and 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Appropriate congressional committees defined.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS FOR DEPARTMENT OF STATE

Sec. 101. Administration of Foreign Affairs.
Sec. 102. International Commissions.
Sec. 103. Migration and Refugee Assistance.

Sec. 104. United States informational, educational, and cultural programs.
Sec. 105. Grants to The Asia Foundation.

TITLE II—DEPARTMENT OF STATE BASIC AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

Sec. 201. Office of Children's Issues.
Sec. 202. Strengthening implementation of The Hague Convention on the Civil Aspects of International Child Abduction.
Sec. 203. Human rights reporting on the treatment of children.
Sec. 204. Study for establishment of Russian Democracy Foundation.
Sec. 205. Limitation on participation in international expositions.
Sec. 206. Inspector General for the Inter-American Foundation and the African Development Foundation.

Subtitle B—Consular Authorities

Sec. 211. Fees for machine readable visas.
Sec. 212. Fees relating to affidavits of support.
Sec. 213. Passport fees.
Sec. 214. Deaths and estates of United States citizens abroad.
Sec. 215. Major disasters and other incidents abroad affecting United States citizens.
Sec. 216. Mikey Kale Passport Notification Act of 1999.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organization Matters

Sec. 301. Legislative liaison offices of the Department of State.
Sec. 302. State Department official for Northeastern Europe.
Sec. 303. Science and Technology Adviser to Secretary of State.

Subtitle B—Foreign Service Reform

Sec. 311. Findings.
Sec. 312. United States citizens hired abroad.
Sec. 313. Limitation on percentage of Senior Foreign Service eligible for performance pay.
Sec. 314. Placement of Senior Foreign Service personnel.
Sec. 315. Report on management training.
Sec. 316. Workforce planning for Foreign Service personnel by Federal agencies.
Sec. 317. Records of disciplinary actions.
Sec. 318. Limitation on salary and benefits for members of the Foreign Service recommended for separation for cause.
Sec. 319. Foreign language proficiency.
Sec. 320. Treatment of grievance records.
Sec. 321. Deadlines for filing grievances.
Sec. 322. Reports by the Foreign Service Grievance Board.
Sec. 323. Extension of use of foreign service personnel system.

Subtitle C—Other Personnel Matters

Sec. 331. Border equalization pay adjustment.
Sec. 332. Treatment of certain persons reemployed after service with international organizations.
Sec. 333. Home service transfer allowance.
Sec. 334. Parental choice in education.
Sec. 335. Medical emergency assistance.
Sec. 336. Report concerning financial disadvantages for administrative and technical personnel.
Sec. 337. State Department Inspector General and personnel investigations.

TITLE IV—EMBASSY SECURITY AND COUNTERTERRORISM MEASURES

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. United States diplomatic facility defined.
Sec. 404. Authorizations of appropriations.
Sec. 405. Obligations and expenditures.
Sec. 406. Security requirements for United States diplomatic facilities.
Sec. 407. Closure of vulnerable posts.
Sec. 408. Accountability Review Boards.
Sec. 409. Awards of Foreign Service stars.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

Sec. 501. Authorizations of appropriations.
Sec. 502. Reauthorization of Radio Free Asia.
Sec. 503. Nomination requirements for the Chairman of the Broadcasting Board of Governors.

TITLE VI—ARMS CONTROL, NONPROLIFERATION, AND NATIONAL SECURITY

Sec. 601. Short title.
Sec. 602. Definitions.

Subtitle A—Arms Control

CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

Sec. 611. Key Verification Assets Fund.
Sec. 612. Assistant Secretary of State for Verification and Compliance.
Sec. 613. Enhanced annual (''Pell'') report.
Sec. 614. Report on START and START II treaties monitoring issues.
Sec. 615. Standards for verification.
Sec. 616. Contribution to the advancement of seismology.
Sec. 617. Protection of United States companies.
Sec. 618. Preservation of the START Treaty verification regime.

CHAPTER 2—LANDMINE POLICY, DEMINING ACTIVITIES, AND RELATED MATTERS

Sec. 621. Conforming amendment.
Sec. 622. Development of Advanced Humanitarian Demining Capabilities Fund.

Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

Sec. 631. Reporting burden on United States nuclear industry.
Sec. 632. Authority to suspend nuclear cooperation for failure to ratify Convention on Nuclear Safety.
Sec. 633. Elimination of duplicative Government activities.
Sec. 634. Congressional notification of nonproliferation activities.
Sec. 635. Effective use of resources for nonproliferation programs.
Sec. 636. Disposition of weapons-grade material.
Sec. 637. Status of Hong Kong and Macao in United States export law.

Subtitle C—Miscellaneous Provisions

Sec. 641. Requirement for transmittal of summaries.
Sec. 642. Prohibition on withholding certain information from Congress.
Sec. 643. Reform of the Diplomatic Telecommunications Service Program Office.
Sec. 644. Sense of Congress on factors for consideration in negotiations with the Russian Federation on reductions in strategic nuclear forces.
Sec. 645. Clarification of exception to national security controls on satellite export licensing.
Sec. 646. Study on licensing process under the Arms Export Control Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—People's Republic of China

Sec. 701. Findings.
Sec. 702. Funding for additional personnel at diplomatic posts to report on political, economic, and human rights matters in the People's Republic of China.
Sec. 703. Prisoner Information Registry for the People's Republic of China.
Sec. 704. Report regarding establishment of Organization for Security and Cooperation in Asia.
Sec. 705. Sense of Congress regarding organ harvesting and transplanting in the People's Republic of China.

Subtitle B—Other Matters

Sec. 721. Denial of entry into United States of foreign nationals engaged in establishment or enforcement of forced abortion or sterilization policy.
Sec. 722. Semiannual reports on United States support for membership or participation of Taiwan in international organizations.
Sec. 723. Congressional policy regarding United Nations General Assembly Resolution ES–10/6.
Sec. 724. Waiver of certain prohibitions regarding the Palestine Liberation Organization.
Sec. 725. United States policy regarding Jerusalem as the capital of Israel.
Sec. 726. United States policy with respect to Nigeria.
Sec. 727. Partial liquidation of blocked Libyan assets.
Sec. 728. Support for refugees from Russia who choose to resettle in Israel.
Sec. 729. Sense of Congress regarding extradition of Lt. General Igor Giorgadze.
Sec. 730. Sense of Congress on the use of children as soldiers or other combatants in foreign armed forces.
Sec. 731. Technical corrections.
Sec. 732. Reports with respect to a referendum on Western Sahara.
Sec. 733. Self-determination in East Timor.
Sec. 734. Prohibition on the return of veterans memorial objects to foreign nations without specific authorization in law.
Sec. 735. Support for the peace process in Sudan.
Sec. 736. Expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.
Sec. 737. Reporting requirements under PLO Commitments Compliance Act of 1989.
Sec. 738. Report on terrorist activity in which United States citizens were killed and related matters.
Sec. 739. Sense of Senate regarding child labor.
Sec. 740. Reporting requirement on worldwide circulation of small arms and light weapons.

Subtitle C—United States Entry-Exit Controls
Sec. 751. Amendment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
Sec. 752. Report on automated entry-exit control system.
Sec. 753. Annual reports on entry-exit control and use of entry-exit control data.
TITLE VIII—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS
Subtitle A—Authorizations of Appropriations
Sec. 801. Contributions to international organizations.
Sec. 802. Contributions for international peacekeeping activities.
Sec. 803. Authorization of appropriations for contributions to the United Nations Voluntary Fund for Victims of Torture.
Subtitle B—United Nations Activities
Sec. 811. United Nations policy on Israel and the Palestinians.
Sec. 812. Data on costs incurred in support of United Nations peacekeeping operations.
Sec. 813. Reimbursement for goods and services provided by the United States to the United Nations.
Subtitle C—International Organizations Other Than the United Nations
Sec. 821. Restriction relating to United States accession to the International Criminal Court.
Sec. 822. Prohibition on extradition or transfer of United States citizens to the International Criminal Court.
Sec. 823. Permanent requirement for reports regarding foreign travel.
Sec. 824. Assistance to States and local governments by the International Boundary and Water Commission.
Sec. 825. United States representation at the International Atomic Energy Agency.
Sec. 826. Annual financial audits of United States section of the International Boundary and Water Commission.
Sec. 827. Sense of Congress concerning ICTR.
TITLE IX—ARREARS PAYMENTS AND REFORM
Subtitle A—General Provisions
Sec. 901. Short title.
Sec. 902. Definitions.
Subtitle B—Arrearages to the United Nations
CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS
Sec. 911. Authorization of appropriations.
Sec. 912. Obligation and expenditure of funds.
Sec. 913. Forgiveness of amounts owed by the United Nations to the United States.
CHAPTER 2—UNITED STATES SOVEREIGNTY
Sec. 921. Certification requirements.
CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS
Sec. 931. Certification requirements.
CHAPTER 4—BUDGET AND PERSONNEL REFORM
Sec. 941. Certification requirements.
Subtitle C—Miscellaneous Provisions
Sec. 951. Statutory construction on relation to existing laws.
Sec. 952. Prohibition on payments relating to UNIDO and other international organizations from which the United States has withdrawn or rescinded funding.
TITLE IX—RUSSIAN BUSINESS MANAGEMENT EDUCATION
Sec. 1001. Purpose.
Sec. 1002. Definitions.
Sec. 1003. Authorization for training program and internships.
Sec. 1004. Applications for technical assistance.
Sec. 1005. United States-Russian business management training board.
Sec. 1006. Restrictions not applicable.
Sec. 1007. Authorization of appropriations.
Sec. 1008. Effective date.

SEC. 2. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as otherwise provided in section 902(1), in this Act the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS FOR DEPARTMENT OF STATE

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the Department of State under ''Administration of Foreign Affairs'' to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—For ''Diplomatic and Consular Programs'' of the Department of State, $2,837,772,000 for the fiscal year 2000 and $2,837,772,000 for the fiscal year 2001.

(2) CAPITAL INVESTMENT FUND.—For ''Capital Investment Fund'' of the Department of State, $90,000,000 for the fiscal year 2000 and $90,000,000 for the fiscal year 2001.

(3) SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.—For ''Security and Maintenance of United States Missions'', $434,066,000 for the fiscal year 2000 and $434,066,000 for the fiscal year 2001.

(4) REPRESENTATION ALLOWANCES.—For ''Representation Allowances'', $5,850,000 for the fiscal year 2000 and $5,850,000 for the fiscal year 2001.

(5) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For ''Emergencies in the Diplomatic and Consular Service'', $17,000,000 for the fiscal year 2000 and $17,000,000 for the fiscal year 2001.

(6) OFFICE OF THE INSPECTOR GENERAL.—For ''Office of the Inspector General'', $30,054,000 for the fiscal year 2000 and $30,054,000 for the fiscal year 2001.

(7) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For ''Payment to the American Institute in Taiwan'', $15,760,000 for the fiscal year 2000 and $15,760,000 for the fiscal year 2001.

(8) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—

(A) AMOUNTS AUTHORIZED TO BE APPROPRIATED.—For ''Protection of Foreign Missions and Officials'', $9,490,000 for the fiscal year 2000 and $9,490,000 for the fiscal year 2001.

(B) AVAILABILITY OF FUNDS.—Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount was appropriated.

(9) REPATRIATION LOANS.—For ''Repatriation Loans'', $1,200,000 for the fiscal year 2000 and $1,200,000 for the fiscal year 2001, for administrative expenses.

(b) ALLOCATION OF FUNDS FOR COMMERCIAL LICENSES.—Of the funds made available to the Department of State under subsection (a)(1), $8,000,000 shall be made available only for the activities of the Office of Defense Trade Controls of the Department of State.

SEC. 102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under ''International Commissions'' for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For ''International Boundary and Water Commission, United States and Mexico''—

(A) for ''Salaries and Expenses'', $20,413,000 for the fiscal year 2000 and $20,413,000 for the fiscal year 2001; and

(B) for ''Construction'', $8,435,000 for the fiscal year 2000 and $8,435,000 for the fiscal year 2001.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For ''International Boundary Commission, United States and Canada'', $859,000 for the fiscal year 2000 and $859,000 for the fiscal year 2001.

(3) INTERNATIONAL JOINT COMMISSION.—For ''International Joint Commission'', $3,819,000 for the fiscal year 2000 and $3,819,000 for the fiscal year 2001.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For ''International Fisheries Commissions'', $16,702,000 for the fiscal year 2000 and $16,702,000 for the fiscal year 2001.

SEC. 103. MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—There are authorized to be appropriated for ''Migration and Refugee Assistance'' for authorized activities, $660,000,000 for the fiscal year 2000 and $660,000,000 for the fiscal year 2001.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 104. UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the ''Fulbright Academic Exchange Programs'' (other than programs described in subparagraph (B)), $112,000,000 for the fiscal year 2000 and $112,000,000 for the fiscal year 2001.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—For other educational and cultural exchange programs authorized by law, $98,329,000 for the fiscal year 2000 and $98,329,000 for the fiscal year 2001.

(2) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For

the ''Center for Cultural and Technical Interchange between East and West'', $12,500,000 for the fiscal year 2000 and $12,500,000 for the fiscal year 2001.

(3) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the ''National Endowment for Democracy'', $31,000,000 for the fiscal year 2000 and $31,000,000 for the fiscal year 2001.

(4) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For ''Center for Cultural and Technical Interchange between North and South'' $1,750,000 for the fiscal year 2000 and $1,750,000 for the fiscal year 2001.

(b) EXCHANGES WITH RUSSIA.—

(1) MUSKIE FELLOWSHIPS.—Of the amounts authorized to be appropriated under subsection (a)(1)(B), $5,000,000 for each of the fiscal years 2000 and 2001 shall be available only to carry out the Edmund S. Muskie Fellowship Program under section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) with the Russian Federation.

(2) SENSE OF CONGRESS ON ALLOCATION OF RESOURCES FOR EXCHANGES WITH RUSSIA.—It is the sense of the Congress that educational and professional exchanges with the Russian Federation have proven to be an effective mechanism for enhancing democratization in that country and that, therefore, Congress should significantly increase the financial resources allocated for those programs.

(c) MUSKIE FELLOWSHIP DOCTORAL GRADUATE STUDIES FOR NATIONALS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—

(1) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1)(B), not less than $2,000,000 for fiscal year 2000, and not less than $2,000,000 for fiscal year 2001, shall be made available to provide scholarships for doctoral graduate study in the social sciences to nationals of the independent states of the former Soviet Union under the Edmund S. Muskie Fellowship Program authorized by section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note).

(2) REQUIREMENTS.—

(A) NON-FEDERAL SUPPORT.—Not less than 20 percent of the costs of each student's doctoral study supported under paragraph (1) shall be provided from non-Federal sources.

(B) HOME COUNTRY RESIDENCE REQUIREMENT.—

(i) AGREEMENT FOR SERVICE IN HOME COUNTRY.—Before an individual may receive scholarship assistance under paragraph (1), the individual shall enter into a written agreement with the Department of State under which the individual agrees that after completing all degree requirements, or terminating his or her studies, whichever occurs first, the individual will return to the country of the individual's nationality, or country of last habitual residence, within the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), to reside and remain physically present there for an aggregate of at least one year for each year of study supported under paragraph (1).

(ii) DENIAL OF ENTRY INTO THE UNITED STATES FOR NONCOMPLIANCE.—Any individual who has entered into an agreement under clause (i) and who has not completed the period of home country residence and presence required by that agreement shall be ineligible for a visa and inadmissible to the United States.

(d) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amounts authorized to be appropriated under subsection (a)(1)(A), $5,000,000 for the fiscal year 2000 and $5,000,000 for the fiscal year 2001 shall be available only to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

SEC. 105. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98–164; 22 U.S.C. 4403) is amended to read as follows:

''SEC. 404. There are authorized to be appropriated to the Secretary of State $15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this title.''.

TITLE II—DEPARTMENT OF STATE BASIC AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

SEC. 201. OFFICE OF CHILDREN'S ISSUES.

(a) DIRECTOR REQUIREMENTS.—At the earliest date practicable, the Secretary of State is requested to fill the position of Director of the Office of Children's Issues of the Department of State (in this section referred to as the ''Office'') with a career member of the Senior Executive Service. Effective January 1, 2001, only a career member of the Senior Executive Service may occupy the position of Director of the Office. In selecting an individual to fill the position of Director, the Secretary of State shall seek an individual who can assure long-term continuity in the management of the Office.

(b) CASE OFFICER STAFFING.—Effective April 1, 2000, there shall be assigned to the Office of Children's Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 75.

(c) EMBASSY CONTACT.—The Secretary of State shall designate in each United States diplomatic mission an employee who shall serve as the point of contact for matters relating to international abductions of children by parents. The Director of the Office shall regularly inform the designated employee of children of United States citizens abducted by parents to that country.

(d) COORDINATION.—

(1) PARTICULAR ABDUCTIONS.—Not later than 24 hours after notice of the possible abduction of a child by a parent to a location abroad has been submitted to the Department of State, the Secretary of State shall submit to the National Center for Missing and Exploited Children a report including the following:

(A) The name of the abducted child.

(B) The name and contact information of the parent or guardian who is searching for the child.

(C) The name and contact information for the law enforcement officials, including the agencies which employ the officials, assisting in the effort to return the child.

(D) The country to which the child is believed to have been abducted.

(E) The name of the person believed to have abducted the child.

(2) GENERAL CASE INFORMATION.—At least once every six months, the Secretary shall submit to the Center a report on the following:

(A) Any case of abduction of a child by a parent previously submitted to the Secretary that has been closed during the preceding six months, including the reason for closing the case.

(B) Any case for which the Department of State has received a request during such months for assistance from a parent concerned about preventing the abduction of a child to a location abroad.

(e) REPORTS TO PARENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), beginning 6 months after the date of enactment of this Act, and at least once every 6 months thereafter, the Secretary of State shall report to each parent who has requested assistance regarding an abducted child. Each such report shall include information on the current status of the abducted child's case and the efforts by the Department of State to resolve the case.

(2) EXCEPTION.—The requirement in paragraph (1) shall not apply in a case of an abducted child if—

(A) the case has been closed and the Secretary of State has reported the reason the case was closed to the parent who requested assistance; or

(B) the parent seeking assistance requests that such reports not be provided.

SEC. 202. STRENGTHENING IMPLEMENTATION OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

(a) REPORTS ON COMPLIANCE WITH THE CONVENTION.—Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277) is amended—

(1) in the first sentence, by striking ''during the period ending September 30, 1999'';

(2) in paragraph (4), by inserting before the period at the end the following: '', including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted''; and

(3) by adding at the end the following new paragraph:

''(6) a description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention.''.

(b) COORDINATION IN THE UNITED STATES.—It is the sense of Congress that the Secretary of State should continue to work with the National Center for Missing and Exploited Children in the United States to assist parents seeking the return of, or access to, children brought to the United States in violation of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

SEC. 203. HUMAN RIGHTS REPORTING ON THE TREATMENT OF CHILDREN.

(a) IN GENERAL.—It is the sense of Congress that the annual human rights report by the Department of State should include a section on each country regarding the treatment of children in that country.

(b) CONTENTS OF REPORT SECTIONS.—Each report section described in subsection (a) should include—

(1) a description of compliance by the country with the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(2) a description of the cooperation, or lack thereof, in resolving cases of abducted children by each country that is not a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the number of children who were abducted and remain in the country, with special emphasis on cases of more than one year in duration; and

(4) an identification of those cases that have resulted in the successful return of children.

SEC. 204. STUDY FOR ESTABLISHMENT OF RUSSIAN DEMOCRACY FOUNDATION.

(a) IN GENERAL.—The Secretary of State shall conduct a study of the feasibility of establishing a Russia-based foundation for the promotion of democratic institutions in the Russian Federation.

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated for the Department of State for fiscal year 2000, up to $50,000 shall be available to carry out this section.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees setting forth the results of the study conducted under subsection (a).

SEC. 205. LIMITATION ON PARTICIPATION IN INTERNATIONAL EXPOSITIONS.

Section 230 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is amended—

(1) by striking ''Notwithstanding'' and inserting ''(a) LIMITATION.—Except as provided in subsection (b) and notwithstanding''; and

(2) by adding at the end the following:

''(b) EXCEPTIONS.—Notwithstanding subsection (a), the United States Information Agency may use funds to carry out any of its responsibilities—

''(1) under section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)) to provide for United States participation in international fairs and expositions abroad;

''(2) under section 105(f) of such Act (22 U.S.C. 2455(f)) with respect to encouraging foreign governments, international organizations, and private individuals, firms, associations, agencies, and other groups to participate in international fairs and expositions and to make contributions to be utilized for United States participation in international fairs and expositions; or

''(3) to facilitate support to the United States Commissioner General for participation in international fairs and expositions.

''(c) STATUTORY CONSTRUCTION.—Nothing in subsection (b) authorizes the use of funds available to the United States Information Agency to make any payment for—

''(1) any contract, grant, or other agreement with any other party to carry out any activity described in subsection (b); or

''(2) the satisfaction of any legal judgment or the cost of any litigation brought against the United States Information Agency arising from any activity described in subsection (b).''.

SEC. 206. INSPECTOR GENERAL FOR THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION.

Notwithstanding any other provision of law, the Inspector General of the Agency for International Development shall serve as the Inspector General of the Inter-American Foundation and the African Development Foundation and shall have all the authorities and responsibilities with respect to the Inter-American Foundation and the African Development Foundation as the Inspector General has with respect to the Agency for International Development.

Subtitle B—Consular Authorities

SEC. 211. FEES FOR MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) is amended—

(1) by striking the first sentence of paragraph (3), and inserting ''For each of the fiscal years 2000 and 2001, any amount collected under paragraph (1) that exceeds $300,000,000 may be made available for the purposes of paragraph (2) only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).''; and

(2) by striking paragraphs (4) and (5).

SEC. 212. FEES RELATING TO AFFIDAVITS OF SUPPORT.

(a) AUTHORITY TO CHARGE FEE.—The Secretary of State may charge and retain a fee or surcharge for services provided by the Department of State to any sponsor who provides an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) to ensure that such affidavit is properly completed before it is forwarded to a consular post for adjudication by a consular officer in connection with the adjudication of an immigrant visa. Such fee or surcharge shall be in addition to and separate from any fee imposed for immigrant visa application processing and issuance, and shall recover only the costs of such services not recovered by such fee.

(b) LIMITATION.—Any fee established under subsection (a) shall be charged only once to a sponsor who files essentially duplicative affidavits of support in connection with separate immigrant visa applications from the spouse and children of any petitioner required by the Immigration and Nationality Act to petition separately for such persons.

(c) TREATMENT OF FEES.—Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing consular services.

(d) COMPLIANCE WITH BUDGET ACT.—Fees may be collected under the authority of subsection (a) only to such extent or in such amounts as are provided in advance in an appropriation Act.

SEC. 213. PASSPORT FEES.

(a) APPLICATIONS.—Section 1 of the Passport Act of June 4, 1920 (22 U.S.C. 214), is amended—

(1) in the first sentence—

(A) by striking ''each passport issued'' and inserting ''the filing of each application for a passport (including the cost of passport issuance and use)''; and

(B) by striking ''each application for a passport;'' and inserting ''each such application''; and

(2) by adding after the first sentence the following new sentence: ''Such fees shall not be refundable, except as the Secretary may by regulation prescribe.''.

(b) REPEAL OF OUTDATED PROVISION ON PASSPORT FEES.—Section 4 of the Passport Act of June 4, 1920 (22 U.S.C. 216) is repealed.

SEC. 214. DEATHS AND ESTATES OF UNITED STATES CITIZENS ABROAD.

(a) REPEAL.—Section 1709 of the Revised Statutes (22 U.S.C. 4195) is repealed.

(b) AMENDMENT TO STATE DEPARTMENT BASIC AUTHORITIES ACT.—The State Department Basic Authorities Act of 1956 is amended by inserting after section 43 (22 U.S.C. 2715) the following new sections:

''SEC. 43A. NOTIFICATION OF NEXT OF KIN; REPORTS OF DEATH.

''(a) IN GENERAL.—Whenever a United States citizen or national dies abroad, a consular officer shall endeavor to notify, or assist the Secretary of State in notifying, the next of kin or legal guardian as soon as possible, except that, in the case of death of any Peace Corps volunteer (within the meaning of section 5(a) of the Peace Corps Act (22 U.S.C. 2504(a)), any member of the Armed Forces, any dependent of such a volunteer or member, or any Department of Defense employee, the consular officer shall assist the Peace Corps or the appropriate military authorities, as the case may be, in making such notifications.

''(b) REPORTS OF DEATH OR PRESUMPTIVE DEATH.—The consular officer may, for any United States citizen who dies abroad—

''(1) in the case of a finding of death by the appropriate local authorities, issue a report of death or of presumptive death; or

''(2) in the absence of a finding of death by the appropriate local authorities, issue a report of presumptive death.

''(c) IMPLEMENTING REGULATIONS.—The Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

''SEC. 43B. CONSERVATION AND DISPOSITION OF ESTATES.

''(a) CONSERVATION OF ESTATES ABROAD.—

''(1) AUTHORITY TO ACT AS CONSERVATOR.—Whenever a United States citizen or national dies abroad, a consular officer shall act as the provisional conservator of the portion of the decedent's estate located abroad and, subject to paragraphs (3), (4), and (5), shall—

''(A) take possession of the personal effects of the decedent within his jurisdiction;

''(B) inventory and appraise the personal effects of the decedent, sign the inventory, and annex thereto a certificate as to the accuracy of the inventory and appraised value of each article;

''(C) when appropriate in the exercise of prudent administration, collect the debts due to the decedent in the officer's jurisdiction and pay from the estate the obligations owed by the decedent;

''(D) sell or dispose of, as appropriate, in the exercise of prudent administration, all perishable items of property;

''(E) sell, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, such additional items of property as necessary to provide funds sufficient to pay the decedent's debts and property taxes in the country of death, funeral expenses, and other expenses incident to the disposition of the estate;

''(F) upon the expiration of the one-year period beginning on the date of death (or after such additional period as may be required for final settlement of the estate), if no claimant shall have appeared, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, sell or dispose of the residue of the personal estate, except as provided in subparagraph (G), in the same manner as United States Government-owned foreign excess property;

''(G) transmit to the custody of the Secretary of State in Washington, D.C. the proceeds of any sales, together with all financial instruments (including bonds, shares of stock, and notes of indebtedness), jewelry, heirlooms, and other articles of obvious sentimental value, to be held in trust for the legal claimant; and

''(H) in the event that the decedent's estate includes an interest in real property located within the jurisdiction of the officer and such interest does not devolve by the applicable laws of intestate succession or otherwise, provide for title to the property to be conveyed to the Government of the United States unless the Secretary declines to accept such conveyance.

''(2) AUTHORITY TO ACT AS ADMINISTRATOR.—Subject to paragraphs (3) and (4), a consular officer may act as administrator of

an estate in exceptional circumstances if expressly authorized to do so by the Secretary of State.

''(3) EXCEPTIONS.—The responsibilities described in paragraphs (1) and (2) may not be performed to the extent that the decedent has left or there is otherwise appointed, in the country where the death occurred or where the decedent was domiciled, a legal representative, partner in trade, or trustee appointed to take care of his personal estate. If the decedent's legal representative shall appear at any time prior to transmission of the estate to the Secretary and demand the proceeds and effects being held by the consular officer, the officer shall deliver them to the representative after having collected any prescribed fee for the services performed under this section.

''(4) ADDITIONAL REQUIREMENT.—In addition to being subject to the limitations in paragraph (3), the responsibilities described in paragraphs (1) and (2) may not be performed unless—

''(A) authorized by treaty provisions or permitted by the laws or authorities of the country wherein the death occurs, or the decedent is domiciled; or

''(B) permitted by established usage in that country.

''(5) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or otherwise affects the authority of any military commander under title 10 of the United States Code with respect to the person or property of any decedent who died while under a military command or jurisdiction or the authority of the Peace Corps with respect to a Peace Corps volunteer or the volunteer's property.

''(b) DISPOSITION OF ESTATES BY THE SECRETARY OF STATE.—

''(1) PERSONAL ESTATES.—

''(A) IN GENERAL.—After receipt of a personal estate pursuant to subsection (a), the Secretary may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

''(B) DISPOSITION AS SURPLUS UNITED STATES PROPERTY.—If, upon the expiration of a period of 5 fiscal years beginning on October 1 after a consular officer takes possession of a personal estate under subsection (a), no legal claimant for such estate has appeared, title to the estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Department of State, and the Secretary shall dispose of the estate in the same manner as surplus United States Government-owned property is disposed or by such means as may be appropriate in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

''(C) TRANSFER OF PROCEEDS.—The net cash estate after disposition as provided in subparagraph (B) shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

''(2) REAL PROPERTY.—

''(A) DESIGNATION AS EXCESS PROPERTY.—In the event that title to real property is conveyed to the Government of the United States pursuant to subsection (a)(1)(H) and is not required by the Department of State, such property shall be considered foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 et seq.).

''(B) TREATMENT AS GIFT.—In the event that the Department requires such property, the Secretary of State shall treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 25 of this Act and section 9(a)(3) of the Foreign Service Buildings Act of 1926.

''(c) LOSSES IN CONNECTION WITH THE CONSERVATION OF ESTATES.—

''(1) AUTHORITY TO COMPENSATE.—The Secretary is authorized to compensate the estate of any United States citizen who has died overseas for property—

''(A) the conservation of which has been undertaken under section 43 or subsection (a) of this section; and

''(B) that has been lost, stolen, or destroyed while in the custody of officers or employees of the Department of State.

''(2) LIABILITY.—

''(A) EXCLUSION OF PERSONAL LIABILITY AFTER PROVISION OF COMPENSATION.—Any such compensation shall be in lieu of personal liability of officers or employees of the Department of State.

''(B) LIABILITY TO THE DEPARTMENT.—An officer or employee of the Department of State may be liable to the Department of State to the extent of any compensation provided under paragraph (1).

''(C) DETERMINATIONS OF LIABILITY.—The liability of any officer or employee of the Department of State to the Department for any payment made under subsection (a) shall be determined pursuant to the Department's procedures for determining accountability for United States Government property.

''(d) REGULATIONS.—The Secretary of State may prescribe such regulations as may be necessary to carry out this section.''.

(c) EFFECTIVE DATE.—The repeal and amendment made by this section shall take effect six months after the date of enactment of this Act.

SEC. 215. MAJOR DISASTERS AND OTHER INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.

Section 43 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715) is amended—

(1) by inserting ''(a) AUTHORITY.—'' before ''In'';

(2) by striking ''disposition of personal effects'' in the last sentence and inserting ''disposition of personal estates pursuant to section 43B''; and

(3) by adding at the end the following new subsection:

''(b) DEFINITIONS.—For purposes of this section and sections 43A and 43B, the term 'consular officer' includes any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe.''.

SEC. 216. MIKEY KALE PASSPORT NOTIFICATION ACT OF 1999.

(a) Not later than 180 days after the enactment of this Act, the Secretary of State shall issue regulations that—

(1) provide that, in the issuance of a passport to minors under the age of 18 years, both parents, a guardian, or a person in loco parentis have—

(A) executed the application; and

(B) provided documentary evidence demonstrating that they are the parents, guardian, or person in loco parentis; and

(2) provide that, in the issuance of a passport to minors under the age of 18 years, in those cases where both parents have not executed the passport application, the person executing the application has provided documentary evidence that such person—

(A) has sole custody of the child; or

(B) the other parent has provided consent to the issuance of the passport.

The requirement of this paragraph shall not apply to guardians or persons in loco parentis.

(b) The regulations required to be issued by this section may provide for exceptions in exigent circumstances involving the health or welfare of the child.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organization Matters

SEC. 301. LEGISLATIVE LIAISON OFFICES OF THE DEPARTMENT OF STATE.

(a) DEVELOPMENT OF PLAN.—The Secretary of State shall develop a plan for the establishment of legislative liaison offices for the Department of State within the office buildings of the House of Representatives and the Senate. In developing the plan, the Secretary should examine existing liaison offices of other executive departments that are located in the congressional office buildings, including the liaison offices of the military services.

(b) PLAN ELEMENTS.—The plan developed under subsection (a) shall consider—

(1) space requirements;

(2) cost implications;

(3) personnel structure; and

(4) the feasibility of modifying the Pearson Fellowship program in order to require members of the Foreign Service who serve in such fellowships to serve a second year in a legislative liaison office.

(c) TRANSMITTAL OF PLAN.—Not later than October 1, 1999, the Secretary of State shall submit to the Committee on International Relations and the Committee on House Administration of the House of Representatives and the Committee on Foreign Relations and the Committee on Rules and Administration of the Senate the plan developed under subsection (a).

SEC. 302. STATE DEPARTMENT OFFICIAL FOR NORTHEASTERN EUROPE.

The Secretary of State shall designate an existing senior-level official of the Department of State with responsibility for promoting regional cooperation in and coordinating United States policy toward Northeastern Europe.

SEC. 303. SCIENCE AND TECHNOLOGY ADVISER TO SECRETARY OF STATE.

(a) ESTABLISHMENT OF POSITION.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

''(g) SCIENCE AND TECHNOLOGY ADVISER.—

''(1) IN GENERAL.—There shall be within the Department of State a Science and Technology Adviser (in this paragraph referred to as the 'Adviser'). The Adviser shall report to the Secretary of State through the Under Secretary of State for Global Affairs.

''(2) DUTIES.—The Adviser shall—

''(A) advise the Secretary of State, through the Under Secretary of State for Global Affairs, on international science and technology matters affecting the foreign policy of the United States; and

''(B) perform such duties, exercise such powers, and have such rank and status as the Secretary of State shall prescribe.''.

(b) REPORT.—Not later than six months after receipt by the Secretary of State of the report by the National Research Council of the National Academy of Sciences with respect to the contributions that science, technology, and health matters can make to the foreign policy of the United States, the Secretary of State, acting through the Under Secretary of State for Global Affairs, shall submit a report to Congress setting forth the Secretary of State's plans for implementation, as appropriate, of the recommendations of the report.

Subtitle B—Foreign Service Reform

SEC. 311. FINDINGS.

Congress makes the following findings:

(1) To carry out its international relations and diplomacy, the United States has relied on a professional career Foreign Service that was established by law in 1924.

(2) The Foreign Service Act of 1980 accurately states that the United States career foreign service is essential to the national interest in that it assists the President and the Secretary of State in conducting the foreign affairs of the United States.

(3) The career Foreign Service is premised on a membership that is characterized by excellence, intelligence, professionalism, and integrity.

(4) Ethical, professional, and financial misconduct by career members of the Foreign Service, while uncommon, must be met with fair but swift disciplinary action. A failure to adequately discipline, and in some cases remove from the Foreign Service, those career members who violate laws or regulations would erode the qualities of excellence required of United States Foreign Service members.

(5) Retention of members of the Foreign Service who do not meet high standards of conduct would in the long term harm important national interests of the United States.

SEC. 312. UNITED STATES CITIZENS HIRED ABROAD.

Section 408(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)(1)) is amended in the last sentence—

(1) by striking ''(A)'' and all that follows through ''(B)''; and

(2) by striking ''this total compensation package'' and insert ''the compensation plan''.

SEC. 313. LIMITATION ON PERCENTAGE OF SENIOR FOREIGN SERVICE ELIGIBLE FOR PERFORMANCE PAY.

Section 405(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(1)) is amended by striking ''50'' and inserting ''33''.

SEC. 314. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.

The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

(1) The number of members of the Senior Foreign Service.

(2) The number of vacant positions designated for members of the Senior Foreign Service.

(3) The number of members of the Senior Foreign Service who are not assigned to positions.

SEC. 315. REPORT ON MANAGEMENT TRAINING.

Not later than February 1, 2000, the Department of State shall report to the appropriate congressional committees on the feasibility of modifying current training programs and curricula so that the Department can provide significant and comprehensive management training at all career grades for Foreign Service personnel.

SEC. 316. WORKFORCE PLANNING FOR FOREIGN SERVICE PERSONNEL BY FEDERAL AGENCIES.

Section 601(c) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)) is amended by striking paragraph (4) and inserting the following:

''(4) Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include the following:

''(A) A description of the steps taken and planned in furtherance of—

''(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

''(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204.

''(B) A workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements.

''(5) If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4).''.

SEC. 317. RECORDS OF DISCIPLINARY ACTIONS.

(a) IN GENERAL.—Section 604 of the Foreign Service Act of 1980 (22 U.S.C. 4004) is amended—

(1) by striking ''CONFIDENTIALITY OF RECORDS.—'' and inserting ''RECORDS.—(a)''; and

(2) by adding at the end the following new subsection:

''(b) Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 1107(b)(1), shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to all disciplinary actions initiated on or after the date of enactment of this Act.

SEC. 318. LIMITATION ON SALARY AND BENEFITS FOR MEMBERS OF THE FOREIGN SERVICE RECOMMENDED FOR SEPARATION FOR CAUSE.

Section 610(a) of the Foreign Service Act (22 U.S.C. 4010(a)) is amended by adding at the end the following new paragraph:

''(6) Notwithstanding the hearing required by paragraph (2), at the time the Secretary recommends that a member of the Service be separated for cause, that member shall be placed on leave without pay pending final resolution of the underlying matter, subject to reinstatement with back pay if cause for separation is not established in a hearing before the Board.''.

SEC. 319. FOREIGN LANGUAGE PROFICIENCY.

(a) REPORT ON LANGUAGE PROFICIENCY.—Section 702 of the Foreign Service Act of 1980 (22 U.S.C. 4022) is amended by adding at the end the following new subsection:

''(c) Not later than March 31 of each year, the Director General of the Foreign Service shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives summarizing the number of positions in each overseas mission requiring foreign language competence that—

''(1) became vacant during the previous calendar year; and

''(2) were filled by individuals having the required foreign language competence.''.

(b) REPEAL.—Section 304(c) of the Foreign Service Act of 1980 (22 U.S.C. 3944(c)) is repealed.

SEC. 320. TREATMENT OF GRIEVANCE RECORDS.

Section 1103(d)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4133(d)(1)) is amended by adding at the end the following new sentence: ''Nothing in this subsection prevents a grievant from placing in the grievant's personnel records a rebuttal to accompany a record of disciplinary action, nor prevents the Department from placing in the file a statement that the disciplinary action has been reviewed and upheld by the Foreign Service Grievance Board.''.

SEC. 321. DEADLINES FOR FILING GRIEVANCES.

(a) IN GENERAL.—Section 1104(a) of the Foreign Service Act of 1980 (22 U.S.C. 4134(a)) is amended in the first sentence by striking ''within a period of 3 years'' and all that follows through the period and inserting ''not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.''.

(b) GRIEVANCES ALLEGING DISCRIMINATION.—Section 1104 of that Act (22 U.S.C. 4134) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act and shall apply to grievances which arise on or after such effective date.

SEC. 322. REPORTS BY THE FOREIGN SERVICE GRIEVANCE BOARD.

Section 1105 of the Foreign Service Act of 1980 (22 U.S.C. 4135) is amended by adding the following new subsection:

''(f)(1) Not later than March 1 of each year, the Chairman of the Foreign Service Grievance Board shall prepare a report summarizing the activities of the Board during the previous calendar year. The report shall include—

''(A) the number of cases filed;

''(B) the types of cases filed;

''(C) the number of cases on which a final decision was reached, as well as data on the outcome of cases, whether affirmed, reversed, settled, withdrawn, or dismissed;

''(D) the number of oral hearings conducted and the length of each such hearing;

''(E) the number of instances in which interim relief was granted by the Board; and

''(F) data on the average time for consideration of a grievance, from the time of filing to a decision of the Board.

''(2) The report required under paragraph (1) shall be submitted to the Director General of the Foreign Service and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.''.

SEC. 323. EXTENSION OF USE OF FOREIGN SERVICE PERSONNEL SYSTEM.

Section 202(a) of the Foreign Service Act of 1980 (22 U.S.C. 3922(a)) is amended by adding at the end the following new paragraph:

''(4)(A) Whenever (and to the extent) the Secretary of State considers it in the best interests of the United States Government, the

Secretary of State may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch) to appoint under section 303 individuals described in subparagraph (B) as members of the Service and to utilize the Foreign Service personnel system with respect to such individuals under such regulations as the Secretary of State may prescribe.

''(B) The individuals referred to in subparagraph (A) are individuals hired for employment abroad under section 311(a).''.

Subtitle C—Other Personnel Matters

SEC. 331. BORDER EQUALIZATION PAY ADJUSTMENT.

(a) IN GENERAL.—Chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 et seq.) is amended by adding at the end the following new section:

''SEC. 414. BORDER EQUALIZATION PAY ADJUSTMENT.

''(a) IN GENERAL.—An employee who regularly commutes from the employee's place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of title 5, United States Code, that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

''(b) EMPLOYEE DEFINED.—For purposes of this section, the term 'employee' means a person who—

''(1) is an 'employee' as defined under section 2105 of title 5, United States Code; and

''(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada (established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 103).

''(c) TREATMENT AS BASIC PAY.—An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5, United States Code.

''(d) REGULATIONS.—The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Foreign Service Act of 1980 is amended by inserting after the item relating to section 413 the following new item:

''Sec. 414. Border equalization pay adjustment.''.

SEC. 332. TREATMENT OF CERTAIN PERSONS REEMPLOYED AFTER SERVICE WITH INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Title 5 of the United States Code is amended by inserting after section 8432b the following new section:

''§ 8432c. Contributions of certain persons reemployed after service with international organizations

''(a) In this section, the term 'covered person' means any person who—

''(1) transfers from a position of employment covered by chapter 83 or 84 or subchapter I or II of chapter 8 of the Foreign Service Act of 1980 to a position of employment with an international organization pursuant to section 3582;

''(2) pursuant to section 3582 elects to retain coverage, rights, and benefits under any system established by law for the retirement of persons during the period of employment with the international organization and currently deposits the necessary deductions in payment for such coverage, rights, and benefits in the system's fund; and

''(3) is reemployed pursuant to section 3582(b) to a position covered by chapter 83 or 84 or subchapter I or II of chapter 8 of the Foreign Service Act of 1980 after separation from the international organization.

''(b)(1) Each covered person may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

''(2) The maximum amount which a covered person may contribute under paragraph (1) is equal to—

''(A) the total amount of all contributions under section 8351(b)(2) or 8432(a), as applicable, which the person would have made over the period beginning on the date of transfer of the person (as described in subsection (a)(1)) and ending on the day before the date of reemployment of the person (as described in subsection (a)(3)), minus

''(B) the total amount of all contributions, if any, under section 8351(b)(2) or 8432(a), as applicable, actually made by the person over the period described in subparagraph (A).

''(3) Contributions under paragraph (1)—

''(A) shall be made at the same time and in the same manner as would any contributions under section 8351(b)(2) or 8432(a), as applicable;

''(B) shall be made over the period of time specified by the person under paragraph (4)(B); and

''(C) shall be in addition to any contributions actually being made by the person during that period under section 8351(b)(2) or 8432(a), as applicable.

''(4) The Executive Director shall prescribe the time, form, and manner in which a covered person may specify—

''(A) the total amount the person wishes to contribute with respect to any period described in paragraph (2)(A); and

''(B) the period of time over which the covered person wishes to make contributions under this subsection.

''(c) If a covered person who makes contributions under section 8432(a) makes contributions under subsection (b), the agency employing the person shall make those contributions to the Thrift Savings Fund on the person's behalf in the same manner as contributions are made for an employee described in section 8432b(a) under sections 8432b(c), 8432b(d), and 8432b(f). Amounts paid under this subsection shall be paid in the same manner as amounts are paid under section 8432b(g).

''(d) For purposes of any computation under this section, a covered person shall, with respect to the period described in subsection (b)(2)(A), be considered to have been paid at the rate which would have been payable over such period had the person remained continuously employed in the position that the person last held before transferring to the international organization.

''(e) For purposes of section 8432(g), a covered person shall be credited with a period of civilian service equal to the period beginning on the date of transfer of the person (as described in subsection (a)(1)) and ending on the day before the date of reemployment of the person (as described in subsection (a)(3)).

''(f) The Executive Director shall prescribe regulations to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432b the following:

''8432c. Contributions of certain persons reemployed after service with international organizations.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons reemployed on or after the date of enactment of this Act.

SEC. 333. HOME SERVICE TRANSFER ALLOWANCE.

Section 5922 of title 5, United States Code is amended by adding at the end the following new subsection:

''(f) Upon the death of an employee, a transfer allowance under section 5924(2)(B) may be furnished to any spouse or dependent of such employee for the purpose of returning such spouse or dependent to the United States.''.

SEC. 334. PARENTAL CHOICE IN EDUCATION.

Section 5924(4) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking ''between that post and the nearest locality where adequate schools are available,'' and inserting ''between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available,''; and

(2) by adding at the end the following new subparagraph:

''(C) In those cases in which an adequate school is available at the post of the employee, if the employee chooses to educate the dependent at a school away from post, the education allowance which includes board and room, and periodic travel between the post and the school chosen, shall not exceed the total cost to the Government of the dependent attending an adequate school at the post of the employee.''.

SEC. 335. MEDICAL EMERGENCY ASSISTANCE.

Section 5927 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''Up''; and

(2) by adding at the end the following:

''(b)(1) Subject to paragraph (2), up to three months' pay may be paid in advance to—

''(A) a United States citizen employee of an agency (other than a United States citizen employed under section 311(a) of the Foreign Service Act of 1980 (22 U.S.C. 3951(a))—

''(i) who is assigned or located outside of the United States pursuant to Government authorization; and

''(ii) who must, or has a family member who must, undergo outside of the United States medical treatment of the nature specified in regulations promulgated by the Secretary of State; and

''(B) each foreign national employee appointed under section 303 of the Foreign Service Act of 1980 (22 U.S.C. 3943) and each United States citizen employed under section 311(a) of that Act (22 U.S.C. 3951(a)) who is not a family member of a government employee assigned abroad—

''(i) who is located outside of the country of employment pursuant to United States Government authorization; and

''(ii) who must undergo outside the country of employment medical treatment of the nature specified in regulations promulgated by the Secretary of State.

''(2) Not more than 3 months pay may be advanced to an employee with respect to any single illness or injury, without regard to the number of courses of medical treatment required by the employee.

''(3)(A) Subject to the adjustment of the account of an employee under subparagraph

(B) and other applicable provisions of law, the amount paid to an employee in advance shall be equal to the rate of pay authorized with respect to the employee on the date the advance payment is made under agency procedures governing other advance payments permitted under this subchapter.

''(B) The head of each agency shall provide for—

''(i) the review of the account of each employee of the agency who receives any advance payment under this section; and

''(ii) the recovery of the amount of pay or waiver thereof.

''(4) For the purposes of this subsection, the term 'country of employment' means the country outside the United States where the employee was appointed for employment or employed by the United States Government.''.

SEC. 336. REPORT CONCERNING FINANCIAL DISADVANTAGES FOR ADMINISTRATIVE AND TECHNICAL PERSONNEL.

(a) FINDINGS.—Congress finds that administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees concerning the extent to which administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status, including proposals to alleviate such disadvantages.

SEC. 337. STATE DEPARTMENT INSPECTOR GENERAL AND PERSONNEL INVESTIGATIONS.

(a) AMENDMENT OF THE FOREIGN SERVICE ACT OF 1980.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

''(5) INVESTIGATIONS.—

''(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

''(i) abide by professional standards applicable to Federal law enforcement agencies; and

''(ii) permit each subject of an investigation an opportunity to provide exculpatory information.

''(B) REPORTS OF INVESTIGATIONS.—In order to ensure that reports of investigations are thorough and accurate, the Inspector General shall—

''(i) make every reasonable effort to ensure that any person named in a report of investigation has been afforded an opportunity to refute any allegation or assertion made regarding that person's actions;

''(ii) include in every report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.''.

(b) ANNUAL REPORT.—Section 209(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) a description, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation or assertion, and the rationale for denying such individual that opportunity.''.

(c) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

(3) the Privacy Act of 1974 (5 U.S.C. 552a); or

(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.

TITLE IV—EMBASSY SECURITY AND COUNTERTERRORISM MEASURES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Secure Embassy Construction and Counterterrorism Act of 1999''.

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

(4) Following the bombings, additional threats have been made against United States diplomatic facilities.

(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99–399, chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the ''Crowe panels'').

(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report more than 14 years ago.

(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

(B) The United States Government places too low a priority on security concerns.

(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks.

SEC. 403. UNITED STATES DIPLOMATIC FACILITY DEFINED.

In this title, the terms ''United States diplomatic facility'' and ''diplomatic facility'' mean any chancery, consulate, or other office building used by a United States diplomatic mission or consular post or by personnel of any agency of the United States abroad, except that those terms do not include any facility under the command of a United States area military commander.

SEC. 404. AUTHORIZATIONS OF APPROPRIATIONS.

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the general fund of the Treasury of the United States an appropriations account for the Department of State which shall be known as the ''Embassy Construction and Security'' account.

(b) PURPOSES.—Funds made available under the ''Embassy Construction and Security'' account may be used only for the purposes of—

(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

(2) the provision of major security enhancements to United States diplomatic facilities,

necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 406.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of State under ''Embassy Construction and Security''—

(A) for fiscal year 2000, $600,000,000;

(B) for fiscal year 2001, $600,000,000;

(C) for fiscal year 2002, $600,000,000;

(D) for fiscal year 2003, $600,000,000; and

(E) for fiscal year 2004, $600,000,000.

(2) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under paragraph (1) shall remain available until the appropriations are made.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. OBLIGATIONS AND EXPENDITURES.

(a) REPORT AND PRIORITY OF OBLIGATIONS.—

(1) REPORT.—Not later than 90 days after the date of enactment of this Act, and on February 1 of each year for 5 years thereafter, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20.

The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

(2) PRIORITY ON USE OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds made available in the ''Embassy Construction and Security'' account for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

(B) EXCEPTIONS.—Funds made available in the ''Embassy Construction and Security'' account may be used for facilities which are not in the first four groups, if the Secretary of State certifies to the appropriate congressional committees that such use of the funds is in the national interest of the United States.

(b) CONGRESSIONAL NOTIFICATION REQUIRED PRIOR TO TRANSFER OF FUNDS.—Prior to the transfer of funds from the ''Embassy Construction and Security'' account to any other account, the Secretary of State shall notify the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

(c) SEMIANNUAL REPORTS ON ACQUISITION AND MAJOR SECURITY UPGRADES.—On June 1 and December 1 of each year, the Secretary of State shall submit a report to the appropriate congressional committees on the embassy construction and security program authorized under this title. The report shall include—

(1) obligations and expenditures—

(A) during the previous six months; and

(B) since the establishment of the ''Embassy Construction and Security'' account;

(2) projected obligations and expenditures during the four fiscal quarters following the submission of the report, and how these obligations and expenditures will improve security conditions of specific diplomatic facilities; and

(3) the status of ongoing acquisition and major security enhancement projects, including any significant changes in—

(A) the anticipated budgetary requirements for such projects;

(B) the anticipated schedule of such projects; and

(C) the anticipated scope of the projects.

SEC. 406. SECURITY REQUIREMENTS FOR UNITED STATES DIPLOMATIC FACILITIES.

(a) IN GENERAL.—The following security requirements shall apply with respect to United States diplomatic facilities:

(1) THREAT ASSESSMENTS.—

(A) EMERGENCY ACTION PLAN.—The Emergency Action Plan (EAP) of each United States mission shall address the threat of large explosive attacks from vehicles and the safety of employees during such an explosive attack.

(B) SECURITY ENVIRONMENT THREAT LIST.—The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities.

(2) SITE SELECTION.—

(A) IN GENERAL.—In selecting sites for new United States diplomatic facilities abroad, all personnel of United States Government agencies except those under the command of a United States area military commander shall be located on the same compound.

(B) WAIVER.—

(i) IN GENERAL.—The Secretary of State may waive subparagraph (A) if—

(I) the Secretary and the head of each agency employing affected personnel determine and certify to the appropriate congressional committees that security so permits, and it is in the national interest of the United States to do so; and

(II) the Secretary provides the appropriate congressional committees in writing the reasons justifying the determination under subclause (I).

(ii) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the authority provided in clause (i).

(C) CONGRESSIONAL NOTIFICATION.—Any waiver under this paragraph may be exercised only on a date that is at least 15 days after notification of the intention to waive this paragraph has been provided to the appropriate congressional committees.

(3) PERIMETER DISTANCE.—

(A) REQUIREMENT.—Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.

(B) WAIVER.—

(i) IN GENERAL.—The Secretary of State may waive subparagraph (A) if—

(I) the Secretary determines and certifies to the appropriate congressional committees that security so permits, and it is in the national interest of the United States to do so; and

(II) the Secretary provides the appropriate congressional committees in writing the reasons justifying the determination under subclause (I).

(ii) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the authority provided in clause (i).

(4) CRISIS MANAGEMENT TRAINING.—

(A) TRAINING OF HEADQUARTERS STAFF.—The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.

(B) TRAINING OF PERSONNEL ABROAD.—A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad.

(5) STATE DEPARTMENT SUPPORT.—

(A) FOREIGN EMERGENCY SUPPORT TEAM.—The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—

(i) conducting routine training exercises of the FEST;

(ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST AIRCRAFT.—

(i) REPLACEMENT AIRCRAFT.—The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense with a dedicated, capable, and reliable replacement aircraft and backup aircraft, to be operated and maintained by the Department of Defense.

(ii) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of that aircraft.

(6) RAPID RESPONSE PROCEDURES.—The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities.

(7) STORAGE OF EMERGENCY EQUIPMENT AND RECORDS.—All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—The President may waive the application of paragraph (2) or (3) of subsection (a) with respect to a diplomatic facility, other than a United States diplomatic mission or consular post or a United States Agency for International Development mission, if the President determines that—

(A) it is important to the national security of the United States to so exempt that facility; and

(B) all feasible steps are being taken, consistent with the national security requirements that require the waiver, to minimize the risk and the possible consequences of a terrorist attack involving that facility or its personnel.

(2) PERIODIC REPORTS.—

(A) IN GENERAL.—Not later than January 1, 2000, and every six months thereafter, the President shall submit to the appropriate congressional committees a classified report describing—

(i) the waivers that have been exercised under this subsection during the preceding six-month period or, in the case of the initial report, during the period since the date of enactment of this Act; and

(ii) the steps taken to maintain maximum feasible security at the facilities involved.

(B) SPECIAL RULE.—Any waiver that, for national security reasons, may not be described in a report required by subparagraph (A) shall be noted in that report and described in an appendix submitted to the congressional committees with direct oversight responsibility for the facility.

(c) STATUTORY CONSTRUCTION.—Nothing in this section alters or amends existing security requirements not addressed by this section.

SEC. 407. CLOSURE OF VULNERABLE POSTS.

(a) REVIEW.—The Secretary of State shall review the findings of the Overseas Presence Advisory Panel.

(b) REPORT.—

(1) IN GENERAL.—Not later than 120 days after submission of the Overseas Presence Panel Report, the Secretary of State shall submit a report to Congress setting forth the results of the review conducted under subsection (a).

(2) ELEMENTS OF THE REPORT.—The report shall—

(A) specify whether any United States diplomatic facility should be closed because—

(i) the facility is highly vulnerable and subject to threat of terrorist attack; and

(ii) adequate security enhancements cannot be provided to the facility;

(B) in the event that closure of a diplomatic facility is required, identify plans to provide secure premises for permanent use

by the United States diplomatic mission, whether in country or in a regional United States diplomatic facility, or for temporary occupancy by the mission in a facility pending acquisition of new buildings;

(C) outline the potential for reduction or transfer of personnel or closure of missions if technology is adequately exploited for maximum efficiencies;

(D) examine the possibility of creating regional missions in certain parts of the world;

(E) in the case of diplomatic facilities that are part of the Special Embassy Program, report on the foreign policy objectives served by retaining such missions, balancing the importance of these objectives against the well-being of United States personnel; and

(F) examine the feasibility of opening new regional outreach centers, modeled on the system used by the United States Embassy in Paris, France, with each center designed to operate—

(i) at no additional cost to the United States Government;

(ii) with staff consisting of one or two Foreign Service officers currently assigned to the United States diplomatic mission in the country in which the center is located; and

(iii) in a region of the country with high gross domestic product (GDP), a high density population, and a media market that not only includes but extends beyond the region.

SEC. 408. ACCOUNTABILITY REVIEW BOARDS.

Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831) is amended to read as follows:

"SEC. 301. ACCOUNTABILITY REVIEW BOARDS.

''(a) IN GENERAL.

''(1) CONVENING A BOARD.—Except as provided in paragraph (2), in any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (in this title referred to as the 'Board'). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

''(2) DEPARTMENT OF DEFENSE FACILITIES AND PERSONNEL.—The Secretary of State is not required to convene a Board in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 106 of this Act. In any such case, the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

''(b) DEADLINES FOR CONVENING BOARDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of State shall convene a Board not later than 60 days after the occurrence of an incident described in subsection (a)(1), except that such 60-day period may be extended for two additional 30-day periods if the Secretary determines that the additional period or periods are necessary for the convening of the Board.

''(2) DELAY IN CASES INVOLVING INTELLIGENCE ACTIVITIES.—With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

''(c) NOTIFICATION TO CONGRESS.—Whenever the Secretary of State convenes a Board, the Secretary shall promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives—

''(1) that a Board has been convened;

''(2) of the membership of the Board; and

''(3) of other appropriate information about the Board.''.

SEC. 409. AWARDS OF FOREIGN SERVICE STARS.

The State Department Basic Authorities Act of 1956 is amended by inserting after section 36 (22 U.S.C. 2708) the following new section:

"SEC. 36A. AWARDS OF FOREIGN SERVICE STARS.

''(a) AUTHORITY TO AWARD.—The President, upon the recommendation of the Secretary, may award a Foreign Service star to any member of the Foreign Service or any other civilian employee of the Government of the United States who, after August 1, 1998, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death) in a case described in subsection (b)—

''(1) as the person was performing official duties;

''(2) as the person was on the premises of a United States mission abroad; or

''(3) by reason of the person's status as a United States Government employee.

''(b) CASES RESULTING FROM UNLAWFUL CONDUCT.—Cases covered by subsection (a) include cases of wounds or other injuries incurred as a result of terrorist or military action, civil unrest, or criminal activities directed at any facility of the Government of the United States.

''(c) SELECTION CRITERIA.—The Secretary shall prescribe the procedures for identifying and considering persons eligible for award of a Foreign Service star and for selecting the persons to be recommended for the award.

''(d) AWARD IN THE EVENT OF DEATH.—If a person selected for award of a Foreign Service star dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

''(e) FORM OF AWARD.—The Secretary shall prescribe the design of the Foreign Service star. The award may not include a stipend or any other cash payment.

''(f) FUNDING.—Any expenses incurred in awarding a person a Foreign Service star may be paid out of appropriations available at the time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.''.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 501. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING ACTIVITIES.—For ''International Broadcasting Activities'', $408,979,000 for the fiscal year 2000, and $408,979,000 for the fiscal year 2001.

(2) RADIO CONSTRUCTION.—For ''Radio Construction'', $20,868,000 for the fiscal year 2000, and $20,868,000 for the fiscal year 2001.

(3) BROADCASTING TO CUBA.—For ''Broadcasting to Cuba'', $22,743,000 for the fiscal year 2000 and $22,743,000 for the fiscal year 2001.

SEC. 502. REAUTHORIZATION OF RADIO FREE ASIA.

Section 309 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6208) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking ''(A)''; and

(ii) by striking subparagraph (B);

(B) in paragraph (2), by striking ''September 30, 1999'' and inserting ''September 30, 2005'';

(C) in paragraph (4), by striking ''$22,000,000 in any fiscal year'' and inserting ''$28,000,000 in each of the fiscal years 2000 and 2001'';

(D) by striking paragraph (5); and

(E) by redesignating paragraph (6) as paragraph (5); and

(4) by amending subsection (f) (as redesignated by paragraph (2)) to read as follows:

''(f) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 2005.''.

SEC. 503. NOMINATION REQUIREMENTS FOR THE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS.

Section 304(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6203 (b)(2)), is amended—

(1) by striking ''designate'' and inserting ''appoint''; and

(2) by adding at the end the following: '', subject to the advice and consent of the Senate''.

TITLE VI—ARMS CONTROL, NONPROLIFERATION, AND NATIONAL SECURITY

SEC. 601. SHORT TITLE.

This title may be cited as the ''Arms Control, Nonproliferation, and National Security Act of 1999''.

SEC. 602. DEFINITIONS.

In this title:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the position of Assistant Secretary of State for Verification and Compliance designated under section 612.

(2) CONVENTION ON NUCLEAR SAFETY.—The term ''Convention on Nuclear Safety'' means the Convention on Nuclear Safety, done at Vienna on September 20, 1994 (Senate Treaty Document 104–6).

(3) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code.

(4) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(5) START TREATY OR TREATY.—The term ''START Treaty'' or ''Treaty'' means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

(6) START II TREATY.—The term ''START II Treaty'' means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, and related protocols and memorandum of understanding, signed at Moscow on January 3, 1993.

(7) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

Subtitle A—Arms Control

CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

SEC. 611. KEY VERIFICATION ASSETS FUND.

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, Department of Energy, or any agency, entity, or other component of the intelligence community, as needed, for retaining, researching, developing, or acquiring technologies or programs relating to the verification of arms control, nonproliferation and disarmament agreements or commitments.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal years 2000 and 2001, $5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the ''Key Verification Assets Fund''.

SEC. 612. ASSISTANT SECRETARY OF STATE FOR VERIFICATION AND COMPLIANCE.

(a) DESIGNATION OF POSITION.—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

(b) DIRECTIVE GOVERNING THE ASSISTANT SECRETARY OF STATE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall issue a directive governing the position of Assistant Secretary.

(2) ELEMENTS OF THE DIRECTIVE.—The directive issued under paragraph (1) shall set forth, consistent with this section—

(A) the duties of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other officials of the Department of State;

(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

(D) such other matters as the Secretary considers appropriate.

(c) DUTIES.—

(1) IN GENERAL.—The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

(2) PARTICIPATION OF THE ASSISTANT SECRETARY.—

(A) PRIMARY ROLE.—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

(B) REQUIREMENT FOR DESIGNATION.—Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

(C) NATIONAL SECURITY LIMITATION.—

(i) The President may waive the provisions of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(ii) With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(iii) Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

(3) RELATIONSHIP TO THE INTELLIGENCE COMMUNITY.—The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

(4) REPORTING RESPONSIBILITIES.—The Assistant Secretary shall have responsibility within the Department of State for—

(A) all reports required pursuant to section 37 of the Arms Control and Disarmament Act (22 U.S.C. 2577);

(B) so much of the report required under paragraphs (5) through (10) of section 51(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) as relates to verification or compliance matters; and

(C) other reports being prepared by the Department of State as of the date of enactment of this Act relating to arms control, nonproliferation, or disarmament verification or compliance matters.

SEC. 613. ENHANCED ANNUAL (''PELL'') REPORT.

Section 51(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon;

(3) in paragraph (6), by inserting:

(A) ''or commitments, including the Missile Technology Control Regime,'' after ''agreements'' the first time it appears;

(B) ''or commitments'' after ''agreements'' the second time it appears; and

(C) ''or commitment'' after ''agreement'';

(4) by adding at the end the following:

''(8) a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements with the United States.''; and

(5) by adding at the end the following new subsection:

''(d) Each report shall include a discussion of each significant issue contained in a previous report issued during 1995, or after December 31, 1995, pursuant to paragraph (6), until the question or concern has been resolved and such resolution has been reported to the appropriate committees of Congress (as defined in section 601(7) of the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001) in detail.''.

SEC. 614. REPORT ON START AND START II TREATIES MONITORING ISSUES.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of Central Intelligence shall submit a detailed classified report to the appropriate committees of Congress including the following:

(1) A comprehensive identification of all monitoring activities associated with the START and START II treaties.

(2) The specific intelligence community assets and capabilities, including analytical capabilities, that the Senate was informed, prior to the Senate giving its advice and consent to ratification of the treaties, would be necessary to accomplish those activities.

(3) An identification of the extent to which those assets and capabilities have, or have not, been attained or retained, and the corresponding effect this has had upon United States monitoring confidence levels.

(4) An assessment of any Russian activities relating to the START Treaty which have had an impact upon the ability of the United States to monitor Russian adherence to the Treaty.

(b) COMPARTMENTED ANNEX.—Exceptionally sensitive, compartmented information in the report required by this section may be provided in a compartmented annex submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 615. STANDARDS FOR VERIFICATION.

(a) DEFINITIONS.—It is the sense of the Senate that the following terms when used in publications of the United States Government, or in oral representations by officials of the United States Government, should have the following meanings:

(1) EFFECTIVELY VERIFIABLE.—The term ''effectively verifiable'' means that the requirements of subparagraphs (A) and (B) are met, as follows:

(A) The Director of Central Intelligence has certified to the President that the intelligence community has a high degree of confidence, with respect to a particular treaty or other agreement, in its ability to detect any militarily significant violation of the

treaty or other agreement in a timely fashion, and to detect patterns of marginal violation over time. In determining the intelligence community's confidence, the Director should assume that all measures of concealment could be employed and that standard practices could be altered so as to impede monitoring.

(B) The Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff have certified to the President that they have a high degree of confidence, with respect to a particular treaty or other agreement, that the United States will be able to reach a legal and technical determination regarding any militarily significant violation of the treaty or other agreement in a timely fashion, and to reach such a determination regarding patterns of marginal violation, once detected. In determining the level of confidence under this subparagraph, the Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff should assume that all measures of concealment could be employed and that standard practices could be altered so as to impede monitoring.

(2) MILITARILY SIGNIFICANT VIOLATION.—The Chairman of the Joint Chiefs of Staff, in consultation with the Secretary of Defense, has sole responsibility for determining with specificity, for purposes of any treaty or other international agreement having implications for the national security of the United States, what constitutes a militarily significant violation. In making such a determination, the Chairman should give great weight to his judgment that the violation could pose a threat to the national security interests of the United States.

(3) TIMELY FASHION DEFINED.—In this section, the term ''timely fashion'' means in sufficient time for the United States to take remedial action to safeguard the national security.

(b) CONFORMING AMENDMENTS.—Section 37(a) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)) is amended—

(1) by striking ''adequately'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following new subsection:

''(b) ASSESSMENTS UPON REQUEST.—Upon the request of the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, in case of an arms control, nonproliferation, or disarmament proposal—

''(1) under consideration for presentation to a foreign country by the United States;

''(2) presented to a foreign country by the United States; or

''(3) presented to the United States by a foreign country;

the Secretary of State shall submit a report to the Committee on the degree to which elements of the proposal are capable of being verified.''.

SEC. 616. CONTRIBUTION TO THE ADVANCEMENT OF SEISMOLOGY.

The United States Government shall make available to the public in real time, or as quickly as possible, all raw seismological data provided to the United States Government by any international organization that is directly responsible for seismological monitoring.

SEC. 617. PROTECTION OF UNITED STATES COMPANIES.

The United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105–277)) shall reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed $1,000,000 in any fiscal year.

SEC. 618. PRESERVATION OF THE START TREATY VERIFICATION REGIME.

(a) FINDINGS.—The Senate makes the following findings:

(1) Paragraph 6 of Article XI of the START Treaty states the following: ''Each Party shall have the right to conduct reentry vehicle inspections of deployed ICBMs and SLBMs to confirm that such ballistic missiles contain no more reentry vehicles than the number of warheads attributed to them.''.

(2) Paragraph 1 of Section IX of the Inspections Protocol to the START Treaty states that each Party ''shall have the right to conduct a total of ten reentry vehicle inspections each year''.

(3) Paragraph 4 of Section XVIII of the Inspections Protocol to the START Treaty states that the Parties ''shall, when possible, clarify ambiguities regarding factual information contained in the inspection report'' that each inspection team must provide at the end of an inspection, pursuant to paragraph 1 of Section XVIII of that Protocol.

(4) Paragraph 12 of Annex 3 to the Inspections Protocol to the START Treaty states that, once a missile has been selected and prepared for reentry vehicle inspection, the inspectors shall be given ''a clear, unobstructed view of the front section [of the missile], to ascertain that the front section contains no more reentry vehicles than the number of warheads attributed to missiles of that type''.

(5) Paragraph 13 of Annex 3 to the Inspections Protocol to the START Treaty states the following: ''If a member of the in-country escort declares that an object contained in the front section is not a reentry vehicle, the inspected Party shall demonstrate to the satisfaction of the inspectors that this object is not a reentry vehicle.''.

(6) Section II of Annex 8 to the Inspections Protocol to the START Treaty provides that radiation detection equipment may be used during reentry vehicle inspections.

(7) Paragraph F.1 of Section VI of Annex 8 to the Inspections Protocol to the START Treaty states the following: ''Radiation detection equipment shall be used to measure nuclear radiation levels in order to demonstrate that objects declared to be non-nuclear are non-nuclear.''.

(8) While the use of radiation detection equipment may help to determine whether an object that ''a member of the in-country escort declares..is not a reentry vehicle'' is a reentry vehicle with a nuclear warhead, it cannot help to determine whether that object is a reentry vehicle with a non-nuclear warhead.

(9) Article XV of the START Treaty provides for a Joint Compliance and Inspection Commission that shall meet to ''resolve questions relating to compliance with the obligations assumed''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should assert and, to the maximum extent possible, exercise the right for reentry vehicle inspectors to obtain a clear, unobstructed view of the front section of a deployed SS-18 ICBM selected for reentry vehicle inspection pursuant to paragraph 6 of Article XI of the START Treaty;

(2) the United States should assert and, to the maximum extent possible, obtain Russian compliance with the obligation of the host Party, pursuant to paragraph 13 of Annex 3 to the Inspections Protocol to the START Treaty, to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle;

(3) if a member of the in-country escort declares that an object contained in the front section of a deployed SS-18 ICBM selected for reentry vehicle inspection pursuant to paragraph 6 of Article XI of the START Treaty is not a reentry vehicle, but the inspected Party does not demonstrate to the satisfaction of the inspectors that this object is not a reentry vehicle, the United States inspection team should record this fact in the official inspection report as an ambiguity and the United States should raise this matter in the Joint Compliance and Inspection Commission as a concern relating to compliance of Russia with the obligations assumed under the Treaty;

(4) the United States should not agree to any arrangement whereby the use of radiation detection equipment in a reentry vehicle inspection, or a combination of the use of such equipment and Russian assurances regarding SS-18 ICBMs, would suffice to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle; and

(5) the United States should not agree to any arrangement whereby the use of technical equipment in a reentry vehicle inspection would suffice to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle, unless the Director of Central Intelligence, in consultation with the Secretaries of State, Defense, and Energy, has determined that such equipment can demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle.

(c) START TREATY DEFINED.—In this section, the term ''START Treaty'' means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

CHAPTER 2—LANDMINE POLICY, DEMINING ACTIVITIES, AND RELATED MATTERS

SEC. 621. CONFORMING AMENDMENT.

Subsection (d) of section 248 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1958) is amended by inserting '', and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives,'' after ''congressional defense committees''.

SEC. 622. DEVELOPMENT OF ADVANCED HUMANITARIAN DEMINING CAPABILITIES FUND.

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, Department of Energy, or any of the military departments, for researching, developing, adapting, and deploying technologies to achieve the destruction or other removal of antipersonnel landmines for humanitarian purposes.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal years 2000 and 2001, $5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the ''Development of Advanced Humanitarian Demining Capabilities Fund''.

Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

SEC. 631. REPORTING BURDEN ON UNITED STATES NUCLEAR INDUSTRY.

In carrying out any United States obligation under the Convention on Nuclear Safety, no Executive agency may impose any new reporting obligation upon any United States business concern.

SEC. 632. AUTHORITY TO SUSPEND NUCLEAR COOPERATION FOR FAILURE TO RATIFY CONVENTION ON NUCLEAR SAFETY.

Section 132 of the Atomic Energy Act of 1954 (42 U.S.C. 2160b) is amended—

(1) in the section heading, by inserting before the period the following: ''OR THE CONVENTION ON NUCLEAR SAFETY''; and

(2) by inserting ''or the Convention on Nuclear Safety'' after ''Material''.

SEC. 633. ELIMINATION OF DUPLICATIVE GOVERNMENT ACTIVITIES.

(a) PRIMARY RESPONSIBILITY OF THE SECRETARY OF STATE.—Congress urges the Secretary of State, in consultation with the Nuclear Regulatory Commission, to ensure that the functions performed by the International Nuclear Regulators Association are undertaken to the maximum extent practicable in connection with implementation of the Convention on Nuclear Safety.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the President shall submit a report to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives—

(1) detailing all activities being undertaken by the United States in the field of international nuclear regulation and nuclear safety, and justifying continuation of such activities if the activities in any way duplicate an activity undertaken pursuant to the Convention on Nuclear Safety; and

(2) identifying all activities terminated pursuant to his certification made on April 9, 1999, in accordance with Condition (1) of the resolution of ratification for the Convention on Nuclear Safety.

SEC. 634. CONGRESSIONAL NOTIFICATION OF NONPROLIFERATION ACTIVITIES.

Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) is amended to read as follows:

''(c)(1) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Commission, and, with regard to subparagraph (B), the Director of Central Intelligence, shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to—

''(A) their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

''(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

''(2) For the purposes of this subsection with respect to subparagraph (B), the phrase 'fully and currently informed' means the transmittal of information not later than 60 days after becoming aware of the activity concerned.''.

SEC. 635. EFFECTIVE USE OF RESOURCES FOR NONPROLIFERATION PROGRAMS.

(a) PROHIBITION.—Except as provided in subsection (b), no assistance may be provided by the United States Government to any person who is involved in the research, development, design, testing, or evaluation of chemical or biological weapons for offensive purposes.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply to any activity conducted to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 636. DISPOSITION OF WEAPONS-GRADE MATERIAL.

(a) REPORT ON REDUCTION OF THE STOCKPILE.—Not later than 120 days after signing an agreement between the United States and Russia for the disposition of excess weapons plutonium, the Secretary of Energy, with the concurrence of the Secretary of Defense, shall submit a report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives—

(1) detailing plans for United States implementation of such agreement;

(2) identifying the number of United States warhead ''pits'' of each type deemed ''excess'' for the purpose of dismantlement or disposition; and

(3) describing any implications this may have for the Stockpile Stewardship and Management Program.

(b) SUBMISSION OF THE FABRICATION FACILITY AGREEMENT PURSUANT TO LAW.—Whenever the President submits to Congress the agreement to establish a mixed oxide fuel fabrication or production facility in Russia pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), it is the sense of Congress that the Secretary of State should be prepared to certify to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House Representatives that—

(1) arrangements for the establishment of that facility will further United States nuclear non-proliferation objectives and will outweigh the proliferation risks inherent in the use of mixed oxide fuel elements;

(2) a guaranty has been given by Russia that no fuel elements produced, fabricated, reprocessed, or assembled at such facility, and no sensitive nuclear technology related to such facility, will be exported or supplied by the Russian Federation to any country in the event that the United States objects to such export or supply; and

(3) a guaranty has been given by Russia that the facility and all nuclear materials and equipment therein, and any fuel elements or special nuclear material produced, fabricated, reprocessed, or assembled at that facility, including fuel elements exported or supplied by Russia to a third party, will be subject to international monitoring and transparency sufficient to ensure that special nuclear material is not diverted.

(c) DEFINITIONS.—

(1) PRODUCED.—The terms ''produce'' and ''produced'' have the same meaning that such terms are given under section 11 u. of the Atomic Energy Act of 1954.

(2) PRODUCTION FACILITY.—The term ''production facility'' has the same meaning that such term is given under section 11 v. of the Atomic Energy Act of 1954.

(3) SPECIAL NUCLEAR MATERIAL.—The term ''special nuclear material'' has the meaning that such term is given under section 11 aa. of the Atomic Energy Act of 1954.

SEC. 637. STATUS OF HONG KONG AND MACAO IN UNITED STATES EXPORT LAW.

(a) PRELICENSE VERIFICATION.—Notwithstanding any other provision of law and except as provided in subsections (c) and (f), no license may be approved for the export to Hong Kong or Macao, as the case may be, of any item described in subsection (d) unless appropriate United States officials are provided the right and ability to conduct prelicense verification, in such manner as the United States considers appropriate, of the validity of the stated end-user, and the validity of the stated end-use, as specified on the license application.

(b) POST-SHIPMENT VERIFICATION.—Notwithstanding any other provision of law and except as provided in subsections (c) and (f), in the event that appropriate United States officials are denied the ability to conduct post-shipment verification, in such manner as the United States considers appropriate, of the location and end-use of any item under their jurisdiction that has been exported from the United States to Hong Kong or Macao, then Hong Kong or Macao, as the case may be, shall thereafter be treated in the same manner as the People's Republic of China for the purpose of any export of any item described in subsection (d).

(c) WAIVER AUTHORITY.—The Secretary of State, with respect to any item defined in subsection (d)(1), or the Secretary of Commerce, with respect to any item defined in subsection (d)(2), may waive or remove the imposition of the requirements imposed by subsections (a) and (b) upon a written finding, which shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, that—

(1) the case that warranted the imposition of such requirements has been settled to the satisfaction of the United States; or

(2) there are specific reasons why the waiver or removal of such requirements is in the national interest of the United States.

(d) ITEM DEFINED.—The term ''item'' as used in this section means—

(1) any item controlled on the United States Munitions List under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

(2) any item for which export controls are administered by the Department of Commerce for foreign policy or national security reasons.

(e) EFFECTIVE DATE.—Effective January 1, 2000, this section shall apply to Macao.

(f) EXCEPTION.—The provisions of this section do not apply to any activity subject to reporting under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

Subtitle C—Miscellaneous Provisions

SEC. 641. REQUIREMENT FOR TRANSMITTAL OF SUMMARIES.

Whenever a United States delegation engaging in negotiations on arms control, nonproliferation, or disarmament submits to the Secretary of State a summary of the activities of the delegation or the status of those negotiations, a copy of each such summary shall be further transmitted by the Secretary of State to the Committee on Foreign Relations of the Senate promptly.

SEC. 642. PROHIBITION ON WITHHOLDING CERTAIN INFORMATION FROM CONGRESS.

(a) PROHIBITION.—No officer or employee of the United States may knowingly withhold information from the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the

House of Representatives that is required to be transmitted pursuant to subsection (c) or (d) of section 602 of the Nuclear Non-Proliferation Act of 1978.

(b) ISSUANCE OF REGULATIONS.—Not later than January 1, 2000, the Secretaries of State, Defense, Commerce, and Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978. Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.

SEC. 643. REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) ADDITIONAL RESOURCES.—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the amounts made available to the Department of State under section 101(a)(2), $18,000,000 shall be made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

(b) IMPROVEMENT OF DTS-PO.—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is undertaken by United States citizens who have received appropriate security clearances;

(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assigments shall be adjusted in the customary manner.

(c) REPORT ON IMPROVING MANAGEMENT.—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the appropriate committees of Congress the Director's plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

(d) FUNDING OF DTS-PO.—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

SEC. 644. SENSE OF CONGRESS ON FACTORS FOR CONSIDERATION IN NEGOTIATIONS WITH THE RUSSIAN FEDERATION ON REDUCTIONS IN STRATEGIC NUCLEAR FORCES.

It is the sense of Congress that, in negotiating a START III Treaty with the Russian Federation, or any other arms control treaty with the Russian Federation making comparable amounts of reductions in United States strategic nuclear forces—

(1) the strategic nuclear forces and nuclear modernization programs of the People's Republic of China and every other nation possessing nuclear weapons should be taken into full consideration in the negotiation of such treaty; and

(2) such programs should not undermine the limitations set forth in the treaty.

SEC. 645. CLARIFICATION OF EXCEPTION TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

Section 1514(b) of Public Law 105–261 is amended by striking all that follows after ''EXCEPTION.—'' and inserting the following: ''Subsections (a)(2), (a)(4), and (a)(8) shall not apply to the export of a satellite or satellite-related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization (NATO) or that is a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)) of the United States unless, in each instance of a proposed export of such item, the Secretary of State, in consultation with the Secretary of Defense, first provides a written determination to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that it is in the national security or foreign policy interests of the United States to apply the export controls required under such subsections.''.

SEC. 646. STUDY ON LICENSING PROCESS UNDER THE ARMS EXPORT CONTROL ACT.

Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on International Relations of the House of Representatives a study on the performance of the licensing process pursuant to the Arms Export Control Act, with recommendations on how to improve that performance. The study shall include:

(1) An analysis of the typology of licenses on which action was completed in 1999. The analysis should provide information on major categories of license requests, including—

(A) the number for nonautomatic small arms, automatic small arms, technical data, parts and components, and other weapons;

(B) the percentage of each category staffed to other agencies;

(C) the average and median time taken for the processing cycle for each category when staffed and not staffed;

(D) the average time taken by White House or National Security Council review or scrutiny; and

(E) the average time each spent at the Department of State after a decision had been taken on the license but before a contractor was notified of the decision. For each category the study should provide a breakdown of licenses by country. The analysis also should identify each country that has been identified in the past three years pursuant to section 3(e) of the Arms Export Control Act (22 U.S.C. 2753(e)).

(2) A review of the current computer capabilities of the Department of State relevant to the processing of licenses and its ability to communicate electronically with other agencies and contractors, and what improvements could be made that would speed the process, including the cost for such improvements.

(3) An analysis of the work load and salary structure for export licensing officers of the Office of Defense Trade Control of the Department of State as compared to comparable jobs at the Department of Commerce and the Department of Defense.

(4) Any suggestions of the Department of State relating to resources and regulations, and any relevant statutory changes that might expedite the licensing process while furthering the objectives of the Arms Export Control Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—People's Republic of China

SEC. 701. FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the conclusions of the Department of State, as set forth in the Country Reports on Human Rights Practices for 1998, on human rights in the People's Republic of China in 1998 as follows:

(A) ''The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. . . . Citizens lack both the freedom peacefully to express opposition to the party-led political system and the right to change their national leaders or form of government.''.

(B) ''The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities' very limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms.''.

(C) ''Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process.''.

(D) ''Prison conditions at most facilities remained harsh. . . . The Government infringed on citizens' privacy rights. The Government continued restrictions on freedom of speech and of the press, and tightened these toward the end of the year. The Government severely restricted freedom of assembly, and continued to restrict freedom of association, religion, and movement.''.

(E) ''Discrimination against women, minorities, and the disabled; violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution, trafficking in women and children, and the abuse of children all are problems.''.

(F) ''The Government continued to restrict tightly worker rights, and forced labor remains a problem.''.

(G) ''Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.''.

(H) ''Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference and repression.''.

(I) ''Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in

violation of international human rights instruments for peacefully expressing their political, religious, or social views.''.

(2) In addition to the State Department, credible press reports and human rights organizations have documented an intense crackdown on political activists by the Government of the People's Republic of China, involving the harassment, detainment, arrest, and imprisonment of dozens of activists.

(3) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(4) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is a signatory to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights.

SEC. 702. FUNDING FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO REPORT ON POLITICAL, ECONOMIC, AND HUMAN RIGHTS MATTERS IN THE PEOPLE'S REPUBLIC OF CHINA.

Of the amounts authorized to be appropriated for the Department of State by this Act, $2,200,000 for fiscal year 2000 and $2,200,000 for fiscal year 2001 shall be made available only to support additional personnel in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, in order to monitor political and economic conditions, including in particular respect for internationally recognized human rights, in the People's Republic of China.

SEC. 703. PRISONER INFORMATION REGISTRY FOR THE PEOPLE'S REPUBLIC OF CHINA.

(a) REQUIREMENT.—The Secretary of State shall establish and maintain a registry which shall, to the extent practicable, provide information on all political prisoners, prisoners of conscience, and prisoners of faith in the People's Republic of China. The registry shall be known as the ''Prisoner Information Registry for the People's Republic of China''.

(b) INFORMATION IN REGISTRY.—The registry required by subsection (a) shall include information on the charges, judicial processes, administrative actions, uses of forced labor, incidents of torture, lengths of imprisonment, physical and health conditions, and other matters associated with the incarceration of prisoners in the People's Republic of China referred to in that subsection.

(c) AVAILABILITY OF FUNDS.—The Secretary may make funds available to nongovernmental organizations currently engaged in monitoring activities regarding political prisoners in the People's Republic of China in order to assist in the establishment and maintenance of the registry required by subsection (a).

SEC. 704. REPORT REGARDING ESTABLISHMENT OF ORGANIZATION FOR SECURITY AND COOPERATION IN ASIA.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report assessing the feasibility and utility of establishing an Organization for Security and Cooperation in Asia which would be modeled after the Organization for Security and Cooperation in Europe.

SEC. 705. SENSE OF CONGRESS REGARDING ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals subject to the jurisdiction of the United States who are determined to be participating in or otherwise facilitating the sale of organs harvested should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

Subtitle B—Other Matters

SEC. 721. DENIAL OF ENTRY INTO UNITED STATES OF FOREIGN NATIONALS ENGAGED IN ESTABLISHMENT OR ENFORCEMENT OF FORCED ABORTION OR STERILIZATION POLICY.

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law, the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any foreign national whom the Secretary finds, based on credible and specific information, to have been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice or forcing a man or woman to undergo sterilization against his or her free choice.

(b) EXCEPTIONS.—The prohibitions in subsection (a) shall not apply in the case of a foreign national who is a head of state, head of government, or cabinet level minister.

(c) WAIVER.—The President may waive the prohibitions in subsection (a) with respect to a foreign national if the President—

(1) determines that it is important to the national interest of the United States to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 722. SEMIANNUAL REPORTS ON UNITED STATES SUPPORT FOR MEMBERSHIP OR PARTICIPATION OF TAIWAN IN INTERNATIONAL ORGANIZATIONS.

(a) REPORTS REQUIRED.—Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall submit to Congress a report on the status of efforts by the United States Government to support—

(1) the membership of Taiwan in international organizations that do not require statehood as a prerequisite to such membership; and

(2) the appropriate level of participation by Taiwan in international organizations that may require statehood as a prerequisite to full membership.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall—

(1) set forth a comprehensive list of the international organizations in which the United States Government supports the membership or participation of Taiwan;

(2) describe in detail the efforts of the United States Government to achieve the membership or participation of Taiwan in each organization listed; and

(3) identify the obstacles to the membership or participation of Taiwan in each organization listed, including a list of any governments that do not support the membership or participation of Taiwan in each such organization.

SEC. 723. CONGRESSIONAL POLICY REGARDING UNITED NATIONS GENERAL ASSEMBLY RESOLUTION ES–10/6.

(a) FINDINGS.—Congress makes the following findings:

(1) In an emergency special session the United Nations General Assembly voted on February 9, 1999, to adopt Resolution ES–10/6, entitled ''Illegal Israeli Actions in Occupied East Jerusalem And The Rest Of The Occupied Palestinian Territory'', to convene for the first time in 50 years the parties to the Fourth Geneva Convention for the Protection of Civilians in Time of War.

(2) That resolution unfairly places full blame for the deterioration of the peace process in the Middle East on Israel and dangerously politicizes the Geneva Convention, which was established to address critical humanitarian crises.

(3) The adoption of that resolution is intended to prejudge direct negotiations in the peace process in the Middle East, put additional and undue pressure on Israel to influence the results of such negotiations, and single out Israel for unprecedented enforcement proceedings which have never been invoked, even against governments with records of massive violations of the Geneva Convention.

(b) STATEMENT OF POLICY.—Congress—

(1) commends the Department of State for the vote of the United States against United Nations General Assembly Resolution ES–10/6, thereby affirming that the text of the resolution politicizes the Fourth Geneva Convention, which is primarily humanitarian in nature; and

(2) urges the Department of State to continue its efforts against convening the conference specified in the resolution.

SEC. 724. WAIVER OF CERTAIN PROHIBITIONS REGARDING THE PALESTINE LIBERATION ORGANIZATION.

(a) AUTHORITY TO WAIVE.—The President may waive any prohibition set forth in section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1407; 22 U.S.C. 5202) if the President determines and so certifies to the appropriate congressional committees that—

(1) it is in the national interest of the United States to do so; and

(2) after the date of the enactment of this Act, neither the Palestine Liberation Organization, the Palestinian Authority, the Palestinian Legislative Council, nor any Palestinian governing body with jurisdiction over territories controlled by the Palestinian Authority has made a declaration of statehood outside the framework of negotiations with the State Israel.

(b) PERIOD OF APPLICABILITY OF WAIVER.—Any waiver under subsection (a) shall be effective for not more than 6 months at a time.

SEC. 725. UNITED STATES POLICY REGARDING JERUSALEM AS THE CAPITAL OF ISRAEL.

(a) CONSTRUCTION OF UNITED STATES EMBASSY IN JERUSALEM.—Of the amounts authorized to be appropriated by section 101(a)(3) of this Act for ''Security and Maintenance of United States Missions'',

$50,000,000 for the fiscal year 2000 and $50,000,000 for the fiscal year 2001 may be available for the construction of a United States embassy in Jerusalem, Israel.

(b) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this Act should be obligated or expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

(c) LIMITATION ON USE OF FUNDS FOR CERTAIN PUBLICATIONS.—None of the funds authorized to be appropriated by this Act may be obligated or expended for the publication of any official government document which lists countries and their capital cities unless the document identifies Jerusalem as the capital of Israel.

(d) RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon the request of the citizen, record the place of birth as Israel.

SEC. 726. UNITED STATES POLICY WITH RESPECT TO NIGERIA.

(a) FINDINGS.—Congress makes the following findings:

(1) A stable and democratic Nigeria is important to the interests of the United States, the West African region, and the international community.

(2) Millions of Nigerians participated in four rounds of multiparty elections as part of a transition program that will culminate in the inauguration of a civilian president, members of the National Assembly, governors, and local leaders on May 29, 1999. Although turnout in each of the four rounds was lower than expected, a clear majority of Nigerians demonstrated their support for a swift and orderly transition to democratic civilian rule through participation in the elections or through other means.

(3) Nevertheless, continued rule by successive military regimes in Nigeria has harmed the lives of the people of Nigeria, undermined confidence in the Nigerian economy, damaged relations between Nigeria and the United States, and threatened the political and economic stability of West Africa.

(4) Although the current military regime, under the leadership of General Abdusalami Abubakar, has made significant progress in liberalizing the political environment in Nigeria, including increased respect for freedom of assembly, expression, and association, numerous decrees are still in force that suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, and revoke the jurisdiction of civilian courts over executive actions.

(5) Despite the optimism expressed by many observers about the progress that has been made in Nigeria, the country's recent history raises serious questions about the potential success of the transition program. In particular, events in the Niger Delta in early 1999 underscore the critical need for ongoing monitoring of the situation and indicate that a return by the Government of Nigeria to repressive methods remains a possibility.

(b) DECLARATION OF POLICY.—Congress declares that the United States—

(1) supports a timely, effective, and sustainable transition to democratic, civilian government in Nigeria; and

(2) encourages the incoming civilian government in Nigeria to make the political, economic, and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria, including establishing effective democratic institutions, integrating the military into democratic society, and creating mechanisms for transparency and accountability.

SEC. 727. PARTIAL LIQUIDATION OF BLOCKED LIBYAN ASSETS.

(a) LIQUIDATION OF CERTAIN BLOCKED LIBYAN ASSETS.—The President shall vest and liquidate so much of blocked Libyan assets, ordered pursuant to Executive Order No. 12544 (January 8, 1986), as is necessary to pay for the reasonable costs of travel to and from The Hague, Netherlands, by immediate family members of United States citizens who were victims of the crash of Pan American flight 103 in 1988 and wish to attend the trial of those individuals suspected of terrorist acts causing the crash.

(b) DEFINITIONS.—In this section—

(1) BLOCKED LIBYAN ASSETS.—The term ''blocked Libyan assets'' refers to property and interests of the Government of Libya, its agencies, instrumentalities, and controlled entities and the Bank of Libya, blocked pursuant to Executive Order No. 12544 (January 8, 1986).

(2) IMMEDIATE FAMILY MEMBERS.—The term ''immediate family member'' means parents, siblings, children, spouse, or a person who stood in loco parentis or to whom he or she stood in loco parentis, of a crash victim.

SEC. 728. SUPPORT FOR REFUGEES FROM RUSSIA WHO CHOOSE TO RESETTLE IN ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Russian Jewish community is the third largest Jewish community in the world.

(2) Anti-Semitic rhetoric from members of the Duma of the Russian Federation has increased during the past year.

(3) The Duma failed to pass a resolution condemning the anti-Semitic statements made by Russian lawmakers on March 19, 1999.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should support members of Russia's Jewish community; and

(2) the United States should continue to provide assistance to Russian Jewish refugees resettling in Israel.

SEC. 729. SENSE OF CONGRESS REGARDING EXTRADITION OF LT. GENERAL IGOR GIORGADZE.

(a) FINDINGS.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia was the victim of an attempted assassination plot as he was departing his offices in the Georgian Parliament building to attend the signing ceremony for a new Georgian constitution.

(2) Former Chief of the Georgian National Security Service, Lt. General Igor Giorgadze, has been implicated in organizing the August 29, 1995 car bomb attack on President Shevardnadze, and allegedly fled from the Varziani air base, one of Russia's four military bases in Georgia at that time, and the same Russian base on which three Georgia aircraft SU 25's were sabotaged, preventing them from performing fighter escort duty for President Shevardnadze's aircraft.

(3) Lt. General Igor Giorgadze has subsequently been seen walking freely on the streets of Moscow as well as living and utilizing facilities of the Government of Russia.

(4) Interpol is conducting a search for Lt. General Igor Giorgadze for his role in the assassination attempt against President Shevardnadze.

(5) In the aftermath of the attack on President Shevardnadze, and regularly since that time, the Government of Georgia has made repeated requests for the extradition of Lt. General Igor Giorgadze to Tbilisi, Georgia.

(6) The Russian Interior Ministry has claimed that it is unable to locate Giorgadze.

(7) The Georgian Security and Interior Ministries on repeated occasions have provided to the Russian Interior Ministry—

(A) the exact locations in Russia where Giorgadze could be found, including the exact location in Moscow where Giorgadze's family lived;

(B) the exact location where Giorgadze himself stayed outside of Moscow in a dacha of the Russian Ministry of Defense;

(C) people he associates with;

(D) apartments he visits; and

(E) the places, including restaurants, markets, and companies, he frequents.

(8) Russian newspapers regularly carry interviews with Giorgadze in which Giorgadze calls for a change in regime in Tbilisi.

(9) Giorgadze is actively engaged in a propaganda campaign against President Shevardnadze and the democratic forces in Georgia, with the assistance of his father who is the Communist Party chief in Georgia.

(10) Giorgadze continues to organize and plan attempts on the life of President Shevardnadze.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President and other senior United States Government officials should raise at each bilateral meeting between officials of the United States Government and officials of the Russian Federation the issue of the extradition of Lt. General Igor Giorgadze to Georgia.

SEC. 730. SENSE OF CONGRESS ON THE USE OF CHILDREN AS SOLDIERS OR OTHER COMBATANTS IN FOREIGN ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) There are at least 300,000 children who are involved in armed conflict in at least 25 countries around the world. This is an escalating international humanitarian crisis which must be addressed promptly.

(2) Children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand.

(3) Children are most likely to become child soldiers if they are orphans, refugees, poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education.

(4) Child soldiers, besides being exposed to the normal hazards of combat, are also afflicted with other injuries due to their lives in the military. Young children may have sexually related illnesses, suffer from malnutrition, have deformed backs and shoulders which are the result of carrying loads too heavy for them, as well as respiratory and skin infections.

(5) One of the most egregious examples of the use of child soldiers is the abduction thousands of children, some as young as 8 years of age, by the Lord's Resistance Army (in this section referred to as the ''LRA'') in northern Uganda.

(6) The Department of State's Country Reports on Human Rights Practices For 1999 reports that in Uganda the LRA abducted children ''to be guerillas and tortured them by beating them, raping them, forcing them to march until collapse, and denying them adequate food, water, or shelter''.

(7) Children who manage to escape from LRA captivity have little access to trauma care and rehabilitation programs, and many find their families displaced, missing, dead, or fearful of having their children return home.

(8) A large number of children have participated and been killed in the armed conflict in Sri Lanka, and the use of children as soldiers has led to a breakdown in law and order in Sierra Leone.

(b) SENSE OF CONGRESS.—

(1) CONDEMNATION.—Congress hereby joins the international community in condemning the use of children as soldiers and other combatants by governmental and non-governmental armed forces.

(2) FURTHER SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should—

(A) study the issue of the rehabilitation of former child soldiers, the manner in which their suffering can be alleviated, and the positive role that the United States can play in such an effort; and

(B) submit a report to Congress on the issue of rehabilitation of child soldiers and their families.

SEC. 731. TECHNICAL CORRECTIONS.

(a) Section 1422(b)(3)(B) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105–277; 112 Stat. 2681–792) is amended by striking ''divisionAct'' and inserting ''division''.

(b) Section 1002(a) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105–277; 112 Stat. 2681–762) is amended by striking paragraph (3).

(c) The table of contents of division G of Public Law 105–277 (112 Stat. 2681–762) is amended by striking ''DIVISION__'' and inserting ''DIVISION G''.

SEC. 732. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than each of the dates specified in paragraph (2), the Secretary of State shall submit a report to the appropriate congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure that a free, fair, and transparent referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by July 2000.

(2) DEADLINES FOR SUBMISSION OF REPORTS.—The dates referred to in paragraph (1) are January 1, 2000, and June 1, 2000.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of preparations for the referendum, including the extent to which free access to the territory for independent international organizations, including election observers and international media, will be guaranteed;

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by July 2000;

(3) an assessment of the likelihood that the July 2000 date will be met;

(4) a description of obstacles, if any, to the voter-registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles; and

(5) an assessment of progress being made in the repatriation process.

SEC. 733. SELF-DETERMINATION IN EAST TIMOR

(a) FINDINGS.—The Congress finds as follows:

(1) On May 5, 1999, the Governments of Indonesia and Portugal signed an agreement that provides for an August 8, 1999 ballot organized by the United Nations on East Timor's political status.

(2) On June 22, 1999, the ballot was rescheduled for August 21 or August 22 due to concerns that the conditions necessary for a free and fair vote could not be established prior to August 8.

(3) On January 27, 1999, President Habibie expressed a willingness to consider independence for East Timor if a majority of the East Timorese reject autonomy in the August ballot.

(4) Under the May 5th agreement the Government of Indonesia is responsible for ensuring that the August ballot is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference.

(5) The inclusion of anti-independence militia members in Indonesian forces responsible for establishing security in East Timor violates the May 5th agreement which states that the absolute neutrality of the military and police is essential for holding a free and fair ballot.

(6) The arming of anti-independence militias by members of the Indonesian military for the purpose of sabotaging the August ballot has resulted in hundreds of civilians killed, injured or disappeared in separate attacks by these militias who continue to act without restraint.

(7) The United Nations Secretary General has received credible reports of political violence, including intimidation and killings, by armed anti-independence militias against unarmed pro-independence civilians.

(8) There have been killings of opponents of independence, including civilians and militia members.

(9) The killings in East Timor should be fully investigated and the individuals responsible brought to justice.

(10) Access to East Timor by international human rights monitors and humanitarian organizations is limited, and members of the press have been threatened.

(11) The presence of members of the United Nations Assistance Mission in East Timor has already resulted in an improved security environment in the East Timorese capital of Dili.

(12) A robust international observer mission and police force throughout East Timor is critical to creating a stable and secure environment necessary for a free and fair ballot.

(13) The Administration should be commended for its support for the United Nations Assistance Mission in East Timor which will provide monitoring and support for the ballot and include international civilian police, military liaison officers and election monitors.

(b) POLICY.—(1) The President, Secretary of State, Secretary of Defense, and the Secretary of the Treasury (acting through the United States executive directors to international financial institutions) should immediately intensify their efforts to prevail upon the Indonesian Government and military to—

(A) disarm and disband anti-independence militias;

(B) grant full access to East Timor by international human rights monitors, humanitarian organizations, and the press;

(C) allow Timorese who have been living in exile to return to East Timor to participate in the ballot.

(2) The President should submit a report to the Congress not later than 21 days after passage of this Act, containing a description of the Administration's efforts and his assessment of steps taken by the Indonesian Government and military to ensure a stable and secure environment in East Timor, including those steps described in paragraph (1).

SEC. 734. PROHIBITION ON THE RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) PROHIBITION.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to any person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term ''entity controlled by a foreign government'' has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term ''veterans memorial object'' means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

SEC. 735. SUPPORT FOR THE PEACE PROCESS IN SUDAN.

(a) FINDINGS.—Congress finds that—

(1) the civil war in Sudan has continued unabated for 16 years and raged intermittently for 40 years;

(2) an estimated 1,900,000 Sudanese people have died as a result of war-related causes and famine;

(3) an estimated 4,000,000 people are currently in need of emergency food assistance in different areas of Sudan;

(4) approximately 4,000,000 people are internally displaced in Sudan;

(5) the continuation of war has led to human rights abuses by all parties to the conflict, including the killing of civilians, slavery, rape, and torture on the part of government forces and paramilitary forces; and

(6) it is in the interest of all the people of Sudan for the parties to the conflict to seek a negotiated settlement of hostilities and the establishment of a lasting peace in Sudan.

(b) SENSE OF CONGRESS.—(1) Congress—

(A) acknowledges the renewed vigor in facilitating and assisting the Inter-Governmental Authority for Development (IGAD) peace process in Sudan; and

(B) urges continued and sustained engagement by the Department of State in the IGAD peace process and the IGAD Partners' Forum.

(2) It is the sense of Congress that the President should—

(A) appoint a special envoy—

(i) to serve as a point of contact for the Inter-Governmental Authority for Development peace process;

(ii) to coordinate with the Inter-Governmental Authority for Development Partners Forum as the Forum works to support the peace process in Sudan; and

(iii) to coordinate United States humanitarian assistance to southern Sudan.

(B) provide increased financial and technical support for the IGAD Peace Process and especially the IGAD Secretariat in Nairobi, Kenya; and

(C) instruct the United States Permanent Representative to the United Nations to call on the United Nations Secretary General to consider the appointment of a special envoy for Sudan.

SEC. 736. EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE TREATMENT OF RELIGIOUS MINORITIES IN THE ISLAMIC REPUBLIC OF IRAN, AND PARTICULARLY THE RECENT ARRESTS OF MEMBERS OF THAT COUNTRY'S JEWISH COMMUNITY.

(a) FINDINGS.—The Senate finds that—

(1) ten percent of the citizens of the Islamic Republic of Iran are members of religious minority groups;

(2) according to the State Department and internationally recognized human rights organizations, such as Human Rights Watch and Amnesty International, religious minorities in the Islamic Republic of Iran—including Sunni Muslims, Baha'is, Christians, and Jews—have been the victims of human rights violations solely because of their status as religious minorities;

(3) the 55th session of the United Nations Commission on Human Rights passed Resolution 1999/13, which expresses the concern of the international community over ''continued discrimination against religious minorities'' in the Islamic Republic of Iran, and calls on that country to moderate its policy on religious minorities until they are ''completely emancipated'';

(4) more than half the Jews in Iran have been forced to flee that country since the Islamic Revolution of 1979 because of religious persecution, and many of them now reside in the United States;

(5) the Iranian Jewish community, with a 2,500-year history and currently numbering some 30,000 people, is the oldest Jewish community living in the Diaspora;

(6) five Jews have been executed by the Iranian government in the past five years without having been tried;

(7) there has been a noticeable increase recently in anti-Semitic propaganda in the government-controlled Iranian press;

(8) on the eve of the Jewish holiday of Passover 1999, thirteen or more Jews, including community and religious leaders in the city of Shiraz, were arrested by the authorities of the Islamic Republic of Iran; and

(9) in keeping with its dismal record on providing accused prisoners with due process and fair treatment, the Islamic Republic of Iran failed to charge the detained Jews with any specific crime or allow visitation by relatives of the detained for more than two months.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should—

(1) continue to work through the United Nations to assure that the Islamic Republic of Iran implements the recommendations of Resolution 1999/13;

(2) condemn, in the strongest possible terms, the recent arrest of members of Iran's Jewish minority and urge their immediate release;

(3) urge all nations having relations with the Islamic Republic of Iran to condemn the treatment of religious minorities in Iran and call for the release of all prisoners held on the basis of their religious beliefs; and

(4) maintain the current United States policy toward the Islamic Republic of Iran unless and until that country moderates its treatment of religious minorities.

SEC. 737. REPORTING REQUIREMENTS UNDER PLO COMMITMENTS COMPLIANCE ACT OF 1989.

(a) FINDINGS.—Congress makes the following findings:

(1) The PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) requires the President to submit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate every 180 days, on Palestinian compliance with the Geneva commitments of 1988, the commitments contained in the letter of September 9, 1993 to the Prime Minister of Israel, and the letter of September 9, 1993 to the Foreign Minister of Norway.

(2) The reporting requirements of the PLO Commitments Compliance Act of 1989 have remained in force from enactment until the present.

(3) Modification and amendment to the PLO Commitments Compliance Act of 1989, and the expiration of the Middle East Peace Facilitation Act (Public Law 104–107) did not alter the reporting requirements.

(4) According to the official records of the Committee on Foreign Relations of the Senate, the last report under the PLO Commitments Compliance Act of 1989 was submitted and received on December 27, 1997.

(b) REPORTING REQUIREMENTS.—The PLO Commitments Compliance Act of 1989 is amended —

(1) in section 804(b), by striking ''In conjunction with each written policy justification required under section 604(b)(1) of the Middle East Peace Facilitation Act of 1995 or every'' and inserting ''Every'';

(2) in section 804(b)—

(A) by striking ''and'' at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10); and

(C) by adding at the end the following new paragraphs:

''(11) a statement on the effectiveness of end-use monitoring of international or United States aid being provided to the Palestinian Authority, Palestinian Liberation Organization, or the Palestinian Legislative Council, or to any other agent or instrumentality of the Palestinian Authority, on Palestinian efforts to comply with international accounting standards and on enforcement of anti-corruption measures; and

''(12) a statement on compliance by the Palestinian Authority with the democratic reforms, with specific details regarding the separation of powers called for between the executive and Legislative Council, the status of legislation passed by the Legislative Council and sent to the executive, the support of the executive for local and municipal elections, the status of freedom of the press, and of the ability of the press to broadcast debate from within the Legislative Council and about the activities of the Legislative Council.''.

SEC. 738. REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this legislation and every 6 months thereafter, the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

(2) A list of terrorist attacks, occurring between September 13, 1993 and the date of the report, against United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

(A) a list of all citizens of the United States killed or injured in such attacks;

(B) the date of each attack, the total number of people killed or injured in each attack;

(C) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;

(D) a list of suspects implicated in each attack and the nationality of each suspect, including information on—

(i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;

(ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and

(iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.

(3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—

(A) the date each suspect was incarcerated;

(B) whether any suspects have been released, the date of such release, and whether any released suspect was implicated in subsequent acts of terrorism; and

(C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.

(4) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including any information on whether a reward has been posted for suspects involved in terrorist attacks listed in the report.

(5) A list of each request by the United States for assistance in investigating terrorist attacks listed in the report, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel since September 13, 1993 and the response to each request from the Palestinian Authority and Israel.

(6) A description of efforts made by United States officials since September 13, 1993 to bring to justice perpetrators of terrorist acts against United States citizens as listed in the report.

(7) A list of any terrorist suspects in these cases who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.

(8) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1950 and September 13, 1993, to include in each case, where such information is available, any stated claim of responsibility and the resolution or disposition of each case, including information as to the whereabouts of the perpetrators of the acts: *Provided*, That this list shall be submitted only

once with the initial report required under this section, unless additional relevant information on these cases becomes available.

(9) The amount of compensation the United States has requested for United States citizens, or their families, injured or killed in attacks by terrorists in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority since September 13, 1993, and, if no compensation has been requested, an explanation of why such requests have not been made.

(b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests or jeopardize ongoing criminal investigations or proceedings.

(c) INITIAL REPORT.—Except as provided in subsection (a)(8), the initial report filed under this section shall cover the period between September 13, 1993 and the date of the report.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 739. SENSE OF SENATE REGARDING CHILD LABOR.

(a) FINDINGS.—The Senate makes the following findings:

(1) The International Labor Organization (in this resolution referred to as the ''ILO'') estimates that at least 250,000,000 children under the age of 15 are working around the world, many of them in dangerous jobs that prevent them from pursuing an education and damage their physical and moral well-being.

(2) Children are the most vulnerable element of society and are often abused physically and mentally in the work place.

(3) Making children work endangers their education, health, and normal development.

(4) UNICEF estimates that by the year 2000, over 1,000,000,000 adults will be unable to read or write on even a basic level because they had to work as children and were not educated.

(5) Nearly 41 percent of the children in Africa, 22 percent in Asia, and 17 percent in Latin America go to work without ever having seen the inside of a classroom.

(6) The President, in his State of the Union address, called abusive child labor ''the most intolerable labor practice of all,'' and called upon other countries to join in the fight against abusive and exploitative child labor.

(7) The Department of Labor has conducted 5 detailed studies that document the growing trend of child labor in the global economy, including a study that shows children as young as 4 are making assorted products that are traded in the global marketplace.

(8) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment among adults, low living standards, and insufficient education and training opportunities among adult workers and children.

(9) The ILO has unanimously reported a new Convention on the Worst Forms of Child Labor.

(10) The United States negotiators played a leading role in the negotiations leading up to the successful conclusion of the new ILO Convention on the Worst Forms of Child Labor.

(11) On September 23, 1993, the United States Senate unanimously adopted a resolution stating its opposition to the importation of products made by abusive and exploitative child labor and the exploitation of children for commercial gain.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) abusive and exploitative child labor should not be tolerated anywhere it occurs;

(2) ILO member States should be commended for their efforts in negotiating this historic convention;

(3) it should be the policy of the United States to continue to work with all foreign nations and international organizations to promote an end to abusive and exploitative child labor; and

(4) the Senate looks forward to the prompt submission by the President of the new ILO Convention on the Worst Forms of Child Labor.

SEC. 740. REPORTING REQUIREMENT ON WORLDWIDE CIRCULATION OF SMALL ARMS AND LIGHT WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In numerous regional conflicts, the presence of vast numbers of small arms and light weapons has prolonged and exacerbated conflict and frustrated attempts by the international community to secure lasting peace. The sheer volume of available weaponry has been a major factor in the devastation witnessed in recent conflicts in Angola, Cambodia, Liberia, Mozambique, Rwanda, Sierra Leone, Somalia, Sri Lanka, and Afghanistan, among others, and has contributed to the violence endemic to narcotrafficking in Colombia and Mexico.

(2) Increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons poses a real threat to United States participants in peacekeeping operations and United States forces based overseas, as well as to United States citizens traveling overseas.

(3) In accordance with the reorganization of the Department of State made by the Foreign Affairs Reform and Restructuring Act of 1998, effective March 28, 1999, all functions and authorities of the Arms Control and Disarmament Agency were transferred to the Secretary of State. One of the stated goals of that Act is to integrate the Arms Control and Disarmament Agency into the Department of State ''to give new emphasis to a broad range of efforts to curb proliferation of dangerous weapons and delivery systems''.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report containing—

(1) an assessment of whether the export of small arms poses any proliferation problems including—

(A) estimates of the numbers and sources of licit and illicit small arms and light arms in circulation and their origins;

(B) the challenges associated with monitoring small arms; and

(C) the political, economic, and security dimensions of this issue, and the threats posed, if any, by these weapons to United States interests, including national security interests;

(2) an assessment of whether the export of small arms of the type sold commercially in the United States should be considered a foreign policy or proliferation issue;

(3) a description of current Department of State activities to monitor and, to the extent possible ensure adequate control of, both the licit and illicit manufacture, transfer, and proliferation of small arms and light weapons, including efforts to survey and assess this matter with respect to Africa and to survey and assess the scope and scale of the issue, including stockpile security and destruction of excess inventory, in NATO and Partnership for Peace countries;

(4) a description of the impact of the reorganization of the Department of State made by the Foreign Affairs Reform and Restructuring Act of 1998 on the transfer of functions relating to monitoring, licensing, analysis, and policy on small arms and light weapons, including—

(A) the integration of and the functions relating to small arms and light weapons of the United States Arms Control and Disarmament Agency with those of the Department of State;

(B) the functions of the Bureau of Arms Control, the Bureau of Nonproliferation, the Bureau of Political-Military Affairs, the Bureau of International Narcotics and Law Enforcement, regional bureaus, and any other relevant bureau or office of the Department of State, including the allocation of personnel and funds, as they pertain to small arms and light weapons;

(C) the functions of the regional bureaus of the Department of State in providing information and policy coordination in bilateral and multilateral settings on small arms and light weapons;

(D) the functions of the Under Secretary of State for Arms Control and International Security pertaining to small arms and light weapons; and

(E) the functions of the scientific and policy advisory board on arms control, nonproliferation, and disarmament pertaining to small arms and light weapons; and

(5) an assessment of whether foreign governments are enforcing their own laws concerning small arms and light weapons import and sale, including commitments under the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials or other relevant international agreements.

Subtitle C—United States Entry-Exit Controls

SEC. 751. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

''(a) SYSTEM.—

''(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

''(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

''(B) enable the Attorney General to identify, through online searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

''(2) EXCEPTION.—The system under paragraph (1) shall not collect a record of arrival or departure—

''(A) at a land border or seaport of the United States for any alien; or

''(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of

the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 752. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) CONTENTS OF REPORT.—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 753. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) ANNUAL REPORTS ON IMPLEMENTATION OF ENTRY-EXIT CONTROL AT AIRPORTS.—Not later than 30 days after the end of each fiscal year until the fiscal year in which the Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 751 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) ANNUAL REPORTS ON VISA OVERSTAYS IDENTIFIED THROUGH THE ENTRY-EXIT CONTROL SYSTEM.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a separate accounting of such numbers by country of nationality and by classification as immigrant or nonimmigrant; and

(3) the number of aliens who arrived as nonimmigrants, or as visitors under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system, or through other means, as of the end of such aliens' authorized period of stay, with an accounting by country of nationality and approximate date of arrival in the United States.

(c) INCORPORATION INTO OTHER DATABASES.—Information regarding aliens who have remained in the United States beyond their authorized period of stay that is identified through the system referred to in subsection (a) shall be integrated into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports-of-entry and at consular offices.

TITLE VIII—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS

Subtitle A—Authorizations of Appropriations

SEC. 801. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated under the heading ''Contributions to International Organizations'' $940,000,000 for the fiscal year 2000 and $940,000,000 for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amounts authorized in paragraph (1), $48,977,000 are authorized in fiscal year 2000 and $48,977,000 in fiscal year 2001 for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) NO GROWTH BUDGET.—Of the funds made available under subsection (a), $80,000,000 may be made available during each calendar year only after the Secretary of State certifies that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease during that calendar year elsewhere in the United Nations budget of $2,533,000,000, and cause the United Nations to exceed the initial 1998–99 United Nations biennium budget adopted in December 1997.

(c) INSPECTOR GENERAL OF THE UNITED NATIONS.—

(1) WITHHOLDING OF FUNDS.—Twenty percent of the funds made available in each fiscal year under subsection (a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under paragraph (2).

(2) CERTIFICATION.—A certification under this paragraph is a certification by the Secretary of State in the fiscal year concerned that the following conditions are satisfied:

(A) ACTION BY THE UNITED NATIONS.—The United Nations—

(i) has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), as amended by paragraph (3);

(ii) has established procedures that require the Under Secretary General of the Office of Internal Oversight Services to report directly to the Secretary General on the adequacy of the Office's resources to enable the Office to fulfill its mandate; and

(iii) has made available an adequate amount of funds to the Office for carrying out its functions.

(B) AUTHORITY BY OIOS.—The Office of Internal Oversight Services has authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified, in writing, of that authority.

(3) AMENDMENT OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995.—Section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(A) by amending paragraph (6) to read as follows:

''(6) the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.''; and

(B) by striking ''Inspector General'' each place it appears and inserting ''Office of Internal Oversight Services''.

(d) PROHIBITION ON CERTAIN GLOBAL CONFERENCES.—None of the funds made available under subsection (a) shall be available for any United States contribution to pay for any expense related to the holding of any United Nations global conference, except for any conference scheduled prior to October 1, 1998.

(e) PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.—None of the funds made available for the 1998–1999 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations shall be available for the United States proportionate share of any other framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, the Desertification Convention, and the International Criminal Court.

(f) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 and 2001 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g) REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.

SEC. 802. CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated under the heading ''Contributions for International Peacekeeping Activities'' $235,000,000 for the fiscal year 2000 and $235,000,000 for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(b) CODIFICATION OF REQUIRED NOTICE OF PROPOSED UNITED NATIONS PEACEKEEPING OPERATIONS.—

(1) CODIFICATION.—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(A) in subsection (a), by striking the second sentence; and

(B) by striking subsection (e) and inserting the following:

''(e) CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS.—

''(1) CONSULTATIONS.—Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

''(2) INFORMATION TO BE PROVIDED.—In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

''(A) With respect to ongoing United Nations peacekeeping operations, the following:

''(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

''(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

''(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

''(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and the estimated costs to the United States of such changes.

''(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

''(i) The anticipated duration, mandate, and command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

''(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

''(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

''(iv) A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and an estimate of the cost to the United States of such assistance or support.

''(v) A reprogramming of funds pursuant to section 34 of the State Department Basic Authorities Act of 1956, submitted in accordance with the procedures set forth in such section, describing the source of funds that will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

''(3) FORM AND TIMING OF INFORMATION.—

''(A) FORM.—The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

''(B) TIMING.—

''(i) ONGOING OPERATIONS.—The information required under paragraph (2)(A) for a month shall be submitted not later than the 10th day of the month.

''(ii) NEW OPERATIONS.—The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

''(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—As used in paragraph (2), the term 'new United Nations peacekeeping operation' includes any existing or otherwise ongoing United Nations peacekeeping operation—

''(A) where the authorized force strength is to be expanded;

''(B) that is to be authorized to operate in a country in which it was not previously authorized to operate; or

''(C) the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

''(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—

''(A) NOTIFICATION OF CERTAIN ASSISTANCE.—

''(i) IN GENERAL.—The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

''(ii) EXCEPTION.—This subparagraph does not apply to—

''(I) assistance having a value of less than $3,000,000 in the case of nonreimbursable assistance or less than $14,000,000 in the case of reimbursable assistance; or

''(II) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

''(B) QUARTERLY REPORTS.—

''(i) IN GENERAL.—The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations.

''(ii) MATTERS INCLUDED.—Each report under this subparagraph shall describe the assistance provided for each such operation, listed by category of assistance.

''(iii) FOURTH QUARTER REPORT.—The report under this subparagraph for the fourth calendar quarter of each year shall be submitted as part of the annual report required by subsection (d) and shall include cumulative information for the preceding calendar year.

''(f) DESIGNATED CONGRESSIONAL COMMITTEES.—In this section, the term 'designated congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.''.

(2) CONFORMING REPEAL.—Subsection (a) of section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 22 U.S.C. 287b note; 108 Stat. 448) is repealed.

(c) RELATIONSHIP TO OTHER NOTICE REQUIREMENTS.—Section 4 of the United Nations Participation Act of 1945, as amended by subsection (b), is further amended by adding at the end the following:

''(g) RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—Nothing in this section is intended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law.''.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTIONS TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

There are authorized to be appropriated to the President $5,000,000 for each of the fiscal years 2000 and 2001 for payment of contributions to the United Nations Voluntary Fund for Victims of Torture.

Subtitle B—United Nations Activities

SEC. 811. UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS.

(a) CONGRESSIONAL STATEMENT.—It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs.

(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—It shall be the policy of the United States to seek the abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

(c) ANNUAL REPORTS.—On January 15 of each year, the Secretary of State shall submit a report to the appropriate congressional

committees (in classified or unclassified form as appropriate) on—

(1) actions taken by representatives of the United States to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations; and

(3) steps taken by the United States under subsection (b) to secure abolition by the United Nations of groups described in that subsection.

(d) ANNUAL CONSULTATION.—At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

SEC. 812. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

Chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2348 et seq.) is amended by adding at the end the following:

"SEC. 554. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

''(a) UNITED STATES COSTS.—The President shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States Department of Defense during the preceding year in support of all United Nations Security Council resolutions.

''(b) UNITED NATIONS MEMBER COSTS.—The President shall request that the United Nations compile and publish information concerning costs incurred by United Nations members in support of such resolutions.''.

SEC. 813. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"SEC. 10. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

''(a) REQUIREMENT TO OBTAIN REIMBURSEMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

''(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

''(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

''(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The requirement in paragraph (1) shall not apply to—

''(i) goods and services provided to the United States Armed Forces;

''(ii) assistance having a value of less than $3,000,000 per fiscal year per operation;

''(iii) assistance furnished before the date of enactment of this section;

''(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

''(v) any assistance commitment made before the date of enactment of this section.

''(B) DEPLOYMENTS OF UNITED STATES MILITARY FORCES.— The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 554 of the Foreign Assistance Act of 1961.

''(3) FORM AND AMOUNT.—

''(A) AMOUNT.—The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

''(B) FORM.—Reimbursement under this subsection may include credits against the United States assessed contributions for United Nations peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

''(b) TREATMENT OF REIMBURSEMENTS.—

''(1) CREDIT.—The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

''(2) AVAILABILITY.—Amounts credited under paragraph (1) shall be merged with the appropriations, or with appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

''(c) COVERED ASSISTANCE.—Subsection (a) applies to assistance provided under the following provisions of law:

''(1) Sections 6 and 7 of this Act.

''(2) Sections 451, 506(a)(1), 516, 552(c), and 607 of the Foreign Assistance Act of 1961.

''(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

''(d) WAIVER.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

''(B) CONGRESSIONAL NOTIFICATION.—When exercising the authorities of subparagraph (A), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

''(2) CONGRESSIONAL REVIEW.—Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

''(3) SENATE PROCEDURES.—Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

''(e) RELATIONSHIP TO OTHER REIMBURSEMENT AUTHORITY.—Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

''(f) DEFINITION.—In this section, the term 'assistance' includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency.''.

Subtitle C—International Organizations Other than the United Nations

SEC. 821. RESTRICTION RELATING TO UNITED STATES ACCESSION TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION.—The United States shall not become a party to the International Criminal Court except pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(b) PROHIBITION.—None of the funds authorized to be appropriated by this or any other Act may be obligated for use by, or for support of, the International Criminal Court unless the United States has become a party to the Court pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(c) INTERNATIONAL CRIMINAL COURT DEFINED.—In this section, the term ''International Criminal Court'' means the court established by the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

SEC. 822. PROHIBITION ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION ON EXTRADITION.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign country that is under an obligation to surrender persons to the International Criminal Court unless that foreign country confirms to the United States that applicable prohibitions on re-extradition apply to such surrender or gives other satisfactory assurances to the United States that the country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) PROHIBITION ON CONSENT TO EXTRADITION BY THIRD COUNTRIES.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the

United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the third country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—In this section, the term ''International Criminal Court'' has the meaning given the term in section 821(c) of this Act.

SEC. 823. PERMANENT REQUIREMENT FOR REPORTS REGARDING FOREIGN TRAVEL.

Section 2505 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277) is amended—

(1) in subsection (a), by striking ''by this division for fiscal year 1999'' and inserting ''for the Department of State for any fiscal year''; and

(2) in subsection (d), by striking ''not later than April 1, 1999,'' and inserting ''on April 1 and October 1 of each year''.

SEC. 824. ASSISTANCE TO STATES AND LOCAL GOVERNMENTS BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) AUTHORITY.—Upon the request of a State or local government, the Commissioner of the United States Section of the International Boundary and Water Commission may provide, on a reimbursable basis, technical tests, evaluations, information, surveys, or other similar services to that government.

(b) REIMBURSEMENTS.—

(1) AMOUNT OF REIMBURSEMENT.—Reimbursement for services under subsection (a) shall be made before the services are provided and shall be in an amount equal to the estimated or actual cost of providing the goods or services, as determined by the United States Section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance by the recipient of the services shall be made as agreed to by the United States Section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided.

(2) CREDITING APPLICABLE APPROPRIATION ACCOUNT.—Reimbursements received by the United States Section of the International Boundary and Water Commission for providing services under this section shall be deposited as an offsetting collection to the appropriation account from which the cost of providing the services has been paid or will be charged.

SEC. 825. UNITED STATES REPRESENTATION AT THE INTERNATIONAL ATOMIC ENERGY AGENCY.

(a) AMENDMENT TO THE UNITED NATIONS PARTICIPATION ACT OF 1945.—Section 2(h) of the United Nations Participation Act of 1945 (22 U.S.C. 287(h)) is amended by adding at the end the following new sentence: ''The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency.''.

(b) AMENDMENT TO THE IAEA PARTICIPATION ACT OF 1957.—Section 2(a) of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2021(a)) is amended by adding at the end the following new sentence: ''The Representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to individuals appointed on or after the date of enactment of this Act.

SEC. 826. ANNUAL FINANCIAL AUDITS OF UNITED STATES SECTION OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) IN GENERAL.—An independent auditor shall annually conduct an audit of the financial statements and accompanying notes to the financial statements of the United States Section of the International Boundary and Water Commission, United States and Mexico (in this section referred to as the ''Commission''), in accordance with generally accepted Government auditing standards and such other procedures as may be established by the Office of the Inspector General of the Department of State.

(b) REPORTS.—The independent auditor shall report the results of such audit, including a description of the scope of the audit and an expression of opinion as to the overall fairness of the financial statements, to the International Boundary and Water Commission, United States and Mexico. The financial statements of the Commission shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the independent auditor shall be included in a report which the Commission shall submit to the Congress not later than 90 days after the end of the last fiscal year covered by the audit.

(c) REVIEW BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') may review the audit conducted by the auditor and the report to the Congress in the manner and at such times as the Comptroller General considers necessary. In lieu of the audit required by subsection (b), the Comptroller General shall, if the Comptroller General considers it necessary or, upon the request of the Congress, audit the financial statements of the Commission in the manner provided in subsection (b).

(d) AVAILABILITY OF INFORMATION.—In the event of a review by the Comptroller General under subsection (c), all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Commission and the auditor who conducts the audit under subsection (b), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

SEC. 827. SENSE OF CONGRESS CONCERNING ICTR.

(a) FINDINGS.—The Congress finds as follows:

(1) The International Criminal Tribunal for Rwanda (ICTR) was established to prosecute individuals responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda.

(2) A separate tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY), was created with a similar purpose for crimes committed in the territory of the former Yugoslavia.

(3) The acts of genocide and crimes against humanity that have been perpetrated against civilians in the Great Lakes region of Africa equal in horror the acts committed in the territory of the former Yugoslavia.

(4) The ICTR has succeeded in issuing at least 28 indictments against 48 individuals, and currently has in custody 38 individuals presumed to have led and directed the 1994 genocide.

(5) The ICTR issued the first conviction ever by an international court for the crime of genocide against Jean-Paul Akayesu, the former mayor of Taba, who was sentenced to life in prison.

(6) The mandate of the ICTR is limited to acts committed only during calendar year 1994, yet the mandate of the ICTY covers serious violations of international humanitarian law since 1991 through the present.

(7) There have been well substantiated allegations of major crimes against humanity and war crimes that have taken place in the Great Lakes region of Africa that fall outside of the current mandate of the Tribunal in terms of either the dates when, or geographical areas where, such crimes took place.

(8) The attention accorded the ICTY and the indictments that have been made as a result of the ICTY's broad mandate continue to play an important role in current United States policy in the Balkans.

(9) The international community must send an unmistakable signal that genocide and other crimes against humanity cannot be committed with impunity.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should instruct the United States United Nations Representative to advocate to the Security Council to direct the Office for Internal Oversight Services (OIOS) to reevaluate the conduct and operation of the ICTR. Particularly, the OIOS should assess the progress made by the Tribunal in implementing the recommendations of the Report of the United Nations Secretary-General on the Activities of the Office of Internal Oversight Services, A/52/784, of February 6, 1998. The OIOS should also include an evaluation of the potential impact of expanding the original mandate of the ICTR.

(c) REPORT.—Ninety days after enactment of this Act, the Secretary of State shall report to Congress on the effectiveness and progress of the ICTR. The report shall include an assessment of the ICTR's ability to meet its current mandate and an evaluation of the potential impact of expanding that mandate to include crimes committed after calendar year 1994.

TITLE IX—ARREARS PAYMENTS AND REFORM

Subtitle A—General Provisions

SEC. 901. SHORT TITLE.

This title may be cited as the ''United Nations Reform Act of 1999''.

SEC. 902. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) DESIGNATED SPECIALIZED AGENCY DEFINED.—The term ''designated specialized agency'' means the International Labor Organization, the World Health Organization, and the Food and Agriculture Organization.

(3) GENERAL ASSEMBLY.—The term ''General Assembly'' means the General Assembly of the United Nations.

(4) SECRETARY GENERAL.—The term ''Secretary General'' means the Secretary General of the United Nations.

(5) SECURITY COUNCIL.—The term ''Security Council'' means the Security Council of the United Nations.

(6) UNITED NATIONS MEMBER.—The term ''United Nations member'' means any country that is a member of the United Nations.

(7) UNITED NATIONS PEACEKEEPING OPERATION.—The term ''United Nations peacekeeping operation'' means any United Nations-led operation to maintain or restore international peace or security that—

(A) is authorized by the Security Council; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping activities.

Subtitle B—Arrearages to the United Nations

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS

SEC. 911. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) FISCAL YEAR 1998.—

(A) REGULAR ASSESSMENTS.—In title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading ''Contributions to International Organizations'', the first proviso shall not apply.

(B) PEACEKEEPING ASSESSMENTS.—In title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading ''Contributions for International Peacekeeping Activities'', the first and second provisos shall not apply.

(2) FISCAL YEAR 1999.—Pursuant to the first proviso under the heading ''Arrearage Payments'' in title IV of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277), the obligation and expenditure of funds appropriated under such heading for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities are hereby authorized, and the second proviso under such heading shall not apply.

(3) FISCAL YEAR 2000.—There are authorized to be appropriated to the Department of State for payment of arrearages owed by the United States described in subsection (b) as of September 30, 1997, $244,000,000 for fiscal year 2000.

(b) LIMITATION.—Amounts made available under subsection (a) are authorized to be available only—

(1) to pay the United States share of assessments for the regular budget of the United Nations;

(2) to pay the United States share of United Nations peacekeeping operations;

(3) to pay the United States share of United Nations specialized agencies; and

(4) to pay the United States share of other international organizations.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.

SEC. 912. OBLIGATION AND EXPENDITURE OF FUNDS.

(a) IN GENERAL.—Funds made available pursuant to section 911 may be obligated and expended only if the requirements of subsections (b) and (c) of this section are satisfied.

(b) OBLIGATION AND EXPENDITURE UPON SATISFACTION OF CERTIFICATION REQUIREMENTS.—Subject to subsections (e) and (f), funds made available pursuant to section 911 may be obligated and expended only in the following allotments and upon the following certifications:

(1) Amounts made available for fiscal year 1998, upon the certification described in section 921.

(2) Amounts made available for fiscal year 1999, upon the certification described in section 931.

(3) Amounts authorized to be appropriated for fiscal year 2000, upon the certification described in section 941.

(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 30 days prior to the payment of the funds.

(d) TRANSMITTAL OF CERTIFICATIONS.—Certifications made under this chapter shall be transmitted by the Secretary of State to the appropriate congressional committees.

(e) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 1999 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 1999 may be obligated or expended pursuant to subsection (b)(2) even if the Secretary of State cannot certify that the condition described in section 931(b)(1) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive the condition described in paragraph (1) of this subsection may be exercised only if the Secretary of State—

(i) determines that substantial progress towards satisfying the condition has been made and that the expenditure of funds pursuant to that paragraph is important to the interests of the United States; and

(ii) has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1), the condition described in that paragraph shall be deemed to have been satisfied for purposes of making any certification under section 941.

(3) ADDITIONAL REQUIREMENT.—If the authority to waive a condition under paragraph (1)(A) is exercised, the Secretary of State shall notify the United Nations that the Congress does not consider the United States obligated to pay, and does not intend to pay, arrearages that have not been included in the contested arrearages account or other mechanism described in section 931(b)(1).

(f) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 2000 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 2000 may be obligated or expended pursuant to subsection (b)(3) even if the Secretary of State cannot certify that the condition described in paragraph (1) of section 941(b) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive a condition under paragraph (1) may be exercised only if the Secretary of State has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1) with respect to a condition, such condition shall be deemed to have been satisfied for purposes of making any certification under section 941.

SEC. 913. FORGIVENESS OF AMOUNTS OWED BY THE UNITED NATIONS TO THE UNITED STATES.

(a) FORGIVENESS OF INDEBTEDNESS.—Subject to subsection (b), the President is authorized to forgive or reduce any amount owed by the United Nations to the United States as a reimbursement, including any reimbursement payable under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945.

(b) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total of amounts forgiven or reduced under subsection (a) may not exceed $107,000,000.

(2) RELATION TO UNITED STATES ARREARAGES.—Amounts shall be forgiven or reduced under this section only to the same extent as the United Nations forgives or reduces amounts owed by the United States to the United Nations as of September 30, 1997.

(c) REQUIREMENTS.—The authority in subsection (a) shall be available only to the extent and in the amounts provided in advance in appropriations Acts.

(d) CONGRESSIONAL NOTIFICATION.—Before exercising any authority in subsection (a), the President shall notify the appropriate congressional committees in accordance with the same procedures as are applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) EFFECTIVE DATE.—This section shall take effect on the date a certification is transmitted to the appropriate congressional committees under section 931.

CHAPTER 2—UNITED STATES SOVEREIGNTY

SEC. 921. CERTIFICATION REQUIREMENTS.

(a) CONTENTS OF CERTIFICATION.—A certification described in this section is a certification by the Secretary of State that the following conditions are satisfied:

(1) SUPREMACY OF THE UNITED STATES CONSTITUTION.—No action has been taken by the United Nations or any of its specialized or affiliated agencies that requires the United States to violate the United States Constitution or any law of the United States.

(2) NO UNITED NATIONS SOVEREIGNTY.—Neither the United Nations nor any of its specialized or affiliated agencies—

(A) has exercised sovereignty over the United States; or

(B) has taken any steps that require the United States to cede sovereignty.

(3) NO UNITED NATIONS TAXATION.—

(A) NO LEGAL AUTHORITY.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has the authority under United States law to impose taxes or fees on United States nationals.

(B) NO TAXES OR FEES.—Except as provided in subparagraph (D), a tax or fee has not been imposed on any United States national by the United Nations or any of its specialized or affiliated agencies.

(C) NO TAXATION PROPOSALS.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has, on or after October 1, 1996, officially approved any formal effort to develop, advocate, or promote any proposal concerning the imposition of a tax or fee on any United States national in order to raise revenue for the United Nations or any such agency.

(D) EXCEPTION.—This paragraph does not apply to—

(i) fees for publications or other kinds of fees that are not tantamount to a tax on United States citizens;

(ii) the World Intellectual Property Organization; or

(iii) the staff assessment costs of the United Nations and its specialized or affiliated agencies.

(4) NO STANDING ARMY.—The United Nations has not, on or after October 1, 1996, budgeted any funds for, nor taken any official steps to develop, create, or establish any special agreement under Article 43 of the United Nations Charter to make available to the United Nations, on its call, the armed forces of any member of the United Nations.

(5) NO INTEREST FEES.—The United Nations has not, on or after October 1, 1996, levied interest penalties against the United States or any interest on arrearages on the annual assessment of the United States, and neither the United Nations nor its specialized agencies have, on or after October 1, 1996, amended their financial regulations or taken any other action that would permit interest penalties to be levied against the United States or otherwise charge the United States any interest on arrearages on its annual assessment.

(6) UNITED STATES REAL PROPERTY RIGHTS.—Neither the United Nations nor any of its specialized or affiliated agencies has exercised authority or control over any United States national park, wildlife preserve, monument, or real property, nor has the United Nations nor any of its specialized or affiliated agencies implemented plans, regulations, programs, or agreements that exercise control or authority over the private real property of United States citizens located in the United States without the approval of the property owner.

(7) TERMINATION OF BORROWING AUTHORITY.—

(A) PROHIBITION ON AUTHORIZATION OF EXTERNAL BORROWING.—On or after the date of enactment of this Act, neither the United Nations nor any specialized agency of the United Nations has amended its financial regulations to permit external borrowing.

(B) PROHIBITION OF UNITED STATES PAYMENT OF INTEREST COSTS.—The United States has not, on or after October 1, 1984, paid its share of any interest costs made known to or identified by the United States Government for loans incurred, on or after October 1, 1984, by the United Nations or any specialized agency of the United Nations through external borrowing.

(b) TRANSMITTAL.—The Secretary of State may transmit a certification under subsection (a) at any time during fiscal year 1998 or thereafter if the requirements of the certification are satisfied.

CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS

SEC. 931. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—A certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in section 921 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) CONTESTED ARREARAGES.—The United Nations has established an account or other appropriate mechanism with respect to all United States arrearages incurred before the date of enactment of this Act with respect to which payments are not authorized by this Act, and the failure to pay amounts specified in the account does not affect the application of Article 19 of the Charter of the United Nations. The account established under this paragraph may be referred to as the ''contested arrearages account''.

(2) LIMITATION ON ASSESSED SHARE OF BUDGET FOR UNITED NATIONS PEACEKEEPING OPERATIONS.—The assessed share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

(3) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member.

CHAPTER 4—BUDGET AND PERSONNEL REFORM

SEC. 941. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), a certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied.

(2) SPECIFIED CERTIFICATION.—A certification described in this section is also a certification that, with respect to the United Nations or a particular designated specialized agency, the conditions in subsection (b)(4) applicable to that organization are satisfied, regardless of whether the conditions in subsection (b)(4) applicable to any other organization are satisfied, if the other conditions in subsection (b) are satisfied.

(3) EFFECT OF SPECIFIED CERTIFICATION.—Funds made available under section 912(b)(3) upon a certification made under this section with respect to the United Nations or a particular designated specialized agency shall be limited to that portion of the funds available under that section that is allocated for the organization with respect to which the certification is made and for any other organization to which none of the conditions in subsection (b) apply.

(4) LIMITATION.—A certification described in this section shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in sections 921 and 931 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations, or any designated specialized agency of the United Nations, does not exceed 20 percent for any single United Nations member.

(2) INSPECTORS GENERAL FOR CERTAIN ORGANIZATIONS.—

(A) ESTABLISHMENT OF OFFICES.—Each designated specialized agency has established an independent office of inspector general to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the organization.

(B) APPOINTMENT OF INSPECTORS GENERAL.—The Director General of each designated specialized agency has appointed an inspector general, with the approval of the member states, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(C) ASSIGNED FUNCTIONS.—Each inspector general appointed under subparagraph (A) is authorized to—

(i) make investigations and reports relating to the administration of the programs and operations of the agency concerned;

(ii) have access to all records, documents, and other available materials relating to those programs and operations of the agency concerned; and

(iii) have direct and prompt access to any official of the agency concerned.

(D) COMPLAINTS.—Each designated specialized agency has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the inspector general of the agency.

(E) COMPLIANCE WITH RECOMMENDATIONS.—Each designated specialized agency has in place procedures designed to ensure compliance with the recommendations of the inspector general of the agency.

(F) AVAILABILITY OF REPORTS.—Each designated specialized agency has in place procedures to ensure that all annual and other relevant reports submitted by the inspector general to the agency are made available to the member states without modification except to the extent necessary to protect the privacy rights of individuals.

(3) NEW BUDGET PROCEDURES FOR THE UNITED NATIONS.—The United Nations has established and is implementing budget procedures that—

(A) require the maintenance of a budget not in excess of the level agreed to by the General Assembly at the beginning of each United Nations budgetary biennium, unless increases are agreed to by consensus; and

(B) require the system-wide identification of expenditures by functional categories such as personnel, travel, and equipment.

(4) SUNSET POLICY FOR CERTAIN UNITED NATIONS PROGRAMS.—

(A) EXISTING AUTHORITY.—The Secretary General and the Director General of each designated specialized agency have used their existing authorities to require program managers within the United Nations Secretariat and the Secretariats of the designated specialized agencies to conduct evaluations of United Nations programs approved by the General Assembly, and of programs of the designated specialized agencies, in accordance with the standardized methodology referred to in subparagraph (B).

(B) DEVELOPMENT OF EVALUATION CRITERIA.—

(i) UNITED NATIONS.—The Office of Internal Oversight Services has developed a standardized methodology for the evaluation of United Nations programs approved by the General Assembly, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(ii) DESIGNATED SPECIALIZED AGENCIES.—Patterned on the work of the Office of Internal Oversight Services of the United Nations, each designated specialized agency has developed a standardized methodology for the evaluation of the programs of the agency, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(C) PROCEDURES.—Consistent with the July 16, 1997, recommendations of the Secretary General regarding a sunset policy and results-based budgeting for United Nations programs, the United Nations and each designated specialized agency has established and is implementing procedures—

(i) requiring the Secretary General or the Director General of the agency, as the case may be, to report on the results of evaluations referred to in this paragraph, including

the identification of programs that have met criteria for continuing relevance and effectiveness and proposals to terminate or modify programs that have not met such criteria; and

(ii) authorizing an appropriate body within the United Nations or the agency, as the case may be, to review each evaluation referred to in this paragraph and report to the General Assembly on means of improving the program concerned or on terminating the program.

(D) UNITED STATES POLICY.—It shall be the policy of the United States to seek adoption by the United Nations of a resolution requiring that each United Nations program approved by the General Assembly, and to seek adoption by each designated specialized agency of a resolution requiring that each program of the agency, be subject to an evaluation referred to in this paragraph and have a specific termination date so that the program will not be renewed unless the evaluation demonstrates the continuing relevance and effectiveness of the program.

(E) DEFINITION.—For purposes of this paragraph, the term ''United Nations program approved by the General Assembly'' means a program approved by the General Assembly of the United Nations which is administered or funded by the United Nations.

(5) UNITED NATIONS ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS.—

(A) IN GENERAL.—The United States has a seat on the United Nations Advisory Committee on Administrative and Budgetary Questions or the five largest member contributors each have a seat on the Advisory Committee.

(B) DEFINITION.—As used in this paragraph, the term ''5 largest member contributors'' means the 5 United Nations member states that, during a United Nations budgetary biennium, have more total assessed contributions than any other United Nations member state to the aggregate of the United Nations regular budget and the budget (or budgets) for United Nations peacekeeping operations.

(6) ACCESS BY THE GENERAL ACCOUNTING OFFICE.—The United Nations has in effect procedures providing access by the United States General Accounting Office to United Nations financial data to assist the Office in performing nationally mandated reviews of United Nations operations.

(7) PERSONNEL.—

(A) APPOINTMENT AND SERVICE OF PERSONNEL.—The Secretary General—

(i) has established and is implementing procedures that ensure that staff employed by the United Nations is appointed on the basis of merit consistent with Article 101 of the United Nations Charter; and

(ii) is enforcing those contractual obligations requiring worldwide availability of all professional staff of the United Nations to serve and be relocated based on the needs of the United Nations.

(B) CODE OF CONDUCT.—The General Assembly has adopted, and the Secretary General has the authority to enforce and is effectively enforcing, a code of conduct binding on all United Nations personnel, including the requirement of financial disclosure statements binding on senior United Nations personnel and the establishment of rules against nepotism that are binding on all United Nations personnel.

(C) PERSONNEL EVALUATION SYSTEM.—The United Nations has adopted and is enforcing a personnel evaluation system.

(D) PERIODIC ASSESSMENTS.—The United Nations has established and is implementing a mechanism to conduct periodic assessments of the United Nations payroll to determine total staffing, and the results of such assessments are reported in an unabridged form to the General Assembly.

(E) REVIEW OF UNITED NATIONS ALLOWANCE SYSTEM.—The United States has completed a thorough review of the United Nations personnel allowance system. The review shall include a comparison of that system with the United States civil service system, and shall make recommendations to reduce entitlements to allowances and allowance funding levels from the levels in effect on January 1, 1998.

(8) REDUCTION IN BUDGET AUTHORITIES.—The designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000–01 from the 1998–99 biennium budget levels of the respective agencies.

(9) NEW BUDGET PROCEDURES AND FINANCIAL REGULATIONS.—Each designated specialized agency has established procedures to—

(A) require the maintenance of a budget that does not exceed the level agreed to by the member states of the organization at the beginning of each budgetary biennium, unless increases are agreed to by consensus;

(B) require the identification of expenditures by functional categories such as personnel, travel, and equipment; and

(C) require approval by the member states of the agency's supplemental budget requests to the Secretariat in advance of expenditures under those requests.

(10) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET FOR THE DESIGNATED SPECIALIZED AGENCIES.—The share of the total of all assessed contributions for any designated specialized agency does not exceed 22 percent for any single member of the agency.

Subtitle C—Miscellaneous Provisions

SEC. 951. STATUTORY CONSTRUCTION ON RELATION TO EXISTING LAWS.

Except as otherwise specifically provided, nothing in this title may be construed to make available funds in violation of any provision of law containing a specific prohibition or restriction on the use of the funds, including section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), section 151 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note), and section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note).

SEC. 952. PROHIBITION ON PAYMENTS RELATING TO UNIDO AND OTHER INTERNATIONAL ORGANIZATIONS FROM WHICH THE UNITED STATES HAS WITHDRAWN OR RESCINDED FUNDING.

None of the funds authorized to be appropriated by this title shall be used to pay any arrearage for—

(1) the United Nations Industrial Development Organization;

(2) any costs to merge that organization into the United Nations;

(3) the costs associated with any other organization of the United Nations from which the United States has withdrawn including the costs of the merger of such organization into the United Nations; or

(4) the World Tourism Organization, or any other international organization with respect to which Congress has rescinded funding.

TITLE X—RUSSIAN BUSINESS MANAGEMENT EDUCATION

SEC. 1001. PURPOSE.

The purpose of this title is to establish a training program in Russia for nationals of Russia to obtain skills in business administration, accounting, and marketing, with special emphasis on instruction in business ethics and in the basic terminology, techniques, and practices of those disciplines, to achieve international standards of quality, transparency, and competitiveness.

SEC. 1002. DEFINITIONS.

(a) BOARD.—The term ''Board'' means the United States-Russia Business Management Training Board established under section 1005(a).

(b) DISTANCE LEARNING.—The term ''distance learning'' means training through computers, interactive videos, teleconferencing, and videoconferencing between and among students and teachers.

(c) ELIGIBLE ENTERPRISE.—The term ''eligible enterprise'' means—

(1) a business concern operating in Russia that employs Russian nationals; and

(2) a private enterprise that is being formed or operated by former officers of the Russian armed forces in Russia.

(d) SECRETARY.—The term ''Secretary'' means the Secretary of State.

SEC. 1003. AUTHORIZATION FOR TRAINING PROGRAM AND INTERNSHIPS.

(a) TRAINING PROGRAM.—

(1) IN GENERAL.—The Secretary of State, acting through the Under Secretary of State for Public Diplomacy, and taking into account the general policies recommended by the United States-Russia Business Management Training Board established under section 1005(a), is authorized to establish a program of technical assistance (in this title referred to as the ''program'') to provide the training described in section 1001 to eligible enterprises.

(2) IMPLEMENTATION.—Training shall be carried out by United States nationals having expertise in business administration, accounting, and marketing or by Russian nationals who have been trained under the program or by those who meet criteria established by the Board. Such training may be carried out—

(A) in the offices of eligible enterprises, at business schools or institutes, or at other locations in Russia, including facilities of the armed forces of Russia, educational institutions, or in the offices of trade or industry associations, with special consideration given to locations where similar training opportunities are limited or nonexistent; or

(B) by ''distance learning'' programs originating in the United States or in European branches of United States institutions.

(b) INTERNSHIPS WITH UNITED STATES DOMESTIC BUSINESS CONCERNS.—The Secretary, acting through the Under Secretary of State for Public Diplomacy, is authorized to pay the travel expenses and appropriate in-country business English language training, if needed, of certain Russian nationals who have completed training under the program to undertake short-term internships with business concerns in the United States upon the recommendation of the Board.

SEC. 1004. APPLICATIONS FOR TECHNICAL ASSISTANCE.

(a) PROCEDURES.—

(1) IN GENERAL.—Each eligible enterprise that desires to receive training for its employees and managers under this title shall submit an application to the clearinghouse established by subsection (d), at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require.

(2) JOINT APPLICATIONS.—A consortium of eligible enterprises may file a joint application under the provisions of paragraph (1).

(b) CONTENTS.—The Secretary shall approve an application under subsection (a) only if the application—

(1) is for an individual or individuals employed in an eligible enterprise or enterprises applying under the program;

(2) describes the level of training for which assistance under this title is sought;

(3) provides evidence that the eligible enterprise meets the general policies adopted by the Secretary for the administration of this title;

(4) provides assurances that the eligible enterprise will pay a share of the costs of the training, which share may include in-kind contributions; and

(5) provides such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this title.

(c) COMPLIANCE WITH BOARD POLICIES.—The Secretary shall approve applications for technical assistance under the program after taking into account the recommendations of the Board.

(d) CLEARINGHOUSE.—There is established a clearinghouse in Russia to manage and execute the program. The clearinghouse shall screen applications, provide information regarding training and teachers, monitor performance of the program, and coordinate appropriate post-program follow-on activities.

SEC. 1005. UNITED STATES-RUSSIAN BUSINESS MANAGEMENT TRAINING BOARD.

(a) ESTABLISHMENT.—There is established within the Department of State a United States-Russian Business Management Training Board.

(b) COMPOSITION.—The Board established pursuant to subsection (a) shall be composed of 12 members as follows:

(1) The Under Secretary of State for Public Diplomacy.

(2) The Administrator of the Agency for International Development.

(3) The Secretary of Commerce.

(4) The Secretary of Education.

(5) Six individuals from the private sector having expertise in business administration, accounting, and marketing, who shall be appointed by the Secretary of State, as follows:

(A) Two individuals employed by graduate schools of management offering accredited degrees.

(B) Two individuals employed by eligible enterprises.

(C) Two individuals from nongovernmental organizations involved in promoting free market economy practices in Russia.

(6) Two nationals of Russia having experience in business administration, accounting, or marketing, who shall be appointed by the Secretary of State upon the recommendation of the Government of Russia, and who shall serve as nonvoting members.

(c) GENERAL POLICIES.—The Board shall make recommendations to the Secretary with respect to general policies for the administration of this title, including—

(1) guidelines for the administration of the program under this title;

(2) criteria for determining the qualifications of applicants under the program;

(3) the appointment of panels of business leaders in the United States and Russia for the purpose of nominating trainees; and

(4) such other matters with respect to which the Secretary may request recommendations.

(d) CHAIRPERSON.—The Chairperson of the Board shall be designated by the President from among the voting members of the Board. Except as provided in subsection (e)(2), a majority of the voting members of the Board shall constitute a quorum.

(e) MEETINGS.—The Board shall meet at the call of the Chairperson, except that—

(1) the Board shall meet not less than 4 times each year; and

(2) the Board shall meet whenever one-third of the voting members request a meeting in writing, in which event 7 of the voting members shall constitute a quorum.

(f) COMPENSATION.—Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for level V of the Executive Schedule under section 5316 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

SEC. 1006. RESTRICTIONS NOT APPLICABLE.

Prohibitions on the use of foreign assistance funds for assistance for the Russian Federation shall not apply with respect to the funds made available to carry out this title.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2000 and 2001 to carry out this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

SEC. 1008. EFFECTIVE DATE.

This title shall take effect on October 1, 1999.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JAN. 1, TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mitch McConnell:									
Cambodia	Dollar		625.00						625.00
Indonesia	Dollar		625.00						625.00
Australia	Dollar		625.00						625.00
New Zealand	Dollar		625.00						625.00
Robin Cleveland:									
Cambodia	Dollar		625.00						625.00
Indonesia	Dollar		625.00						625.00
Australia	Dollar		625.00						625.00
New Zealand	Dollar		625.00						625.00
Senator Patrick Leahy: Cuba	Dollar		686.00						686.00
Tim Rieser: Cuba	Dollar		686.00						686.00
Steve Cortese:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar			6,932.06					6,932.06
M. Sidney Ashworth:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar			6,932,06					6,932,06
Jennifer Chartrand:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar				6,932.06				6,932.06
Total			14,871.00		20,796.18				35,667.18

TED STEVENS,
Chairman, Committee on Appropriations, Mar. 31, 1999.

AMENDMENT TO CONSOLIDATED REPORT FILED FEB. 22, 1999 FOR LAST QUARTER 1998.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, FOR HOUSING AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jack Reed:									
Russia	Dollar		503.00						503.00
Lithuania	Dollar		500.00						500.00
Neil Campbell:									
Russia	Dollar		556.00						556.00
Lithuania	Dollar		500.00						500.00
Total			2,059.00						2,059.00

ALFONSE D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, April 7, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM JAN. 9 TO JAN. 17, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sue A. Nelson: Sweden	Dollar		2,000.00		4,285.20				6,285.20
Total			2,000.00		4,285.20				6,285.20

PETE V. DOMENICI,
Chairman, Committee on the Budget, Mar. 26, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gordon Smith:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Senator Craig Thomas:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Stephen Biegun:									
Germany	Dollar		500.00						500.00
United States	Dollar				3,900.01				3,900.01

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert Epplin:									
China	Dollar		620.25						620.25
Honk Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Garrett Grigsby:									
Netherlands	Dollar		589.00						589.00
United States	Dollar				4,829.13				4,829.13
Michael Haltzel:									
Germany	Dollar		500.00						500.00
United States	Dollar				3,905.15				3,905.15
Richard Houghton:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
James Jones:									
Switzerland	Dollar		1,150.00						1,150.00
United States	Dollar				907.62				907.62
Kirsten Madison:									
Honduras	Dollar		147.00						147.00
Nicaragua	Dollar		6.00						6.00
Michael Miller:									
Kenya	Dollar		1,960.00						1,960.00
Uganda	Dollar		375.00						375.00
United States	Dollar				7,082.17				7,082.17
Kurt Pfotenhauer:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Danielle Pletka:									
Turkey	Dollar		941.00						941.00
Iraq	Dollar		250.00						250.00
United States	Dollar				4,553.40				4,553.40
Linda Rotblatt:									
Nigeria	Dollar		1,630.00						1,630.00
United States	Dollar				4,536.05				4,536.05
Marc Thiessen: United Kingdom	Dollar		945.00						945.00
Natasha Watson:									
Vietnam	Dollar		820.00						820.00
Thailand	Dollar		240.00						240.00
United States	Dollar				2,792.40				2,792.40
Total			16,527,25		32,505.93				49,033.18

JESSE HELMS,
Chairman, Committee on Foreign Relations, May 5, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			2,007.32		4,545.23				6,552.55
Taylor W. Lawrence			3,894.25		5,102.90				8,997.15
James Stinebower			2,582.00		6,018.91				8,600.91
Peter Cleveland			1,419.00		4,833.39				6,252.39
Total			9,902.57		20,500.43				30,403.00

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1999.

ADDENDUM TO 4TH QUARTER OF 1998.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Lautenberg			2,351.00		3,441.00				5,792.00
Lorenzo Goco			2,146.00		4,683.51				6,829.51
Frederic Baron			2,072.00		4,683.51				6,755.51
Total			6,569.00		12,808.02				19,377.02

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Luke Albee: Cuba	Dollar		875.00						875.00
Total			875.00						875.00

TOM DASCHLE,
Democratic Leader, Apr. 27, 1999.

ORDERS FOR MONDAY, JUNE 28, 1999

Mr. LOTT. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, June 28. I further ask that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business with Senators speaking for up to 10 minutes each until the hour of 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF FIRST-DEGREE AMENDMENTS

Mr. LOTT. Notwithstanding the adjournment of the Senate, I ask consent that Senators be allowed to file first-degree amendments until 1 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, on Monday the Senate will convene at 12 and we will have a period of morning business until 1. At 1 o'clock we will resume consideration of the agriculture appropriations bill. Under a previous order, the Senate will begin a series of up to four stacked votes at 5:30 on Monday. Those votes will be on invoking cloture on the agriculture appropriations bill, followed by a cloture motion to proceed to the transportation appropriations bill, a cloture motion to proceed to the Commerce, Justice, and State Department appropriations bill, and cloture on the motion to proceed to foreign operations appropriations. Therefore, Senators can expect the first vote on Monday to begin at 5:30.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order at the conclusion of remarks by the Senator from Nebraska, Mr. KERREY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIA AND PAKISTAN

Mr. KERREY. Mr. President, I come to the floor to call my colleagues' attention to the current conflict between India and Pakistan over the line of control of Kashmir. I have a great deal of respect for the problem of watching situations that are not only a long way away from us but are so remote that it is hard to get a camera crew there. I fear that is what is going on. A lot of cameras and journalists are in Kosovo watching the return of refugees and watching the United States troops come back into that region, as well they should.

There is a real danger in not watching and paying attention to what is going on between India and Pakistan, and there is a danger that our lack of attention to this particular problem could produce a confrontation that not only would be deadly but would draw in the rest of the world as well.

One of my principal concerns about the Kosovo operation, though I supported the bombing and I am pleased it is over and pleased that we have had some measure of success, was that it drew our attention away from non-NATO missions. The United States of America, unlike many of our NATO allies—indeed, unlike most of our NATO allies—has very important missions that we are performing throughout the world.

India and Pakistan is one of those missions. We were all surprised last year—and nobody should be surprised this time around—after India and Pakistan detonated nuclear weapons—surprised our State Department, surprised our CIA. We had a hearing trying to figure out why we were not able to predict this, even though the Prime Minister who won the race for the Parliament had, as part of his party platform, a promise to detonate and become a nuclear power. I do not think we should have been surprised. We were surprised.

We should not be surprised in this situation if this deteriorates into an additional war. India and Pakistan have had not only three wars since independence in the last 50 years, but there have been many serious and deadly skirmishes that have taken place over the line of control in Kashmir.

This could not only deteriorate again, and there is a bloody battle going on as we speak, but in addition to that, unlike the United States and the Soviet Union that over the last 50 years developed protocols to deal with nuclear weapons—and we have fairly substantial impressive margins for error—there have been no such discussions between India and Pakistan. Both of them are nuclear powers. Both of them could detonate nuclear weapons and use nuclear weapons in a confrontation of this kind.

I have come before the Senate only to say to my colleagues I hope we pay an increasing amount of attention to what is clearly an issue that is vital to the security of the United States of America. This is not one where there is any doubt. It is a good example of the kind of non-NATO mission to which the United States of America, our diplomats, and our warfighters have to pay attention. This is a region of the world that is extremely unstable at the minute, and that instability could produce a confrontation with deadly consequences to us and deadly consequences to our interests in the region as well.

Just because it does not appear on this evening's news or in the newspapers, or it does not appear we are getting lengthy stories and coverage of the problems going on between India and Pakistan in Kashmir right now, no one should be surprised if, through our own failure to intervene with both significant diplomacy and other efforts, this confrontation gets larger and, as a consequence, we find ourselves suffering an awful lot more than the suffering we are currently seeing in Kosovo.

Mr. President, I appreciate the opportunity to speak. I yield the floor.

ADJOURNMENT UNTIL MONDAY, JUNE 28, 1999

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 6:27 p.m., adjourned until Monday, June 28, 1999, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 24, 1999:

DEPARTMENT OF AGRICULTURE

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE WARDELL CLINTON TOWNSEND, JR., RESIGNED.

DEPARTMENT OF STATE

EVELYN SIMONOWITZ LIEBERMAN, OF NEW YORK, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY. (NEW POSITION)

EXTENSIONS OF REMARKS

UNSOLICITED LOAN CHECK CONSUMER PROTECTION ACT OF 1999

HON. JOHN J. LaFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. LAFALCE. Mr. Speaker, I am today introducing legislation to address the problem of ''live'' loan checks that are mailed to consumers as part of credit solicitations. My bill, the ''Unsolicited Loan Check Consumer Protection Act of 1999,'' amends the Federal Truth in Lending Act to prohibit credit solicitations involving ''live'', or negotiable checks and to clarify that consumers cannot be held liable for any debt created by live check solicitations.

Each month financial companies mail out thousands of live checks to consumers to entice them to accept credit offers. They come in official looking envelopes and are accompanied by letters instructing the recipient that all the check requires is their signature to become instant cash—and a fixed-term, high cost loan with interest rates often as high as 25 percent!

Live check solicitations target senior citizens, young families in need of credit and individuals generally who are already heavily in debt. The amounts of the checks may appear manageable at first glance—typically between $1,500 and $3,000. But they can trap consumers in fixed loan payments for three or four years, with any default or late payment triggering high fees, higher interest charges and demands for immediate payment in full.

At a minimum, live check solicitation create widespread anxiety about potential liability if the checks are stolen and cashed. In some instances, they have been mistaken for government benefits or insurance reimbursement checks and cashed by elderly recipients. More often, however, live check solicitations entice consumers to take on added debt they didn't request, they can't request, they can't afford and, often, they can't repay.

The problem of unsolicited live loan checks was brought to my attention by several constituent letters I received earlier this year. In one letter a man asked how his wife, who had earned only $1,850 the previous year, could possibly qualify to receive a $5,000 loan check based on her ''excellent credit standing''. Another letter described a young man in his early twenties who had received several loan check solicitations, between $1,500 and $2,000 each, despite the fact that he worked at an entry level job and had little credit history. The letter asked how any responsible financial institution could offer this young man thousands of dollars ''just for extra cash'' and expect him to repay the debt at 22 percent interest.

The answer in both instances is that no responsible credit underwriting was involved. Credit was offered without any debt to income calculation to determine if the recipient could afford additional debt. No effort was made to determine whether the recipient had sufficient income to make monthly payments. The lenders didn't even care how the loan proceeds would be used. Live check solicitations have one purpose, and one purpose only—to entice and trap consumers into high-cost debt that they would never accept if offered by more legitimate means.

Live check solicitations are not a new problem. They first began appearing in consumers' mailboxes in 1996 and immediately raised widespread concerns regarding consumer liability and abuse. The live loan checks were equated by the press and consumer groups with the live credit card solicitations that had caused similar consumer concerns in the 1960s. Congress responded to these earlier concerns in 1970 with a broad prohibition against all mailing of unsolicited credit cards to consumers.

Seeking to avoid a similar prohibition on live check solicitations, the financial industry promised in 1997 to implement voluntary disclosure and security measures to minimize consumer confusion and potential liability. While of questionable benefit to begin with, these so-called ''protections'' were never uniformly implemented in live check solicitations in 1998. And they have largely disappeared from many of the live check solicitations that consumers have received this year.

At a White House briefing in May, President Clinton equated the problem of live loan checks with the earlier problems of unsolicited credit cards and called upon Congress to enact a similar prohibition against live loan check solicitations. ''Consumers should not feel they have to shred their daily mail,'' the President noted, in order to avoid the potential liability and credit record hassles that can result from live check solicitations.

The legislation I am introducing would address the problem of live loan check credit solicitations in several ways. First, it proposes a broad and unequivocal prohibition against any credit solicitation to consumers involving a check or other negotiable instrument that has not been applied for or requested in advance by the consumer. Second, it clarifies that no consumer will be held liable for repayment of any debt arising from a live check solicitation, nor may creditor submit adverse information about a consumer to a credit bureau relating to any debt arising from such solicitations. Third, the bill requires the Federal Reserve Board to publish final regulations to implement this prohibition within 6 months after enactment.

The bill section that clarifies consumer liability is extremely important and distinguishes my bill from earlier proposals to address this issue. While proposing a prohibition on live check solicitations these proposals would continue to make consumers liable for any prohibited live check solicitation they voluntarily or inadvertently Deposit. This approach fails to address the problems of individuals who don't understand the implications of the check solicitations, or who confuse them with the other check payments or reimbursements, and would continue to encourage live check solicitations targeted to the most vulnerable groups.

The bill also includes a provision to provide the Federal Reserve with authority to issue regulations, if it becomes necessary, to address the related problem ''look-alike'' checks in credit solicitations. Look-alike checks are typically for amounts significantly larger than live loan checks and are used primarily by so-called sub-prime lenders to solicit second mortgages and home equity loans. While non-negotiable, the ''checks'' often have all the elements of negotiable instruments, including what appear to the consumer as account numbers, clearance bar codes, official signatures—with some even including the FDIC logo or other government-related symbols. Their purpose is clearly to attract consumer attention by looking as close to an official bank or government check as possible. In some instances the fact that they are non-negotiable is not clearly apparent, or is disclosed only in very small print.

My concerns with ''look-alike'' checks center on the possibility, if we success in prohibiting live check solicitations, that numerous creditors will shift to ''look-alike'' checks to attract and confuse consumers. If this becomes as widespread as I fear it will, the Federal Reserve would have the authority to address it with guidelines that could, for example, restrict the use of government symbols or require that these ''checks'' state prominently that they are ''non-negotiable.'' Such regulation is merely discretionary in the bill, it is not required.

I agree with President Clinton that consumers should not feel they have to shred their daily mail to avoid liability for unsolicited loan checks. I do not believe that senior citizens should be deceived into high-cost debt by mailings designed to look like government checks. I oppose any practices that attempt to lure low-income families with easy credit under terms they clearly cannot afford. And I strongly believe that all solicitations of consumer credit should be subject to thorough and responsible credit underwriting.

Mr. Speaker, the problems of unsolicited loan checks parallel those of unsolicited credit cards three decades ago. I urge the Congress to respond in similar fashion by enacting a board and unambiguous prohibition on live loan check solicitations. I urge consideration of this legislation at the earliest opportunity.

The text of the bill follows:

H.R.—

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 ''Unsolicited Loan Check Consumer Protection Act of 1999''.

SEC. 2. UNSOLICITED LOAN CHECKS PROHIBITED.

(a) IN GENERAL.—Chapter 2 of the Consumer Credit Protection Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

"SEC. 140. SOLICITATIONS FOR CONSUMER LOANS.

"(a) 'LIVE' LOAN CHECKS PROHIBITED.—No consumer credit which is otherwise subject to this title may be extended by any creditor through the use of a check or other negotiable instrument which has been sent by the creditor to the consumer in connection with a solicitation by the creditor for such extension of credit, unless the consumer has submitted an application for, or otherwise requested, such extension of credit before receiving the check or instrument.

"(b) CONSUMER NOT LIABLE.—If any creditor includes a check or other negotiable instrument in a solicitation to a consumer for an extension of credit sent by a creditor to a consumer in violation of subsection (a)—

"(1) the consumer shall not be liable for the amount of any such check or other negotiable instrument; and

"(2) no information on any liability of the consumer alleged by the creditor to have been established through such check or other negotiable instrument may be reported to or received by any credit agency (as defined in section 603 of the Fair Credit Reporting Act) or included in any consumer credit report under such Act.

"(c) REGULATIONS.—

"(1) REGULATIONS REQUIRED.—

"(A) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of the Unsolicited Loan Check Consumer Protection Act of 1999, the Board shall prescribe final regulations to implement the requirements of this section.

"(B) MODIFICATIONS.—The Board shall modify and clarify any regulation prescribed under subparagraph (A) whenever the Board determines such action to be necessary to prevent any circumvention of the requirements of this section or to facilitate compliance with such requirements.

"(2) LIMITATIONS ON 'LOOK-ALIKE' CHECKS.—

"(A) REGULATIONS AUTHORIZED.—The Board may, if the Board finds that such action is necessary to prevent confusion by consumers, prescribe regulations setting forth guidelines for the use, in a solicitation for an extension of credit, of certificates, vouchers, or other non-negotiable instruments that are intended to have the appearance of a check or other negotiable instrument, but which do not violate subsection (a) of this section.

"(B) DISCLOSURES AND OTHER REQUIREMENTS.—Any regulation prescribed under subparagraph (A) shall include such disclosures and modifications relating to the appearance and use of certificates, vouchers, or other non-negotiable instruments in a solicitation for an extension of credit as the Board determines necessary or appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Consumer Credit Protection Act is amended by adding at the end the following new item:

"140. Solicitations for consumer loans.".

(c) SCOPE OF APPLICATION.—The requirements of this Act and the amendments made by this Act shall apply to solicitations for extensions of credit made to consumers after the date of enactment of this Act.

IN HONOR OF RICHARD W. POGUE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor Richard W. Pogue for his outstanding dedication and contribution to public service in Greater Cleveland. Today, Richard joins a select group of individuals by being saluted with the "In Tribute to the Public Service" Award.

Mr. Pogue is a native of Cambridge, Massachusetts and received a BA from Cornell University and a JD from the University of Michigan. Over the years, Pogue has used his expertise and time in a variety of ways. He has been actively involved in the business, education, social services, nonprofit and cultural sectors of our Cleveland community.

Pogue has served in a wide array of organizations, including The Cleveland Foundation, University Hospitals Health System, the Greater Roundtable, Cleveland Institute of Music, Cleveland Bicentennial Commission (Co-chair), and the 1989 Untied Way Cleveland Campaign, which raised about $52,000,000. In addition, he is the principal organizer of an innovative organization: the Northeast Ohio Regional Business Coalition. As if this was not enough, he currently serves as a Director of Continental Airlines, Inc. (Houston), Derlan Industries Limited (Toronto), M.A. Hanna Company, IT Group, Inc. (Pittsburgh), KeyCorp, LAI Worldwide Inc. (New York City), Rotek incorporated (Aurora) and TRW Inc.

Mr. Pogue's commitment and dedication has not gone unnoticed. Pogue is also recipient of the "Humanitarian Award" from the National Conference of Christians and Jews, the "Excellence in Philanthropy Award" from the Ohio Council of Fund Raising Executives, "Economic Development Leadership Award" from the Council for Urban Economic Development, and "Man of the Year" by Plymouth Church of Shaker Heights, just to name a few.

My fellow colleagues, join me in saluting Richard W. Pogue for his continual commitment to our community. He is a renowned citizen of Cleveland and I am pleased to recognize his accomplishments.

IN TRIBUTE TO BILLY K. HIGGINS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. WOLF. Mr. Speaker, I want to pay tribute today to a gentleman I met in my early days in Washington in the 1970's at the Department of the Interior, and whose path I again crossed when I came to Congress.

Billy K. Higgins has worked for more than 25 years to advance our nation's transportation system, first as a congressional liaison officer for the Federal Highway Administration, and since 1977 as the governmental relations director of the American Association of State Highway and Transportation Officials (AASHTO). He has also worked for the Republican National Committee, and the Standard Oil Company of Indiana, now Amoco Oil Company.

But for the past 22 years he has represented the state departments of transportation through a period of tremendous change, as the construction of the Interstate system was completed, as the focus of federal transportation interests broadened, and as the world became increasingly dependent on the economic lifeline transportation provides.

He has guided AASHTO through five reauthorizations of the federal-aid highway and transit program, through 22 years of transportation appropriations bills, through the designation of the National Highway System and a host of other transportation legislation. He has always worked closely and fairly with the state departments of transportation, the construction and contracting industries, the National Governors' Association and numerous other organizations representing state and local government interests.

And in all those years, from the first time I ever met Billy, he has been a true model of integrity, honesty, courtesy and compassion. Billy has decided to retire from his full-time duties at AASHTO, but fortunately for those of us in Congress who've had the pleasure to work with him on so many transportation matters, he intends to continue to keep his hand in the legislative process on a part-time basis as a consultant with AASHTO on governmental affairs.

I was honored to be asked to speak at a reception for Billy on Capitol Hill this past Tuesday evening, June 22. One of the most impressive things about that event was that Billy's family was there, too. Billy's greatest joy is his family He and his wife Nancy have been married for 45 years and have raised a wonderful family including three sons and a daughter, all of whom are married, with their own children, a total of 10 grandchildren for Billy and Nancy. His oldest or "number one" son, as Billy calls him, is Craig Higgins, with his wife Wendy and their two children Kristen and Keith. Next in order is his son Duane Higgins, his wife Cynthia and their four children, Lauren, Michael, Danielle and Samantha. Then there is daughter Marcy, with her husband Bill Davis and their two children, Carter and Paige. His youngest son is Ron Higgins, with his wife Amy and their two children Rebecca and Tim.

I would like to share my prepared remarks at the reception for Billy Higgins and urge all our colleagues who have had the chance to work with Billy to take the opportunity to wish him well.

IN TRIBUTE TO BILLY HIGGINS

Many of you may not know that Billy and I go way back in Washington, all the way back to the 1970's—when our hair was much darker! We worked together at the Department of the Interior. Billy was at the Bureau of Mines and I was with Secretary Rogers C.B. Morton's office.

It was easy to strike up a friendship with Billy because he was such a genuinely nice guy. In describing him, words immediately come to mind such as fair, honest, trustworthy, principled, hard-working, highest moral standards, a man of character.

The first time we met, too, I saw in Billy a quality that hasn't wavered one millimeter over

the years. And that's integrity. A lot of people in this town aspire to be called people of integrity. But along the way there may be a slip here, or a fudge there, and pretty soon, they're compromised and just don't measure up. There's never been a minute in Billy's career when he didn't measure up.

When we walk out the door of whatever business we're in for the last time, all we take with us is our name. Billy Higgins today takes with him his good name—followed by well done, good and faithful servant.

He is truly one of the good guys. He's also one of the most dedicated family men around this town, and it's so good to see his family here this evening. I know how important family is to Billy. I even ran into him a few summers ago on the Outer Banks where he and Nancy and all the kids and grandkids have a tradition of spending vacation time together each year.

And I also know how important faith is to Billy. I have a quotation on my office wall from Dr. James Dobson, which I'd like to share with you because I believe it could very well describe Billy:

"I have concluded that the accumulation of wealth, even if I could achieve it, is an insufficient reason for living. When I reach the end of my days, a moment or two from now, I must look backward on something more meaningful than the pursuit of houses and land and machines and stocks and bonds. Nor is fame of any lasting benefit. I will consider my earthly existence to have been wasted unless I can recall a loving family, a consistent investment in the lives of people, and an earnest attempt to serve the God who made me. Nothing else makes much sense."

That's Billy's legacy.

Billy, I am grateful that our paths in life crossed and have run together for so many years, and I am proud to call you my friend. God bless you.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. ANDREWS. Mr. Speaker, on roll call numbers 167–169, I was unable to cast my vote. Had I been present, I would have voted Aye on each of them. At the time of the votes, I was proudly attending a ceremony in honor of my wife, Camille Spinello Andrews.

In addition to her tireless dedication as the mother of our two children, Jacquelyn and Josie, Camille serves as the Associate Dean of Enrollment and Projects for Rutgers University School of Law-Camden Campus. Her work in this capacity is well-regarded both by her colleagues and throughout the New Jersey legal community.

On June 7, her excellent work was publicly recognized in a ceremony in which she was awarded the Alfred C. Clapp Distinguished Service Award. Presented by the New Jersey Institute for Continuing Legal Education, this award is an expression of appreciation to legal professionals whose voluntary service has significantly contributed to the field of continuing legal education.

At this ceremony, I was proud to honor Camille with a Congressional Commendation. Proclaiming June 7, 1999 to be Camille Spinello Andrews Day throughout the First Congressional District of New Jersey, this commendation is a small token of the great respect I have for Camille's work. Her service to our community deserves the thanks and gratitude of us all. I am fortunate to love and receive the love of such a special woman.

Balancing the dual responsibilities of public service and family life is always a challenging task. I thank my constituents for their understanding and appreciate the strong support they have given to me and my family.

HONORING CARMEN DIAZ FOR HER LIFETIME DEDICATION TO THE COMMUNITY

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Ms. VELÁZQUEZ. Mr. Speaker, it is with great pride that I ask you and my colleagues to join me in honoring Ms. Carmen Diaz for her years of leadership and contribution to the communities of the 12th Congressional District.

In 1953 Ms. Diaz came to the United States to fulfill her dream of creating a better life for herself and her family. She began by working hard for $42 a week as a machine operator in a woman's garment factory. She saved money, and was diligent and with great determination, in 1955 she was able to send for her children in Puerto Rico. With herself and two children to feed she continued to toil. She ensured the children were healthy and that they received an education.

She also took time to further her own education, making the effort to become a bilingual teacher. Once she received her degree, she began teaching bilingual education which she did for eight years.

During this time she became active in the community, working for Community Board 1. She was able to use her experience, education and determination to help other people in the community. Wanting to do more, striving to succeed, she enrolled in Boricua College in Brooklyn. With the same kind of dedication and effort that made her a success, she was able to earn a Bachelor's Degree in Sociology. With that accomplishment, she engaged in increased community work as a social worker.

From that point on, she remained deeply committed to civil service, working hard to help people throughout Brooklyn. She played a key role in many organizations including the Los Sures Senior Center and later in the Diana Jones Senior Center.

She did this kind of work until last year when she became ill and was unable to continue working. Despite the fact that she can no longer work, she still has an impact on our community. The work she does still helps people, but more importantly, she stands as a role model to thousands of people. She truly embodies the American Dream. She is a great woman and a great American, and I urge my colleagues to join me in honoring her.

A TRIBUTE TO HONOR OF THE 175TH ANNIVERSARY OF THE CITY OF TECUMSEH

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SMITH of Michigan. Mr. Speaker, on June 25, 1999 the city of Tecumseh will celebrate its 175th anniversary. Tecumseh has a long and rich history dating back to 1824, when Musgrove Evans, Joseph Brown and Austin Wing founded the town making Tecumseh one of the first three settlements in the Michigan Territory along with Detroit and Monroe.

Tecumseh shares its unique name with the Shawnee Chief Tecumseh, who used the site as a meeting place for local Indian tribes and war councils in his effort to form a unified Indian nation.

The residents of Tecumseh have always been civic-minded and concerned with the conditions of their fellow man. Prior to the Civil War Tecumseh, along with several other communities in Lenawee County, was a common transit point for slaves seeking freedom along with the Underground Railroad.

While maintaining its distinctive small town atmosphere and agricultural roots, Tecumseh has been home to a multi-national Fortune 500 company, Tecumseh Products Inc., since 1934.

It is a testament to the perseverance and faith of her residents that Tecumseh has prospered for so long. I am proud of the city of Tecumseh and what its residents have accomplished over the last 175 years and I wish them another successful 175 years. I am proud to represent Tecumseh and offer them my heartfelt congratulations on this truly remarkable milestone.

VICRYL SUTURES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. STARK. Mr. Speaker, on May 20 of this year I commented on the 1994 recall of Vicryl sutures produced by the Ethicon Corporation. In my comments, I noted that according to FDA records, only 2% of the sutures were recovered in the recall. The numbers given to me by the FDA were incorrect. In fact, approximately 25% of the sutures were recovered in the recall. I include a letter from Melinda K. Plaisier, Interim Associated Commissioner for Legislative Affairs, describing the cause of the error and the correct facts.

FOOD AND DRUG ADMINISTRATION,
Rockville, MD, May 28, 1999.

Hon. PETE STARK,
House of Representatives, Washington, DC.

DEAR MR. STARK: In the Food and Drug Administration's (FDA) May 18, 1999 letter of response to your April 19, 1999 letter regarding the distribution and recall of Vicryl sutures manufactured by Ethicon, Inc., there was a mistake. This letter is intended to correct that mistake. A response has also been

sent to your cosigner, Representative Henry A. Waxman.

When Ethicon originally provided distribution information to FDA, the manner in which the figures were reported was misunderstood by FDA. The number of sutures understood by FDA to have been distributed was considerably larger than the actual quantity. The 2% recovery rate therefore was inaccurate. The correct recovery figure was approximately 25%. This is based on distribution of 293,452 dozens and recovery of 72,929 dozens of sutures. If you have any questions regarding this information, we would be happy to discuss it with you further.

We trust this responds to your concerns. If we may be of further assistance, please let us know.

Sincerely,

MELINDA K. PLAISIER,
Interim Associate Commissioner for Legislative Affairs.

IN HONOR OF DANIEL JOSLYN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the winner of the Plain Dealer Cuyahoga County Spelling Bee, Mr. Daniel Joslyn.

Daniel Joslyn is an extraordinary student at North Olmsted Middle School. He is very dedicated to his school work and it shows through this accomplishment. Daniel is the first North Olmsted Middle School student to win this competition in its twenty year history.

The National Spelling Bee is a wonderful program that motivates students to focus on the fundamentals of their education. It is a remarkable achievement for this young man to receive such an honor and to represent his school at the national level.

I would ask my fellow colleagues to join me in honoring young Daniel for his accomplishment and wishing him luck in his future endeavors.

INTRODUCTION OF THE DEATH TAX INFLATION ADJUSTMENT ACT

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. HERGER. Mr. Speaker, today I rise to announce the introduction of The Death Tax Inflation Adjustment Act, legislation which would provide an annual cost-of-living adjustment for the unified credit—a major estate tax reduction tool—beginning in 2007.

Despite a tax system that discourages savings, many American families work hard to set aside a portion of their earnings because they hope to be able to leave something to their children. Not only are these lifelong savings subject to the death tax, however, but the value of the unified credit—a major death tax reduction tool—had, until recently, been seriously eroded by inflation.

As a result of the historic "Taxpayer Relief Act of 1997," the unified credit will now be gradually increased from an affective exemption of $600,000 in 1998 to an effective exemption of $1,000,000 in 2006. Regrettably, while both the House- and Senate-passed versions of that landmark tax reduction package indexed this $1,000,000 exemption annually for inflation, this provision was dropped from the final conference report and was not enacted into law.

Mr. Speaker, the legislation I am introducing today would simply provide for an annual cost-of-living adjustment to the unified credit beginning in 2007. While many of us in Congress would like to eliminate the death tax entirely, I hope we can all at least agree that the value of this important benefit should never again be eaten away by inflation. The time to act is now. I would urge all of my colleagues to cosponsor The Death Tax Inflation Adjustment Act.

TRIBUTE TO JOEL SKLAR

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Joel Sklar, an outstanding individual who has dedicated his life to public service and education. He will be honored on Thursday, June 24, during the graduation ceremony at Lehman High School in my South Bronx Congressional district for his outstanding contributions to the community. Mr. Sklar, Principal of the Lola Rodriguez de Tio Academy of Future Technologies at Intermediate School 162 will be leaving his current position at the end of this month. He has devoted his entire career of 28 years to bettering the lives of the students in district 7.

A graduate of Yeshiva University and the City University of New York, Mr. Sklar began his teaching career in 1970 at P.S. 5 where he was a 6th grade teacher. A year later he moved to the Middle School level and became a science teacher at I.S. 162. While teaching science at I.S. 183, Mr. Sklar demonstrated the active engagement of students as they pursued the challenges of the world of science. After becoming a grade leader at I.S. 183 Mr. Sklar was soon recruited to the District 7 Office where he worked in the Curriculum & Instruction Unit. This led to his becoming the assistant to the Deputy Superintendent in the Office of Funded Programs.

Mr. Speaker, Joel Sklar's leadership abilities were fine-tuned during his tenure at the District 7 Office. He soon found his way to I.S. 151, where he helped redefine the instructional program before being appointed principal of I.S. 162 on August 7, 1987. During his twelve years at the helm of the school, he brought the students to the new age of technology. A New York State Magnet School in 1995 led the way to the birth of the Lola Rodriguez de Tio Academy of Future Technologies at I.S. 162. A model middle school for New York City and New York State, it has been the number one choice of middle schools for more than half of all the students graduating from District 7 elementary schools over the past 4 years. The Academy is currently the top middle school in District 7 in both reading and mathematics achievements. Its technology program is one that is being replicated in schools throughout the City of New York, as well as in New Jersey.

Mr. Sklar leaves us with many lessons learned in leadership, education and wisdom. A talented leader and educator, Mr. Sklar will continue sharing his knowledge and views with Yeshiva University High School for Boys, his alma mater.

Mr. Speaker, I ask my colleagues to join me in wishing continued success to Mr. Joel Sklar and in recognizing him for his outstanding achievements in education and his enduring commitment to the community.

CONGRATULATING TRINIDAD CATHOLIC HIGH SCHOOL GIRLS BASKETBALL TEAM

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to honor the Trinidad Catholic High School Girls basketball team on their Class A District 6 Championship. The Trinidad Catholic players, led by Coach Mike Vecellio, made their families and community proud in their achievement.

All teams, no matter what the sport, continually strive to find that special and unique combination of teamwork, leadership, skill and effort which unlocks the door to success. Under careful tutelage, hard-working teams not only win games, but also build the confidence necessary to win championships. Clearly, these dedicated hoopsters have found this winning formula and attained the next rung of sporting success.

May the Trinidad Catholic High School girls team rise to next year's challenge and find themselves the winner of the Colorado Class A State Championship. No matter what the outcome of next season, this team has proven it has the heart of a champion, and can take pride in the District 6 Championship.

CHILDREN'S CONGRESS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. PACKARD. Mr. Speaker, today I would like to recognize the children who are here in our Nation's Capital this week for the first Children's Congress. Children from all 50 States are meeting with Members of Congress to discuss funding for research to find a cure for juvenile diabetes.

The Children's Congress was organized by the Juvenile Diabetes Foundation International. JDF was founded in 1970 by parents of children with diabetes. The mission of JDF is to find a cure for this disease through research within their children's lifetime. I can't think of a better way to understand the daily frustrations experienced by children with diabetes than to listen to their concerns. These

children are helping others by sharing their own experience with diabetes and teaching us about its impact on their lives.

Many may not realize the extent of the negative effects diabetes can have on people. This dreadful disease attacks 16 million Americans and is a leading cause of blindness, kidney disease, heart disease, and amputations. The reality is, people with diabetes live 15 years less than those without. As Members of Congress, we have the unique opportunity to help find a cure for diabetes by funding further research.

Mr. Speaker, I encourage my colleagues to support the cause of the Children's Congress and support allocations for more resources and medical research. I would like to thank the courageous young boys and girls of Children's Congress for taking the time to educate my colleagues and me on this terrible disease.

TRIBUTE TO ELFLORA K. AIKMAN

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. PHELPS. Mr. Speaker, I rise today to honor and pay tribute to Elflora K. Aikman of Marion, IL. On July 1 of this year, Elflora will retire from the Marion Senior Citizens Center as Administrator. For twenty years, since February of 1981, Elflora has done an outstanding job at Marion Senior Citizens Center where she will be sorely missed. Elflora has been a blessing to both the Marion Senior Citizens Center and to the residents of Southern Illinois.

Mr. Speaker, as the nation ages, and our senior citizens live longer and longer, it can sometimes be a burden to families both financially and psychologically to give appropriate care to the seniors they love. I know everyday that families across the Southern Illinois and America struggle with this hardship. Elflora has eased this burden on countless families by providing a nurturing and wonderful place for the elderly. I am sure that her hard work and diligence at the Marion Senior Citizens Center has provided many families, who sought caring geriatric care for their loved ones, with answers to their prayers.

Elflora helped to create the Marion Senior Citizens Center in 1981 and since then has played a leading role in making it the exceptional Senior Center it is today. She has also been extremely active in the community as a whole and particularly at her church, where she has served as a Sunday School teacher, member of the Church Council, Logos instructor, organist, pianist and choir member. This year on Christmas Eve, Elflora will celebrate the 50th Anniversary of her marriage to her husband Sam. She has a large and loving family, who I am sure she will spend a great deal of her time with, when she is not playing her piano or gardening. Mr. Speaker, I would like to wish Elflora the best of luck in her retirement and God's speed. Her accomplishments will not soon be forgotten and never overlooked.

TRIBUTE TO THE LATE GORDON BYNUM

HON. MARSHALL "MARK" SANFORD

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SANFORD. Mr. Speaker, I rise tonight to pay tribute to, and say good-bye to, a dear friend. Gordon you will be missed, but not forgotten. Gordon Bynum was the living definition of the word, "friend." This spring, on what turned out to be his last trip down to Coosaw, he called my wife Jenny ahead of time to say he wanted to come early to get things ready for the party. He was there and helped. This was part of a well worn pattern in the way he lived his life. Getting there early, staying later—going the extra mile—was what he thought normal. If I had ever found myself in real trouble with the option of only one call, it would have been to Gordon.

In his forty-four years he did not spectate on life, he lived it. When Atlanta was still sleeping, I remember leaving town in the early morning hours to go on one of his crazy mountain canoe trips. Exotic locations, atlases, wilderness maps were part of Gordon's world; Jenny and I still have at the house National Geographic books he had sent after our wedding. In fact his birthday card to me, this year, one I received two days after his death, had penned at the bottom. "Adventure soon?"

Finally, he lived a life that towers as an example to each of my four boys. At dinner on Tuesday upon hearing the story of Gordon's death a friend asked, "Was he a Christian?" I said, "Absolutely." Whereupon he asked, "How do you know?" I said because Matthew 5:16 says let your light so shine before men that they may see your good works give glory to your father who is in heaven. He had the light, you could see it in his eyes and in his actions. One of those actions was his work at the Sheppard Clinic. He loved the patients and they loved him, despite the fact volunteerism is a trait lost on most bachelors. In short, he didn't spend his time talking about his faith, he lived it. Love, joy, peace, patience, kindness, gentleness, faithfulness, and self control are what the Bible calls the fruit—the byproduct—of the spirit. He had it in abundance. He would have given love and more generously to Laura Lee, who he was to have married two weeks after his death. Love was the easiest word to describe him, and I suppose what I will most miss.

Good-bye.

A TRIBUTE TO JERRY BERGER, SUFFOLK COUNTY BOARD OF ELECTIONS COMMISSIONER

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. FORBES. Mr. Speaker, I rise today to honor a true community leader, a visionary in the election process—Jerry Berger, the Suffolk County Republican Commissioner of Elections, who will be sorely missed upon his upcoming retirement.

Jerry Berger started at the Suffolk County Board of Elections on June 1, 1974 working on voting machines in the warehouse. Shortly thereafter, Jerry was appointed to the position of Campaign Finance Director. Since this was a new position, Jerry worked with the New York State Board of Elections and proceeded to co-author the first Campaign Finance Guide Book that was used throughout New York State. In 1978, he was appointed Deputy Commissioner, and in 1992 he was appointed Commissioner of Elections and was reappointed in 1994 and 1998.

As Commissioner, Jerry implemented the computerization and modernization of the Suffolk County Board of Elections which has been the first throughout New York State to certify its election results during his entire tenure as Commissioner. Due to Jerry's innovative thinking, an inspector's instructional video was developed and is being used at all inspector training seminars. A natural leader, Jerry knows that ensuring the outstanding management of the election process meant forming an effective training system of its administrators—a move that will benefit the voters of Suffolk County for years to come.

Jerry's propensity for fairness and his devotion to his position as Commissioner can only be emulated, never replaced. He has worked tirelessly for the people of Suffolk County, putting aside politics in the most political of environments. Jerry typifies what the public wants in a "Public Servant" and we have been truly blessed to count him as our friend and neighbor.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring Jerry Berger and to recognize his commitment to promoting all that is good in Suffolk County for his family and his community. We will sure miss Jerry, and we wish he and his wife, Marion, a wonderful retirement in West Palm Beach, Florida.

TRIBUTE TO JOHN R. JONES

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SCARBOROUGH. Mr. Speaker, the citizens of Escambia County and the State of Florida have been blessed with a man who has dedicated his career to the pursuit of excellence in all aspects of life. This gentleman distinguished himself as a community leader and the model of an honest and effective public servant. The man that I speak about is John R. Jones.

Most of the residents of Northwest Florida remember John R. Jones for his over 40 years of public service, during which he served as an Escambia County Commissioner and as the Escambia County Property Appraiser. We are better because of his belief that the needs of each taxpayer are equally important, and his insistence that he wasn't just elected by the people of Escambia County, he was employed by them.

However, what I admire most about Mr. Jones, is that he always went above and beyond the call of duty to help others. At a time

when our nation calls out for principled leadership from public officials, it is fitting that today we honor a professional who always went the extra mile to represent the under-represented and to promote equality within the community, the State of Florida, and the nation. During his distinguished career, John never forgot how important the little guy is to the American way of life.

Mr. Speaker, on Tuesday, June 29, an athletic park in Escambia County will be dedicated in Mr. Jones' honor. I can't think of a more fitting way to honor the life of a man who has been such an integral part of our community.

As we celebrate the accomplishments of John R. Jones, we can take pride in knowing that he has influenced so many people in a positive way. As a fellow elected official and as a friend, I appreciate the importance of dedication and devotion to public office. Mr. Jones' overall attitude and dedication to public service has been a model in the lives of the public servants that he has trained, supervised, and encouraged. His legacy will be a constant reminder that one person can make an extraordinary difference in the lives of many.

IN HONOR OF HUFF-N-PUFFERS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the participants in the Huff-N-Puffers senior citizen baseball league.

This is a wonderful organization that provides and promotes physical activity for seniors. This is a great way for seniors to get together to socialize and partake in aerobic activities. The Huff-N-Puffers is open to anybody who is over the age of 65. This program was started in 1985 and has more than doubled in size since that time.

These senior citizens participate in many games and tournaments around the country as well as a championship tournament at the end of each season. They have a very busy schedule consisting of around 20 games against other teams in their league. These seniors are an inspiration to us all by getting the best out of what life has to offer.

My fellow colleagues please join me in honoring the dedication of these outstanding athletes.

CONGRATULATING MS. NICOLE SIEMINSKI

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. INSLEE. Mr. Speaker, I rise today to congratulate Ms. Nicole Sieminski for earning the honor of 1999 Class Valedictorian at Marysville-Pilchuck High School in Marysville, WA. Ms. Sieminski is the first member of the Tulalip Tribes to achieve this distinguished position at Marysville-Pilchuck High School. I want to commend her for her dedication and commitment to education. Clearly, great achievements such as this do not occur by chance. Ms. Sieminski worked very hard throughout her high school years. I know that the knowledge and skills she gained at Marysville-Pilchuck High School will help her reach even higher goals in the future.

INTRODUCTION OF H.R. 2337, THE ''MEDICARE COVERAGE INFORMATION DECISION ACT OF 1999''

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. RAMSTAD. Mr. Speaker, I rise today to introduce legislation to greatly improve the Medicare coverage decision-making process.

While Medicare law provides for the coverage of various categories of benefits, it does not specify a list of covered technologies and services. That's where the Health Care Financing Administration (HCFA) and its coverage process come in to play.

Medical technology and innovation play an important role in this critical health care program for America's seniors. As new life-enhancing and life-saving technologies and procedures are developed, and more Americans learn about them, the process for making these coverage decisions becomes increasingly important.

HCFA recently published its new proposal to completely overhaul the decision-making process, and I applaud the hard work and time HCFA staff put into developing this new process. HCFA has been attempting to make these much needed changes for over a decade, and it was Dr. Jeffrey Kang's leadership and thoughtful approach at HCFA that finally brought the effort to fruition.

HCFA's proposal is a good first step in making the coverage process transparent, timely and understandable. However, I believe there are a few additional issues that need to be addressed.

In addition to addressing the issue of appeals—which my good friend and Health Subcommittee Chairman Thomas is working on—and timely payment and coding updates—which I outlined in my other bill, H.R. 2030, the Medicare Patient Access to Technology Act—we also need to ensure the process encourages HCFA to work in a collaborative way with those petitioning for coverage.

For example, current Food and Drug Administration law provides for early meetings and a written agreement between manufacturers and the FDA on the studies to be done for premarket approvals. Both parties have found this to be a beneficial tool because both know what is required. In addition, I am told FDA staff has found it improves their efficiency when agreed-upon data is submitted for review.

I strongly believe HCFA's coverage process should include a similar step.

HCFA currently allows stakeholders to come in and informally discuss the required data, but no written agreement is ever reached. The importance of this agreement cannot be understated. Without an agreement, HCFA is not required to accept the data given to them, even when HCFA initially suggested it at the early meeting. HCFA's ability to continuously change what constitutes appropriate data has left many companies in my district stuck in an endless loop of data collection. In fact, one constituent company of mine, Empi, has been petitioning for a coverage decision for over 7 years!

Given the handful of national coverage decisions that are announced each year, I believe HCFA's informal discussions could be transformed into more formalized collaborative meetings at which binding agreements could be written. That's why I am introducing this legislation today to require HCFA to meet with stakeholders and develop an agreement on the required data, should the stakeholders request to do so.

Just as with the FDA process, there are exceptions in the legislation to give HCFA flexibility for changing the agreement should it become aware of a new, substantial scientific issue that would impact its ability to adequately review the technology or procedure. In addition, should HCFA wish to change the agreement for other reasons, it can do so with the written consent of the stakeholders.

These meetings and agreements are practical and beneficial additions to the coverage decision-making process. I urge my colleagues to cosponsor this legislation to further improve this important process and ensure Medicare beneficiaries have timely access to life-saving and life-enhancing medical innovations.

INTRODUCTION OF A BILL TO NAME A POST OFFICE IN EAST CHICAGO, INDIANA AFTER LANCE CORPORAL HAROLD GOMEZ

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. VISCLOSKY. Mr. Speaker, today I was joined by the other nine members of the Indiana House delegation in introducing legislation to name a post office in East Chicago, Indiana, after a true hero of my congressional district, Marine Corps Lance Corporal Harold Gomez. Lance Corporal Gomez was the first citizen of Northwest Indiana to give his life for his country during the Vietnam War. My colleagues and I firmly believe that the time has come to honor him in a way that will value his memory and his sacrifice. To name a post office after Lance Corporal Gomez, a place that is synonymous in our country with the center of a community's life, is an appropriate way to accomplish this worthy goal.

Lance Corporal Gomez was born in East Chicago in 1946 and graduated from East Chicago's Washington High School in June 1965. After working briefly at Inland Steel Company, he enlisted in the U.S. Marine Corps and was ordered to Vietnam in 1966. A fire team leader in a rifle company of the Third Marine Division, a land mine killed Lance Corporal Gomez on

February 21, 1967, while on duty in South Vietnam. For his valiant leadership and bravery during that day's combat, the Marine Corps posthumously awarded him the Silver Star Medal. Lance Corporal Gomez was also awarded the Purple Heart Medal, a Combat Action Ribbon, a Presidential Unit Citation, the National Defense Service Medal, the Vietnam Campaign Medal, and the Rifle Sharpshooters Badge.

In Harold Gomez's all-too-brief life, he touched many lives and was admired by friends and comrades alike. I consider it a privilege to take this opportunity to honor a true hero who still serves us now as a source of inspiration to the citizens of East Chicago and the whole of Northwest Indiana. On behalf of those citizens from my district who answered their country's call, those who made it home and those who did not, I am proud to introduce this legislation to name an East Chicago post office in honor of Lance Corporal Harold Gomez.

HONORING THE MOST REVEREND G. AUGUSTUS STALLINGS, JR., D.D., ARCHBISHOP AND FOUNDER ON HIS 25TH ANNIVERSARY AS A PRIEST AND THE 10TH ANNIVERSARY OF THE IMANI TEMPLE

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mrs. CLAYTON. Mr. Speaker, on Sunday, July 4, 1999, at 10:00 a.m., when the Nation pauses to celebrate its independence, the Imani Temple, African-American Catholic Congregation, will also pause to celebrate its founding and to properly pay tribute to its Archbishop and Founder, the Most Reverend G. Augustus Stallings, Jr. D.D. This native North Carolinian has made our state proud.

Archbishop Stallings is not an ordinary man. He has braved perilous waters, daring to be different, daring to walk alone, daring to have a purpose firm and daring to make it known. He understands Saint Matthew at Chapter 16, Verse 18, which reminds us that, "Upon this rock I will build my church; and the gates of hell shall not prevail against it." He follows the instruction of Ecclesiastes, Chapter 4, Verse 12, which teaches that, ". . . though a man might prevail against one who is alone, two will withstand him. A threefold cord is not quickly broken."

With faith as his instrument and God as his guide, in the Imani Temple, Archbishop Stallings has created a formless rock, and by joining in a strong, woven cord, the Church helps our families avoid stumbling blocks and helps them shape stepping stones. That is because Father Stallings recognizes that the real strength of America, and the real strength of his Church, is compassion for people, those who live in the shadows of life—the poor, the weak, the frail, the disabled, our children, our seniors, the hungry.

More importantly, unlike some, Archbishop Stallings does not sit in comfortable pews, shielded by stained glass windows, protected from the people and things that many do not wish to see. No, he makes certain his Church goes out and embraces the huddled masses, crouched beneath the street lights of our Nation.

The common fabric that can be found in Archbishop Stallings and other great leaders of our time is compassion. He cares. He is comfortable, embracing the infirm, hugging a child, standing up for the downtrodden. He responds to the less fortunate among us, those who work hard yet can not make ends meet, those who dwell in the back alleys and on the rear stoops of our towns and cities, in the gutters of America, those who need a little help to make it through the day.

And, so it is fitting, that we pause and pay tribute to Archbishop Stallings on the 10th Anniversary of the founding of Imani Temple and on the 25th Anniversary of his tenure as a Priest.

INTRODUCTION OF A BILL TO CLARIFY THE TAX TREATMENT OF SETTLEMENT TRUSTS ESTABLISHED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill to clarify the tax treatment of Settlement Trusts authorized by the Alaska Native Claims Settlement Act. This legislation is very similar to a bill that I introduced with my colleagues, Congressman GEORGE MILLER and J.D. HAYWORTH, last Congress.

The bill has been further improved from last Congress and a companion measure was introduced in the Senate recently. This bill will be cited as the "Alaska Native Claims Settlement Act Settlement Trusts Remedial Tax Act of 1999".

Federal law first authorized settlement trusts in 1988 to permit Alaska Native Corporations to provide a variety of benefits to their shareholders in a long term permanent manner. Present law requires settlement trusts to report tax information to their beneficiaries on Form K–1, rather than Form 1099 which corporations use. This causes confusion to the beneficiaries and encourages misreporting of income. This legislation requires all settlement trusts to use Form 1099.

In recent years I have written to the Chairman of the Ways and Means Committee informing him that what had started as a simple proposition, promoted by Congress in the Settlement Trust legislation—to provide aid from a protected source to Alaska Natives who often have very little in other available assets to sustain them and in particular in their retirement years—had become a complex and bewildering situation which frustrated the use of the settlement trust provisions in law. This result stems from an IRS interpretation calling for the immediate taxation to potential beneficiaries when these trusts are established by Alaska Native corporations which have earnings and profits, as opposed to taxation when the money is actually received by the beneficiaries. Put simply, in the case of some beneficiaries, particularly the elderly, who have to prepay taxes in order to receive their benefits and, if they die prematurely, they will not even receive the amount of their prepaid taxes back. Needless to say, this is a substantial impediment to setting up and continuing such beneficial trusts.

But those Native corporations having favorable tax situations which enable them to make contributions to trusts which are not immediately taxable to their beneficiaries face other impediments. The IRS has taken the position that there is no authority to withhold tax from beneficiary payments, which prevents a simple way for a Native to pay his or her tax. The IRS requires that trust reporting to beneficiaries be accomplished via the complex so-called "K–1" form as opposed to the simple 1099 form, so familiar to most of us. As you can imagine, the requirement to use the former, particularly in rural areas in the state of Alaska where accountants may not be readily available, presents major reporting problems. We believe the IRS internally has been supportive of such a change but has advised in the past that it would need to be accomplished by statute.

Finally, the original authorizing legislation failed to provide a mechanism to encourage sustaining the longevity of these trusts dedicated to the goals enumerated. Such trusts are currently treated as regular trusts and penalized for accumulating income with an assessment of the highest marginal tax rate. Accordingly, from the standpoint of a settlement trust, it currently makes good tax sense to distribute all income to the beneficiaries rather than leaving it to be taxed at the current trust tax rate. This, however, does not make good social sense and encourages the opposite result one would envision for these entities, whose goal is to sustain the funds on a long-term basis in order to fulfill the objectives envisioned for Settlement Trusts.

Therefore, I am pleased that, on a bipartisan basis, I can join my colleague and Ranking Minority Member on the Resources Committee, Mr. MILLER, and my other distinguished colleagues Mr. HAYWORTH, Mr. KILDEE and at least 16 other cosponsors to introduce this important remedial legislation. I am attaching a brief summary and section by section analysis of the legislation.

SETTLEMENT TRUST CORRECTIVE TAX LEGISLATION

Federal law first authorized settlement trusts in 1988 to permit Alaska Native corporations to provide a variety of benefits for their Native shareholders in a long term, permanent fashion. Although Alaska Native corporations are not governments, they do provide many social services to their shareholders. We have worked with the Treasury Department on the proposed legislation, which clarifies present law and provides an elective tax structure to encourage use of these trusts as follows:

(1) Contributions to an electing settlement trust are not taxable to the shareholders. Present IRS ruling policy is that contributions to settlement trusts are deemed distributions to the Native corporation's shareholders. If that corporation has earnings and profits under the tax law, the deemed distributions will then be taxable to the shareholders even though they have not actually

received any money. The legislation eliminates this significant disincentive by providing that contributions to an electing trust are not currently taxable to the shareholders.

(2) Permit electing settlement trusts to retain up to 45% of their annual taxable income without adverse tax consequences. Present law imposes a severe penalty for inflation proofing these trusts (which permits constant dollar benefits to be provided), by taxing reinvested income at the maximum individual tax rates (presently 39.6 percent). The legislation provides that up to 45 percent of the trust's annual income can be reinvested in the trust without current taxation, but this reinvested income will be eventually taxable at ordinary income rates to shareholders when distributed. This treatment continues so long as the only persons who hold the beneficial interests in the trust are persons who could hold the Native corporation's own stock.

(3) Impose severe penalties on electing settlement trusts which no longer benefit Alaska Natives. The settlement trust election is intended to benefit Alaska Natives. In the event that a settlement trust ceases to benefit Alaska Natives, the trust will no longer be permitted to receive the elective benefits discussed above. In addition, unless the trust terminates through a distribution of its assets, a one-time tax is imposed at the highest marginal income tax rates upon the value of the trust's assets.

(4) Require withholding on certain trust distributions. Present law does not require any income tax withholding on trust distributions. Under the proposed legislation, withholding on distributions by any settlement trust is required to the extent the annualized distributions exceed the basic standard deduction and personal exemption amounts under the Tax Code.

(5) Modify information reporting requirements. Present law requires settlement trusts to report tax information to their beneficiaries on Form K–1, rather than Form 1099 which corporations use. This causes confusion to the beneficiaries and encourages misreporting of income. The proposed legislation requires all settlement trusts to use Form 1099.

SECTION-BY-SECTION ANALYSIS

ANCSA SETTLEMENT TRUST REMEDIAL TAX LEGISLATION

Federal law authorized in 1988 Alaska Native corporations to use their own funds to establish settlement trusts to ''promote the health, education and welfare of its beneficiaries and preserve the heritage and culture of Natives.'' Although Alaska Native corporations are not governments, they do help provide certain social services as contemplated in the Alaska Native Claims Settlement Act (ANCSA) to their shareholders. This proposed legislation corrects several deficiencies in and clarifies present law while providing an elective tax structure to lessen the current impediments to the establishment and maintenance of these trusts. The following is a section-by-section analysis of the legislation:

Section 1 is the Short Title of the bill.

Section 2(a) (identification of ANCSA settlement trust as eligible to elect tax exempt status). This provision of the legislation provides a partial exemption from income taxes for Alaska Native Settlement Trusts which make a one-time election. The partial exemption is accomplished by adding settlement trusts as entities which can be tax exempt under Tax Code section 501(c), and then requiring that to qualify for the tax exemption a settlement trust must currently distribute at least 55% of its annual taxable income.

Section 2(b) (detailing new 501(p) elective tax treatment). New subsection 501(p) has six paragraphs.

Paragraph (1) describes the taxation of both electing and non-electing settlement trusts. Contributions to electing trusts are not currently taxable to the beneficiaries; by contrast, current IRS ruling policy is that contributions to non-electing trusts are currently taxable to beneficiaries to the extent of corporate earnings and profits. Electing trusts will be tax exempt if they currently distribute 55% of their income and if transfers of trust units are restricted similarly to transfers of ANCSA corporate stock. Eventual distributions to beneficiaries of the trust's exempt income, as well as any other distributions by the electing trust, are taxed to the beneficiaries at ordinary income rates. Non-electing trusts remain subject to present law.

Paragraph (2) provides the basic mechanism by which a settlement trust elects tax exemption. Paragraph (3) imposes a rule to assure that primarily Alaska Natives receive the benefits of this elective tax exemption, just as the Alaska Native Claims Settlement Act (43 USC 1601 et seq.) limits transferability of the stock in Native corporations to assure that the benefits of stock ownership accrue primarily to Alaska Natives. Under this bill, if at any time the beneficial interests in an electing trust become transferable in a manner which would be prohibited if those beneficial interests were ANCSA stock, the trust becomes permanently ineligible to continue the election. Also, a one-time penalty tax equal to the highest marginal tax rate under section 1(e) times the asset value of the trust is imposed. This tax can be avoided by a distribution of the trust assets to the beneficiaries before the close of the taxable year in which the trust beneficial interests became transferable. Paragraph (3) also causes the foregoing rule to apply if a Native corporation which is not governed by the non-transferability rules makes a transfer to an electing settlement trust.

Paragraph (4) imposes an annual distribution requirement (55% of taxable income) on electing trusts. The consequence of a failure to make these annual distributions is a non-deductible tax at ordinary income rates upon the income which should have been distributed.

Paragraph (5) describes the taxation of the beneficiaries of both electing and non-electing trusts. All distributions to a beneficiary of an electing trust produce ordinary income. But for this rule, the character of income earned by the trust would flow out to the beneficiaries and distributions of capital and accumulated income would be tax free to the beneficiaries. Distributions by a non-electing trust are taxable to the extent required by Subchapter J of the Tax Code, which generally limits beneficiary taxation to the amount of income of the trust and flows the character of the trust's income out to the beneficiary.

Paragraph (6) provides certain definitions applicable to the election.

Section 2(c) (Withholding on distributions by electing trusts). Present law does not require any tax withholding on trust distributions. Many Alaska Natives have income levels so low that they are not required to file income tax returns. In such circumstances, requiring withholding on distributions increases the administrative burden to both the government and settlement trusts since these Alaska Natives would have to apply for refunds of over collected taxes. Therefore, under this legislation, withholding on distributions by any settlement trust is required to the extent the annualized distributions of the Trust exceed the basic standard deduction and personal exemption amounts under the Tax Code.

Section 2(d) (Modify information reporting requirements.) Under present law, settlement trusts report to their beneficiaries on Form K–1s, which with extensions, can be sent as late as October of the year following the taxable year to which the information relates. Much of Form K–1 is inapplicable to the typical settlement trust and can be confusing to beneficiaries. Native corporations, by contrast, have long reported to their shareholders on Form 1099s which must be sent by January 31 of the following year. This section requires all settlement trusts to provide annual information on Form 1099s (rather than on Forms K–1s). In the case of a non-electing settlement trust, the From 1099 would differentiate among the different types and character of income being distributed. Form 1099 reporting would be in lieu of the requirement that a non-electing settlement trust attach a copy of beneficiary Form K–1s to its own tax return.

Section 2(e) (effective date). In general, the provisions of the bill are applicable to taxable years ending after the date of enactment of the bill and to contributions to trusts made after such date.

CRISIS IN KOSOVO (ITEM NO. 12) REMARKS BY CHRISTOPHER SIMPSON OF AMERICAN UNIVERSITY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. KUCINICH. Mr. Speaker, on June 10, 1999, I joined with Representative CYNTHIA A. MCKINNEY, Representative BARBARA LEE, and Representative JOHN CONYERS in hosting the fifth in a series of Congressional Teach-In sessions on the Crisis in Kosovo. If a lasting peace is to be achieved in the region, it is essential that we cultivate a consciousness of peace and actively search for creative solutions. We must construct a foundation for peace through negotiation, mediation, and diplomacy.

Part of the dynamic of peace is a willingness to engage in meaningful dialogue, to listen to one another openly and to share our views in a constructive manner. I hope that these Teach-In sessions will contribute to this process by providing a forum for Members of Congress and the public to explore options for a peaceful resolution. We will hear from a variety of speakers on different sides of the Kosovo situation. I will be introducing into the CONGRESSIONAL RECORD transcripts of their remarks and essays that shed light on the many dimensions of the crisis.

The presentation is by Christopher Simpson, an associate professor specializing in national security, new media and the psychological warfare at American University School of Communication here in Washington. He is the author of four books on international human rights law, genocide and national security, including The Splendid Blond Beast (1993) and

the Science of Coercion (1994). His work has won many awards including the National Jewish Book Award, the Investigative Reporters and Editors Prize, the Cavior Prize for Literature and the 1997 Freedom Award.

PRESENTATION BY CHRISTOPHER SIMPSON, AMERICAN UNIVERSITY

Thank you for inviting me to this briefing, and thanks especially to Rep. Dennis Kucinich for his leadership in these issues.

I'm going to discuss three main ideas. First, I'll look briefly at the most basic principles of international law concerning war.

Second, I'll bring forward new information on what is known as ''infrastructure warfare,'' which is today central to the way that the United States and NATO choose targets for aerial attacks. Bombing and cruise missile attacks, as you know, have been the primary U.S. strategy in Yugoslavia and in the on-going, de facto war with Iraq. In Yugoslavia, infrastructure warfare targets have thus far included the electrical power generation and distribution grid for the entire country; sewage treatment and water purification plants in at least three cities (and the destruction of those plants, by the way, affects not only those cities, but everyone downstream from the city as well); natural gas pipelines and pumping stations; the Yugoslav federal reserve; and purely economic targets of no military consequence in towns and villages that have no military barracks, storage facilities or any other known military significance.

This leads me to my third point. ''Infrastructure warfare'' has become in part a means of making war on Yugoslavia's civilian population. In many cases it has had a minor or negligible military effect compared to the damage it has done to civilians. As such, these tactics skate very close to becoming a war crimes under international treaties and the United States military's own definitions of such crimes.

In fact, a recent U.S. presidential commission defined the intentional destruction of urban infrastructures such as electrical power grids, water treatment plants and banking networks as a form of criminal ''terrorism''—that's their word—if used against U.S. cities.[1]

See footnotes at end of article.

This is called ''terrorism'' at home and is presently being used by the administration to create or expand repressive federal laws authorizing political surveillance of people in the United States, particularly those who use computer networks.

But interestingly enough, the Defense Department's representative on that presidential commission has been simultaneously engaged in designing U.S. Air Force offensive tactics for destroying precisely the same type of targets abroad.[2] When one compares the U.S. government's various definitions of infrastructure warfare side by side, we find that criminal ''terrorists'' use car bombs to attack the basic urban services necessary to sustain life and maintain order, while the U.S. Air Force prefers to strike the identical types of targets with cruise missiles and bombs dropped from B–52's. Not surprisingly, the Air Force generally does a more thorough and devastating job in eliminating its target.

The most basic principle of international law concerning warfare is to separate noncombatant civilians from the punishment of war to the greatest extent possible, taking into account what are termed legitimate military objectives. This is much easier said than done, of course. Nevertheless, the United States, all the NATO states, Yugoslavia, Russia and more than 100 other nations all agree, at least on paper, that making war on civilians is in almost every circumstances a prima facie war crime. This includes, by the way, aerial attacks on civilian economic centers carried out with the aim of undermining civilian morale or inducing a country to overthrow an established government.[3]

These elementary principles are codified with increasing specificity in the Hague Convention of 1907, the United Nations charter, the 1949 Geneva conventions, the unanimously adopted UN resolution on Respect for Human Rights in Armed Conflict of 1969 (Resolution 2444), similar protocols adopted in 1977 and, not least, in the on-paper rules of the U.S. Air Force itself.[4]

Today, NATO representatives often speak of what they term the relatively low degree of ''collateral damage'' to civilians caused by modern bombing and cruise missile attacks on Yugoslavia. Those claims should be disputed.

But we should also recognize that NATO representatives use the collateral damage argument to obscure the more telling point, which are tactics and target selection practices that are clearly on the record. Wanton destruction of non—combatant civilians or their ability to sustain life is a prima facie war crime, and NATO knows it.

Let me give you an example. Virtually all experts agree that intentionally poisoning civilian water wells or food processing centers is in most circumstances a war crime. Poisoning a farmer's well may kill or incapacitate a dozen or more people. Yet the infrastructure warfare tactic of destroying sewage treatment plants in Baghdad or Belgrade spreads disease to thousands or even tens of thousands of people at a time, and is apparently intended to do so because the results of destroying such plants are well known. Most of the Western news media, the Pentagon and much of the U.S. Congress refuse to come to grips with the reality that this tactic poisons civilian water supplies, spreads cholera and helps spread other epidemic diseases, and is particularly dangerous to civilian children and the elderly, whose death rate increases dramatically in the wake of such attacks. The journal Foreign Affairs—which is certainly not a hotbed of radicalism—reports in its current issue that the destruction of water works in Baghdad combined with on-going sanctions has—quoting now—''contributed to hundreds of thousands of [civilian] deaths. By 1998 Iraqi infant mortality had reportedly risen from the pre-Gulf War rate of 3.7 percent to 12 percent. Inadequate food and medical supplies, as well as breakdowns in sewage and sanitation systems and in the electrical power systems needed to run them, reportedly cause an increase of 40,000 deaths annually of children under the age of five and of 50,000 deaths annually of older Iraqis.''[5] Nevertheless, this infrastructure warfare tactic remains widely used today when NATO selects targets in Yugoslavian cities.[6]

Another example. Intentionally bombing a hospital is almost certainly a war crime, and everyone knows it. Yet bringing down the electrical grid of any city produces an identical result at all of the hospitals in a city, without physically hitting the hospital buildings. The hospital refrigerators that hold medicine fail, destroying antibiotic drugs, vaccines and other medicines; soon it becomes impossible to sterilize surgical tools; bedridden patients die without clean water to drink or, for that matter, without clean water for the staff to use to wash the floors. That's because hospitals can rapidly become vectors for spreading disease if they are not kept clean. The city's hospitals have been effectively damaged just as surely as if they had been directly bombed. In fact, considering what has taken place in Baghdad in the eight years since the Gulf War took place, it may take considerably longer to return such hospitals to safe operation.

As with any issue in international law, things are often more complicated than they seem at first. NATO's military rationale for the destruction of Belgrade's or Novi Sad's infrastructure is that the attacks degrade the Milosevic government's ability to wage its own war against civilians in Kosovo, and they are therefore legitimate military targets. Preventing Yugoslav military and paramilitary atrocities in Kosovo, in turn, provide NATO's legal justification for what would otherwise be a transparently illegal attack on a sovereign state. If past experience is a guide, it is unlikely that NATO commanders responsible for these attacks will ever be regarded as anything other than heroes in the Western news media.

Yet Congress should look very closely at such claims. First, the mere fact that something might be a military target does not provide legal grounds for destroying it. Even the destruction of infrastructure in Belgrade, which is ostensibly the seat of the Milosevic government, has produced few military results compared to the damage it has wrecked on purely civilian activities. That is because most of the national security apparatus of the Milosevic government dispersed from the capitol city well before the bombing began. Such dispersal of key security assets is a well established contingency for virtually every modern military power, including the United States.

I'd like to conclude with these remarks. I hope that some of you will point out that it is all well and good to oppose the NATO bombing campaign. But what about the other atrocities, including massacres of Albanian men killed by certain Yugoslav military units and paramilitary organizations? What about the mass deportations of civilians from Kosovo and the examples of gang rapes of Albanian refugee women? How do you propose to stop those crimes?

First of all, there is no sound-bite solution to the crisis in the Balkans, no matter what Madeline Albright may say on the Sunday morning talk shows. People who say they have a simple solution are either ignorant or attempting to deceive you. Second, the cease fire plan announced today should be welcome news for all people of good will. But once the euphoria has passed, we will see exactly how difficult it will be to make a just peace work. Regardless of whether the cease fire holds, the NATO bombing campaign has made stabilization of the Balkan conflict significantly more difficult for years to come. It is also transparently clear that the primary victims of NATO's intervention have been those whom NATO was purportedly attempting to assist. NATO Supreme Commander Wesley Clark once told reporters that the mass deportations from Kosovo and the violence that accompanied them was ''entirely predictable'' once the NATO air strikes began. He was right about that, but the NATO publicity line soon changed and his public relations handlers have told him to change his tune.

So called ''ethnic cleansing'' and the crimes that have accompanied it are the direct and predictable result of attempting to redraw Balkan national boundaries along

ethnic lines. Germany's former Chancellor Helmut Kohl bears much of the responsibility for setting off the present debacle. Germany underwrote establishing independent countries of Slovenia and Croatia back in the late 1980s as a means of extending German economic and geopolitical interests in the Balkans. But regardless of what Kohl may have intended at the time, the crisis his maneuver precipitated has long since spun out of his or anyone else's control.

The plight of the hundreds of thousands Albanian refugees is reported daily. Less understood in the West is that there are some 400,000 Serbian refugees from the ethnic cleansing that was set off by the redrawing of national borders. Their number will almost certainly grow by tens or hundreds of thousands of new Serbian refugees from Kosovo in the months ahead.

If you care about justice for ethnic Albanians and for Serbians, the way forward is to: Stabilize national and regional borders; prevent new fighting or persecution by any of the parties involved, particularly the KLA; demand some responsible reporting for a change from much of the major news media of the United States; and de-politicize accusations of war crimes and instead work to identify and bring to justice the perpetrators of particular crimes.

Here in the U.S. Congress, the time has come to re-examine the administration's claims about ''infrastructure warfare,'' ''information warfare,'' and the latest buzz word from the RAND Corporation, ''Netwar.'' These deserve close scrutiny because of their cost, their questionable legality under international treaties and U.S. law, and their use as a rationale for expansion of National Security State powers aimed at the people of the United States itself. Congress could begin by asking the administration how it has come to pass that what a Presidential commission terms a terrorist crime has now become an established part of U.S. military doctrine and target selection practices in the Balkans and in Iraq.

There is much more to do, but I must close now. Thank you for your time and your patience with my talk.

FOOTNOTES

[1] President's Commission on Critical Infrastructure Protection, *Report Summary*, (March 1998 summation of PCCIP's *Critical Foundations* study), *http://www.pccip.gov/summary.html*. downloaded June 7, 1999.

[2] President's Commission on Critical Infrastructure Protection, ''Commissioner Brenton C. Greene,'' (n.d.) *http://www.pccip.gov/greene.html* and Information Warfare Research Center. ''Organization: Infrastructure Policy Directorate, Office of the Undersecretary of Defense (Policy)'' *http://www.terrorism.com/infowar/j6kdefense.html*, both downloaded June 7, 1999.

[3] Human Rights Watch, *Needless Deaths in the Gulf War: Civilian Casualties during the Air Campaign and Violations of the Laws of War*, New York: Middle East Watch, 1991, p.32–33, ''Terror and Morale Attacks.''

[4] For a useful summary of this evolution and specific provisions, see Ibid, pp. 26–64. ''The Legal Regime Governing the Conduct of Air Warfare.''

[5] John Mueller and Karl Mueller, ''Sanctions of Mass Destruction,'' *Foreign Affairs*, May–June 1999, p. 49.

[6] For example, *see USAF Intelligence Targeting Study Guide*, (unclassified), Air Force pamphlet 14–210. 1 February 1998:

McANDREWS RETIREMENT

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to John A. McAndrews on the occasion of his retirement following 41 years in government service. Jack has served as the Personnel Officer of Tobyhanna Army Depot for more than 37 years.

The largest employer in Northeastern Pennsylvania, Tobyhanna Army Depot's existence was threatened by the 1995 round of base closures. Jack was an integral part of the team of legislators, community leaders, and thousands of Depot employees who succeeded in convincing the base-closing commission to keep the Depot open. Jack's presentation outlining the high quality of the workforce was extremely persuasive and was noted by at least one commissioner who talked to me about it. After it was determined that Tobyhanna would not be closed, Jack traveled to Sacramento, California to offer Air Force civilian personnel the opportunity to continue their careers at Tobyhanna.

Jack has been a distinguished representative of the Depot, addressing personnel and labor relations issues throughout the region. His progressive approach to labor-management relations earned him recognition by President Clinton's National Partnership Council. He has been commended by every depot commander he has served throughout his long career. He has been honored by area educators and businesses and has received commendations from the Secretary of the Army, the Director of the U.S. Office of Personnel Management, General Colin Powell, and Vice President Albert Gore.

Under his able leadership, Tobyhanna developed a workers compensation program that has saved the Depot million of dollars and now serves as a model for the entire federal government. Jack has traveled across the country sharing this program with other agencies.

A native of Northeastern Pennsylvania, Jack personifies family values and exemplary character. He is the proud father of two and grandfather of one. Jack's devotion to his beloved wife as her caregiver during her long struggle with Multiple Sclerosis was recognized nationally when Oprah Winfrey named him ''Husband of the Year'' on her show in 1989. Lamentably, Jack's high school sweetheart and beloved wife died on New Year's Day of this year.

Mr. Speaker, Jack has been a credit to his profession and to the United States Army for all of his adult life. His devotion to his family, community, and career has set an example to his colleagues and all those whose lives he has touched as the Depot and the surrounding community. I am pleased and proud to join in this salute of an outstanding leader and public servant. I send my very best wishes for a happy, healthy, and productive retirement to Jack McAndrews.

PRIVACY PROJECT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. PAUL. Mr. Speaker, I rise today to introduce the Privacy Protection Act, which repeals those sections of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 authorizing the establishment of federal standards for birth certificates and drivers' licenses. This obscure provision, which was part of a major piece of legislation passed at the end of the 104th Congress, represents a major power grab by the federal government and a threat to the liberties of every American, for it would transform state drivers' licenses into national ID cards.

If this scheme is not stopped, no American will be able to get a job; open a bank account; apply for Social Security or Medicare; exercise their Second Amendments rights; or even take an airplane flight unless they can produce a state drivers' license, or its equivalent, that conforms to federal specifications. Under the 1996 Kennedy-Kassebaum health care reform law, Americans may even be forced to present a federally-approved drivers' license before consulting their physicians for medical treatment!

Mr. Speaker, the Federal Government has no constitutional authority to require Americans to present any form of identification before engaging in any private transaction such as opening a bank account, seeing a doctor, or seeking employment. Any uniform, national system of identification would allow the federal government to inappropriately monitor the movements and transactions of every citizen. History shows that when government gains the power to monitor the actions of the people, it eventually uses that power to impose totalitarian controls on the populace.

Any member who is reluctant to support this legislation should consider the reaction of the American people when they discover that they must produce a federally-approved ID in order to get a job or open a bank account. Already many offices are being flooded with complaints about the movement toward a national ID card. If this scheme is not halted, Congress and the entire political establishment could drown in the backlash from the American people. In fact, I am holding in my hand a letter from almost all citizens' groups from across the political spectrum, representing thousands of Americans, opposing the plans to implement a national ID.

Although the Transportation Appropriations bill restricts the Department of Transportation from implementing a final rule regarding this provision, the fact is that unless the House acts this year to repeal the provision, states will begin implementing the law so as to be in compliance with the mandate. Therefore, Congress must repeal Section 656 in order to comply with the Constitution and the wishes of the vast majority of the American people who do not want to be forced to carry a national ID card.

National ID cards are a trademark of totalitarianism and are thus incompatible with a

free society. In order to preserve some semblance of American liberty and republican government I am proud to introduce the Privacy Protection Act. I urge my colleagues to stand up for the rights of American people by cosponsoring the Freedom and Privacy Restoration Act.

NATIONAL CONFERENCE OF STATE LEGISLATURES [NCSL]; AND AMERICAN CIVIL LIBERTIES UNION [ACLU]; ELECTRONIC PRIVACY INFORMATION CENTER [EPIC]; NATIONAL COUNCIL OF LA RAZA [NCLR]; EAGLE FORUM; ELECTRONIC FRONTIER FOUNDATION; FREE CONGRESS FOUNDATION/COALITION FOR CONSTITUTIONAL LIBERTIES; AND AMERICANS FOR TAX REFORM

We represent a broad-based coalition of state legislators, county officials, public policy groups, civil libertarians, privacy experts, and consumer groups from across the political spectrum. We urge the Congress to repeal Section 656 of the Illegal Immigration Reform and Immigrant Responsibilities Act of 1996 that requires states to collect, verify and display social security numbers on state-issued driver's licenses and conform with federally-mandated uniform features for driver's license. The law preempts state authority over the issuance of the state driver's licenses, violates the Unfunded Mandate Reform Act of 1994 (UMRA) and poses a threat to the privacy of citizens. Opposition to the law and the preliminary regulation issued by the National Highway Traffic Safety Administration (NHTSA) has been overwhelmingly evidence by the more than 2,000 comments submitted by individuals, groups, state legislators, and state agencies to NHTSA.

THE LAW IS COUNTER-DEVOLUTIONARY, PREEMPTIVE AND VIOLATES THE UNFUNDED MANDATE REFORM ACT

The law and the proposed regulation run counter to devolution. The law preempts the traditional state function of issuing driver's licenses and places it in the hands of officials at NHTSA while imposing tremendous costs on the states that have been vastly underestimated in the Preliminary Regulatory Evaluation. The actual cost of compliance with the law and the regulation far exceeds the $100 million threshold established by UMRA. In addition, the law and proposed regulation require states to conform their drivers' licenses and other identity documents to a detailed federal standard. Proposals for a national ID have been consistently rejected in the United States as an infringement of personal liberty.

THE LAW RAISES SERIOUS PRIVACY CONCERNS

The law raises a number of privacy concerns relating to the expanded use and dissemination of the Social Security Number (SSN), the creation of a national ID cared, and the violation of federal rules of privacy. The law and proposed rule require that each license contain either in visual or electronic form the individual's SSN unless the state goes through burdensome and invasive procedures to check each individuals's identify with the Social Security Administration. This will greatly expand the dissemination and misuse of the SSN at a time that Congress; the states, and the public are actively working to limit its dissemination over concerns of fraud and privacy. Many states are taking measures to reduce the use of SSNs as the driver's identify number. Only a few states currently require the SSN to be used as an identifier on their driver's licenses.

While the impact of Section 656 may not been fully comprehended in 1996, we urge the Congress now to act swiftly to repeal this provision of law that has been challenged by many diverse groups. If you or your staff have any further questions, please contact Dawn Levy of the National Conference of State Legislatures at (202) 624–8687.

QUOTES FROM THE BOOK OF PEACE

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. CAPUANO. Mr. Speaker, I rise today to commemorate Louis David Brown. Louis was fifteen and a tenth grader in the fall of 1993. He dreamed about college and graduate school in aeronautical engineering. He dreamed about space travel and he worked in his community. On December 20, 1993, on his way to a meeting of Teens Against Gang Violence, he was shot dead, caught in the crossfire of a gang fight.

Louis's parents, Joseph and Clementina (Tina) Chery have coped heroically with their grief. They created in memory of their son, the Louis D. Brown Peace Institute. The Institute supports a variety of peace initiatives, including a literature-based high school curriculum and an elementary school arts program. Each year, high school essayists are chosen as Louis D. Brown Peace Fellows, honored for their writing and their community service.

In Louis's memory, with thanks to the dedicated teachers who use and refine the curriculum, and with the deepest sympathy and respect for Joseph and Tina Chery, I have the honor to present excerpts from the writings of the Louis D. Brown Peace Fellows of 1998 (sic.):

The person, who has peace in his or her heart, must be near to God . . . peace also means forgiveness, thankfulness, and patience.—Student: Mary Hanna, Grade 10, School: Health Careers Academy, Teacher: Bethany Wood.

We chase after peace, why does it run?
Is it too busy chanting and having fun,
Or is it worse, does it run away in fear
Worried we'll try to destroy it, rip and tear
Thinking that once we have it we'll get upset
If it doesn't turn out to be just as we bet?—Student: Meichelle (ADARKPOET) Ferguson, Grade: 12, School: Greater Egleston Community High School, Teacher: Terri Coyle.

Peace is the strength you have to fight the negativity.—Student: Johnnye Garcia, Grade: 9, School: Charlestown High, Teacher: Julia Jenkins.

We are all from the same source, we bleed the same color, we breathe the same air, and we all share the same feature . . the human heart.—Student: Trell Payne, Grade: 10, School: West Roxbury High, Teacher: Daniel Jordan.

Everyone [must] come together and make a change before it is too late—Student: Suzanne Morson, Grade: 10, School: Charlestown High, Teacher: Julia Jenkins.

Peaceful Everlasting Actions Control Everything—Student: Kimberly Baia, Grade: 10, School: Charlestown High, Teacher: Julia Jenkins.

. . . we will have peace when we all accept each other for who we are and not for what we look like—Student: Silea Williams, Grade: 10, School: Charlestown High, Teacher: Mrs. Ogluike.

Peace can be simply participating in an after school program or caring for a younger brother or sister or simply helping an elder person when in need. Anyone can do it.—Student: Andrea Stallings, Grade: 10, School: Jeremiah E. Bruke, Teacher: Kelly Mathews.

This Louis D. Brown Peace Curriculum gives me a wonderful opportunity to express my feelings and thoughts to everyone.—Student: Ricardo Brown, Grade: 10, School: West Roxbury High, Teacher: Daniel Jordan.

Start building a better living for the sake of our children . . . Lead'em, feed'em knowledge and the words of wisdom.—Student: Thomas Hernandez, Grade: 12, School: Greater Egleston Community High School, Teacher: Terri Coyle.

I, as a person, promote peace by rejecting violence. I don't fight, I settle my differences with people nonviolently, and I help out in my neighborhood with young children.—Student: Ciara Washington, Grade: 10, School: Health Careers Academy at Dorchester High School, Teacher: Bethany Wood.

Sometimes they [teenagers] just need someone to love them, to hang out with them, and just show them what's right and what's wrong.—Student: Channell Burt, Grade: 10, School: Jeremiah E. Burke High, Teacher: Warren Cutler.

I would love to see a more peaceful world, and it could happen if we talked more with love in our minds and hearts instead of using threats and weapons.—Student: Chermion Lawson, Grade: 12, School: Greater Egleston Community High School, Teacher: Terri Coyle.

I do not want my kids to grow up in a world where countries are at war, family members are being killed or crippled and every one is in tears. I want my kids to grow up in a world where every body gets along with each other and helps each other out, and where guns do not exist.—Student: Lissy Baez, Grade: 11, School: West Roxbury High, Teacher: Daniel Jordan.

The young teenagers today are surrounded by violence on television, music, ideas and movies, as well as in school and in the streets. Violence is almost becoming second nature to us.—Student: Nina Abdillahi, Grade: 10, School: West Roxbury High, Teacher: Daniel Jordan.

If people knew how to cope with themselves, maybe instead of hitting or killing someone they would learn how to be more peaceful.—Student: Gilbert Perea, Grade: 10, School: West Roxbury High, Teacher: Daniel Jordan.

. . . before we start working on getting rid of the hatred and violence in our streets and cities, and, hopefully the world, we are going to need to have peace with ourselves and our families.—Student: Sarita Manigat, Grade 10, School: Health Careers Academy, Teacher: Bethany Wood.

I believe unlocking the door towards peace is a long and hard goal that no one race of people can achieve alone. We all have to meet each other halfway.—Student: Jason R. Walters, Grade 10, School: Health Careers Academy, Teacher: Bethany Wood.

I help make peace by keeping a positive attitude in front of younger kids.—Student: Ezequiel Cardoso, Grade 10, School: Jeremiah E. Burke School, Teacher: Warren Cutler.

Peace cannot be taught or enforced if it is not practice . . . peace can be the future we look forward to if children, parents, teachers, policymakers, and all humankind take action.—Student: Patricia Abdi, Grade 10,

School: West Roxbury High, Teacher: Daniel Jordan.

I think that peace is a very important part of the life of a community because it keeps it organized, it keeps your neighborhood calm, quiet and makes it a better place to live . . . To keep the peace we need good parents.—Student: Ebony Williams, Grade 10, School: West Roxbury High, Teacher: Daniel Jordan.

. . . if you keep busy there's no room for thinking violently.—Student: Adina Sutton, Grade 10, School: West Roxbury High, Teacher: Daniel Jordan.

I think that teaching kids about God will promote peace in the community because the kids will be going to church every Sunday instead of going somewhere else to get themselves into trouble or even getting killed.—Student: Joliane Charlotin, Grade 10, School: West Roxbury High, Teacher: Daniel Jordan.

I . . . help many of my peers get involved in programs that keeps them off the street. This is the way I promote peace.—Student: Raquel Pinto, Grade 10, School: West Roxbury High, Teacher: Daniel Jordan.

I tried to influence [children] by setting a good example.—Student: Julia C. Austin, Grade 11, School: West Roxbury High, Teacher: Daniel Jordan.

I devoted all of my knowledge to each one of these children to help them become a better person.—Student: Kevin Stallings, Grade 10, School: West Roxbury High, Teacher: Daniel Jordan.

Instead of trying to see who is the jiggiest, who is the hardest, and who is down with whom, we need to be down for each other, unite as one and make and promote peace.—Student: Gracie White, Grade 12, School: Greater Egleston Community High School, Teacher: Terri Coyle.

. . . peace does begin with a simple friendship.—Student: Jada Reid, Grade 10, School: Health Careers Academy, Teacher: Bethany Wood.

FOUNDATIONS OF DEMOCRACY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. YOUNG of Alaska. Mr. Speaker, today we honor Mr. Richard Goldstein and his students Alan Amaya, Cynthia Barber, Maria Benner, Christopher Bond, Elliott Bundy, Cynthia Clark, Daniel Cleary, Leah Davis, Courtney Duffin, Lizza Easley, Earlene Eaton, Karoline Enzenberger, Lindsey Faulkner, Justin Garretson, Katherine Greim, Namita Kalyan, Rebecca Lindermann, Kristin McCarrey, James McElligott, Brooks Miner, Justin Mohr, Aaron Tucker, Benjamin Wagner, James Welt, Gretchen Wieman, and Eric Wieman from West High School in Anchorage, Alaska.

These students won an award at the We the People . . . the Citizens and the Constitution national finals held in Washington D.C. in May 1999. These students were recognized for their expertise on Unit 1: What are the Philosophical and Historical Foundations of the American Political System? Of the We the People . . . text. This award is presented to the school achieving the highest cumulative score during the first two days of the national finals in each of the six units. These outstanding young people competed against 50 other classes from throughout the nation and demonstrated a remarkable understanding of the fundamental ideals and values of American constitutional government.

Congratulations students and Mr. Goldstein on your achievement!

IN MEMORY OF ARLIE WAYNE NEAL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of Arlie Wayne Neal, 59, City Manager of Nevada, Missouri.

Mr. Neal was born Aug. 18, 1939, in Higgenson, Arkansas, to Ira Earl and Viola Pearle Cole Neal. He married Patricia Walters on July 19, 1960, in Uxbridge Middlesex, England.

Mr. Neal joined the Air Force in 1959. He served in the Viet Nam conflict and two tours in Germany and Thailand. He served for 31 years, retiring in 1990 at the rank of Colonel. His decorations include the Commendation Medal with one oak leaf cluster, the Meritorious Service Medal with four oak leaf clusters and the Legion of Merit Medal.

Mr. Neal was the City Manager in Frontenac, Missouri, prior to his move to Nevada, Missouri in 1993. He served as City Manager of Nevada from 1993 to present.

Mr. Neal was active in the community. He managed the Nevada Boxing Club for the past four and one-half years. He was also a member of the All Saints' Episcopal Church in Nevada, Missouri. He belonged to many running clubs in Germany and Mississippi, participating in numerous marathons. He was a member of the Kansas City Golden Gloves Boxing Association, and coach of the year in 1997.

Survivors include his wife, Patricia; his four daughters, Carol Ann Michaels, Donna Davenport, Patricia New, and Sara Lundin; his mother, Pearle Neal, three brothers, Earl, Jimmy, and Archie; one sister, Rita Davis, and six grand-children. Mr. Speaker, I know this body joins me in expressing sympathy to the family of this great Missourian.

CELEBRATE THE PAST

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. DEFAZIO. Mr. Speaker, one of my constituents, Margaret Ingram of Albany, Oregon, has made it a personal crusade to encourage people to keep journals and otherwise record the events of their lives. The following bill was introduced in the Oregon Legislature at Ms. Ingram's request. In honor of her efforts and to advance the pursuit of journal and diary-keeping, I would like to insert the text of that resolution in the CONGRESSIONAL RECORD.

OREGON HOUSE CONCURRENT RESOLUTION 8

ENCOURAGES CITIZENS OF STATE TO OBSERVE MEMOIR TRAIL 2000: CELEBRATE THE PAST.

Whereas history is an account of the past events of all persons, individuals, families and communities; and

Whereas historians are writers of history, preparers of records and finders of past events, and the people of Oregon and the United States are historians; and

Whereas history informs, measures change, preserves a way of life and shares stories, legends and tales; and

Whereas today's Oregonians are the proud inheritors of a trail of personal stories that winds through the past century; and

Whereas recording and collecting memoirs will help preserve the past for future generations; and

Whereas the year 2000 will mark the end of the 20th Century and the beginning of another 100 years; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

That we, the members of the Seventieth Legislative Assembly, encourage all citizens to observe Memoir Trail 2000: Celebrate the Past.

HONORING RABBI HOWARD SIMON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. DUNCAN. Mr. Speaker, this week, Knoxville is losing a wonderful spiritual and community leader who has devoted many years to our community. After serving thirteen years, Rabbi Howard Simon is retiring from the oldest Jewish Congregation in East Tennessee, Temple Beth El, founded in 1864.

Rabbi Simon received his Bachelor of Hebrew Letters degree from Hebrew Union College Jewish Institute of Religion in 1960, a masters of Hebrew Letters along with his rabbinic ordination in 1963 and a doctor of divinity in 1988.

Rabbi Simon has served on the board of directors of the United Way, Leadership Knoxville, the Knox County Mental Health Association and the executive committee of the Knoxville Jewish Federation.

He is also a member of the Knoxville Ministerial Alliance and the ministerial board for East Tennessee Children's Hospital.

Rabbi Simon has also been honored by the National Conference of Christians and Jews for his dedication and service to the community.

Before coming to Temple Beth El, Rabbi Simon served as rabbi at Har Sinai Temple in Baltimore; Beth Israel Congregation in Atlantic City, N.J., and K.K. Bene Israel Rockdale Temple in Cincinnati, Ohio.

Mr. Speaker, Rabbi Simon has been a tremendous spiritual leader in our Nation, but I would like to highlight one of his accomplishments that I am especially proud of. Rabbi Simon had a huge impact on the creation of the Interfaith Health Clinic in Knoxville. This clinic provides medical services for those who otherwise would not be able to afford proper medical care. I believe this says a tremendous amount about Rabbi Howard Simon.

Mr. Speaker, I know that I join with all Americans in thanking Rabbi Simon for his service to Temple Beth El and the Knoxville community for the past thirteen years. I have included a copy of a story written in the Knoxville News-Sentinel honoring Rabbi Simon that I would like to call to the attention of my fellow members and other readers of the RECORD.

[From the Knoxville News-Sentinel, June 12, 1999]

TIME FOR NEW CHAPTER TO BEGIN—RABBI HOWARD SIMON LOOKS AHEAD TO RETIREMENT

(By Jeannine F. Hunter)

Rabbi Howard Alan Simon greets people as if they shared many moments of tears and cheers together.

He embraces one with a firm grip and an engaging smile. To him, they are family.

For 13 years, he served as spiritual leader at Temple Beth El, East Tennessee's oldest Jewish congregation. The Jewish Reform congregation was established in 1864 and became a member of the Union of American Hebrew Congregations 11 years later.

Members are like siblings, calling upon one another and adhering to Simon's open door policy.

''And people waltz in all the time, which is nice,'' he said, in his nearly empty office. ''We've shared so much together.''

Friday, June 25, marks the beginning of Simon's last weekend at the temple. He will retire from the temple, ending his 36-year rabbinic career.

During a recent visit, Simon and his wife, retired educator Rona Simon, discussed Simon's rabbinate, their philosophy on teaching and humanity, and their retirement plans.

As the pair talked about their time at Temple Beth El, they smiled frequently.

''The people have been so warm. We have a loving, warm congregation,'' Rona Simon said.

Howard Simon agreed.

Simon will be replaced by Rabbi Beth L. Schwartz, the temple's first woman rabbi.

Schwartz is a newly ordained graduate of the Hebrew Union College-Jewish Institute of Religion in Cincinnati, where Simon also was ordained. Her work experience includes being an academic adviser at George Mason University; a senior analyst for the U.S. Department of Education; a senior business analyst for the Federal Home Loan Mortgage Corp. in McLean, Va., and a book buyer.

Schwartz assumes leadership of Temple Beth El on July 1. She is married to Larry Washington, and they have two adult children.

''I told the congregation I feel the best years at Temple Beth El are ahead of them,'' Simon said. ''It's difficult to leave. It has been wonderful for us.''

After 10 years as director of education at the temple, Rona Simon retired in 1998. In May, she retired from her private practice as an educational consultant, specializing in learning disabilities.

The temple's school grew from 36 to 120 children during their tenure.

''The focus of my attention the first few years of being here was our religious school, seeing it grow in numbers and enhancing its curriculum,'' he said.

Howard Simon said another goal of his administration was to create a familial atmosphere so that the membership interacted with each other in a variety of ways.

Outreach and adult education were also emphasized.

''We learned more and more people want the temple, and they want it to be a focal point of their lives,'' Simon said.

Simon, the only rabbi in his family, said his experiences at his home temple in Colorado and subsequent leadership roles at a youth camp influenced him.

''Teaching the kids Judaism, I loved the interaction we had with the children,'' he said, adding in college he initially wanted to study law.

Throughout his rabbinate he has met officials from former Israeli Prime Minister Benjamin Netanyahu to the late Dr. Martin Luther King Jr.

He was among the first religious leaders to spearhead the creation of Knoxville's Interfaith Health Clinic in 1991. He has served as chairman of the clinic's board of directors.

He cited it as one of his most important endeavors.

''I am proud to have been a part of the group that brought this into being,'' he said.

When commenting about service, Simon used a Hebrew term which means ''repair the world,'' a Judaic belief.

''We're supposed to, as individuals, try to make the world a better place,'' he said. ''Part of my rabbinic is to be committed to the community we live in. We do not live in a vacuum. Fortunately I had a congregation that agreed with that and supported me.''

Simon, a humanitarian and scholar, also is an author. He has a book of poetry, ''Back from the Abyss: Thoughts on Life and Death'' and looks forward to completing other works, one on his experiences as a rabbi in New Jersey, before and after gambling was legalized in Atlantic City.

One book may be about retirement: How to plan for it and how to respond to the emotions it may evoke.

''You need to be active,'' he said. ''Also you need to have a realization that retirement is not a lowering of your self-esteem but an opening of a new chapter in your life.''

Rona Simon added, ''It's a new beginning.''

In their new beginning, the Simons will reduce but not eliminate all of their civic commitments. They want to spend more time with each other, their children and three grandchildren.

A few of their road trips will be to away Lady Vols basketball games.

When the Lady Vols basketball team's schedule is released, the Simons, who are perennial ticket holders, have a planning meeting.

''She tells me to block those nights out so I try not to have meetings,'' says Simon. ''At this point, the ideal job for me would be the team's chaplain.''

He laughed.

''They have done so much for Knoxville and are excellent role models,'' Rona Simon said. ''They are role models not because they win but because they inspire young people and are committed to various causes.''

A special Shabbat service, prepared by Simon, on June 25 will be followed by a special oneg Shabbat to honor Simon at the temple. On Saturday, June 26, there will be a program beginning at 7:30 p.m. that will also celebrate the 80th birthday of temple member Millie Gelber.

At 6:30 p.m. Sunday, June 27, there will be a special dinner honoring Simon's 36 years of service to Reform Judaism and his 13 years at the temple. It will be at the Hyatt and will feature a toast and a roast of Simon by his relatives and friends.

AT A GLANCE: RABBI HOWARD SIMON

Born in Davenport, Iowa, and moved to Denver, Colo. He graduated from Colorado University in 1958.

Bachelor of Hebrew Letters degree from Hebrew Union College—Jewish Institute of Religion in 1960; master of Hebrew Letters and rabbinic ordination both in 1963; and doctor of divinity in 1968.

Temple Beth El is Simon's fourth congregation. Also served as rabbi at Har Sinai Temple in Baltimore; Beth Israel Congregation in Atlantic City, N.J.; and K.K. Bene Israel Rockdale Temple in Cincinnati.

Samuel Neustadter Memorial Award for Service to the state of Israel, 1977.

Rabbinic Services Award from the Council of Jewish Federation, 1989.

Participated in study mission to Poland and to the Soviet Union.

Was scholar in residence at the Sam and Esther Rosen Institute in Knoxville; adjunct professor at Hebrew Union College-Jewish Institute of Religion from 1981–86; taught at Xavier College and Hiwassee College.

National affiliations: Union of American Hebrew Congregations' Committee on Judaism and Health and its Committee on Cults and Missionary Movements; National Rabbinic Cabinet of United Jewish Appeal.

Local affiliations: Board of directors for the Interfaith Health Clinic, the United Way, Leadership Knoxville; the Knox County Mental Health Association; executive committee of the Knoxville Jewish Federation.

In 1996, became a UT Chancellor's Associate, one of several Knoxville-area community leaders who advised Chancellor Bill Snyder and his staff on community issues.

Members of Knoxville Ministerial Alliance, the Knox County Steering Committee for the Tennessee Bicentennial Celebration, the Metropolitan Drug Commission's Faith Committee and the ministerial board for East Tennessee Children's Hospital.

Chair of Leadership Knoxville Class of 2000's selection committee.

Awards include National Conference of Christians and Jews, now known as the National Conference for Community and Justice and the American Organization for Rehabilitation through Training Federation based in Israel.

GRANT OF FEDERAL CHARTER TO THE AMERICAN ASSOCIATION OF STATE GEOLOGISTS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. RAHALL. Mr. Speaker, today I along with the gentleman from Nevada, JIM GIBBONS, are introducing a bill to grant a federal charter to the American Association of State Geologists. Indeed, the grant of a federal charter to this organization would have a direct correlation to the very first such charter ever granted by the Congress, in 1863 to the National Academy of Science. Both organizations are premised on serving the general public through scientific research and the advancement of knowledge.

The American Association of State Geologists was established in 1908 and today is a nonprofit organization whose mission is to advance the science and practical application of geology and related earth sciences. Its membership is comprised to the heads of Geological Surveys in the various States, territories and commonwealths of the United States. In fact, the first State geological survey was established in 1823 in North Carolina and by the

time the U.S. Geological Survey was established in 1879, 35 State geological surveys already existed.

Over the past 91 years, the AASG has served the Nation and each and every State by bringing its unique and important state perspective to the deliberations of the federal government on issues related to or involving geology or geoscience. State geological surveys have generated and made publically available much of the geological and geoscience information and services that led to the growth of our Nation, its economic development, general prosperity, environmental quality and the quality of life we enjoy today. Their mission remains equally important to our Nation's future.

Every member of Congress and their staff have, at one time or another, consulted the State geological surveys concerning issues related to geology in their districts. State geological surveys are universally relied upon for their expertise and relevant, credible, and timely maps, information and services concerning energy, mineral, water, land, biological/ecological and environmental resources, as well as information relevant to avoid or mitigate natural hazards such as earthquakes, volcanoes, landslides and the like.

There is no doubt that the AASG has earned a high reputation within the federal government for its expertise, credibility, candor and trust. It is frequently called upon by the executive, legislative, and judicial branches to bring the state perspective on geological issues to the attention and consideration of the federal government and especially Congress.

In my view, the nature, extent, magnitude, and high quality of the contributions of State geological surveys and AASG to our Nation fully merits recognition of their critical role through issuance of a federal charter. AASG is exactly the sort of organization that federal charters were intended to recognize.

Mr. Speaker, it would be completely fitting and proper for Congress to grant a federal charter to AASG and by doing so would return to the spirit of the first federal charter granted to the National Academy of Science in 1863 recognizing the importance of science to our Nation.

MANDATORY GUN SHOW BACKGROUND CHECK ACT

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2122) to require background checks at gun shows, and for other purposes;

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in support of the McCarthy provisions and against the Dingell provisions. I agree with Mr. Alvin Bell of Garland, Texas when we said:

The congressional measures passed at the stroke of midnight, by a Congress in the grasp of the National Rifle Association and the religious right, are a sad commentary to how insulated the Capitol can become to the real needs of the American people. The very idea that the posting of the Ten Commandments in schools and the loosening of gun control measures can achieve less school violence is lunacy.

I would not be surprised if this Congress would soon legislate the passing out of crucifixes in schools, under the guise of warding off vampires.

June 18, 1999: Charlton Heston 2–The American people 0.

IN HONOR OF THE LATE J.B. WHITTEMORE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. MCINNIS. Mr. Speaker, it is with a great deal of sadness that I wish to recognize the remarkable life and spirit of Mr. J.B. Whittemore of Pueblo, Colorado. With this, I would like to take a moment to pay tribute to Mr. Whittemore who embodied and exemplified hard work, dedication, and compassion. For more than half of a century, he dedicated his energy to ensuring the happiness of thousands of Pueblo children, never letting a lack of money keep children from enjoying a ride on the carousel.

J.B. Whittemore was born in Pueblo, Colorado in 1914, the same year in which the City Park carousel was manufactured. With nickels earned by milking cows, Mr. Whittemore escaped the world by riding the carousel.

On March 1, 1943, he joined the City Parks Department staff—a job which became a career spanning 33 years. While working for the City Parks Department, Mr. Whittemore also worked nights, Sundays and holidays as the maintenance man and operator of the City Park carousel. Just as Mr. Whittemore cared about the happiness of children, he also cared about his family. He loved and appreciated his family and shared his light with all.

Mr. Whittemore was a man of kindness and generosity. Through his involvement in the community, he touched the lives of many. His smile, his devotion, and his zest for life will long be remembered and admired. Those who have come to know J.B. Whittemore will miss him greatly. I am confident however, that in spite of this profound loss, the family and friends of Mr. Whittemore can take comfort in the knowledge that he made a significant impact on the quality of life of the citizens of Pueblo.

THE INTERNATIONAL ARBITRATION ENFORCEMENT ACT AND THE NEW YORK CONVENTION COMPLIANCE ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. MCCOLLUM. Mr. Speaker, today I am introducing legislation, the International Arbitration Enforcement Act and the New York Convention Compliance Act, to protect American businesses from foreign backed companies who fail to act in good faith.

In 1991, Ross Manufacturing, a Florida company, filed a claim with the Stockholm Arbitration Institute against a Chinese state-owned corporation for defaulting on a contractual agreement. Even though the arbitration panel found in favor of Ross Manufacturing, the Chinese company refused to pay the settlement. Furthermore, the Chinese courts initially refused to accept the claim. By the time the claim was eventually accepted by the Chinese courts, the Chinese company had been liquidated and the Chinese offered no remedy to enforce the settlement. This was so even though the liquidated company was a state-run industry and it appears may have been liquidated as a pretense just to give cover to avoiding this debt.

There are companies throughout this country that have ventured into business relationships with China and been burned. That is why I am introducing two pieces of legislation to protect U.S. companies and make sure that foreign companies live up to pre-existing trade agreements.

The International Arbitration Enforcement Act, would create a civil remedy against foreign states that either ignore or prohibit arbitral awards entered in favor of United States persons. If the President certifies that a person has been injured and has exhausted every avenue of relief in pursuing enforcement of a foreign arbitral award then that person gets his or her day in Federal Court to pursue a civil action against the foreign state.

The New York Convention Compliance Act, would direct the President to withhold extension of the WTO Agreement to any country that is not in compliance with its obligations under the New York Convention. This would require foreign countries to meet their outstanding obligations before receiving full consideration for WTO ascension.

While I believe that American companies need to be prudent in their dealings with entities overseas, having a company fully backed by the Chinese government default on a legal and binding contract is unacceptable. I urge my colleagues to support this timely legislation.

ACTIVIST PHYSICIAN NAMED ''OUTSTANDING LEADER'' BY LEADERSHIP MONTGOMERY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mrs. MORELLA. Mr. Speaker, it is my great pleasure to congratulate Dr. Horace W. (Bud) Bernton for receiving the Bell Atlantic Outstanding Leader Award at Leadership Montgomery's graduation ceremonies. Dr. Bernton graduated from Leadership Montgomery in 1994, and quickly thereafter began to recruit other community-mined individuals and organizations to join him in his life-long effort to make medicine more accessible to persons of limited income.

Leadership Montgomery selected Dr. Bernton for its annual award after he was nominated by fellow graduate and county health officer, Dr. Carol Garvey. Dr. Garvey noted that Dr. Bernton's active nature took over when he retired from practicing medicine seven years ago, leading him to join Community Clinic, which offers care to low-income county residents. As a board member he helped launch the Primary Care Coalition, a consortium of local hospitals, the medical society, the health department, and various providers and supporters of indigent care. The coalition is dedicated to enhancing access to primary medical care for the growing numbers of low income county residents, who often face language and cultural differences.

Once Dr. Bernton joined Leadership Montgomery, he tapped its considerable community connections, some of which helped him develop the Primary Care Coalition. He nurtured the coalition through its founding, became its first chair, solicited pro bono legal services to make it a non-profit corporation, and worked aggressively with several coalition members to attract grants to fund Project Access. The initiative now connects low income patents with private physicians who agree to provide care at minimal cost.

Dr. Bernton's advocacy has now come full circle: Project Access has also absorbed PARS, the Patient Advocacy Referral Service for low income patients. Dr. Bernton started PARS back in 1972 to refer patients to physicians building their practices, as long as they agreed to accept uninsured, low income patients. His policy demanded that no one be turned away due to an inability to pay for care, and it is this demonstrated compassion that makes him such a deserving recipient of this year's 'outstanding leader' award.

LUIS SABINES, OF CAMACOL, CELEBRATES 20TH HEMISPHERIC CONGRESS IN MIAMI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Ms. ROS-LEHTINEN. Mr. Speaker, I am delighted to congratulate Mr. Luis Sabines, President of the United States Latin American Chamber of Commerce (Camacol), for his devoted labor in establishing the annual Hemispheric Congress and for having been honorably elected to preside as President of the Hemispheric Congress for the year 2000.

Luis Sabines has worked tirelessly and extensively with a variety of trade organizations and businesses in order to promote this year's Hemispheric Congress which, under his leadership and guidance, proved to be a resounding success. Due to his guidance and leadership, he was selected to preside in the upcoming Hemispheric Congress on May 3rd to the 6th of next year, which should prove to be an even bigger success.

This year's recent conference, entitled ''Globalization with Integral Development,'' brought in individuals from 60 different businesses and chambers of commerce, representing 34 countries. It hosted an additional exposition of non-traditional products from overseas that were available for purchase. Contract negotiations among American businesses occurred, promoting both American products abroad, and Latin American products in the United States. Next year's Hemispheric Congress promises to continue the negotiations among American businesses, and to add on to the number of countries taking part in the negotiating, and promotion of trade between Latin American and the United States.

Luis Sabines has done a remarkable job promoting international trade and educating businesses, helping them to foster their growth. Today, I congratulate him on having been elected as President of the 21st Congress. Future Congresses will continue to make important contributions to South Florida's vital role in international trade.

INTRODUCING TO THE RECOVERY IMPLEMENTATION PROGRAM FOR ENDANGERED FISH SPECIES IN THE UPPER COLORADO AND SAN JUAN RIVER BASIN PROGRAMS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. HANSEN. Mr. Speaker, it is with pleasure that I am introducing an Act that would authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River Basins. This Act is needed so that two cooperative intergovernmental programs can continue working to achieve recovery of four endangered fish in the Upper Colorado River and San Juan River Basins while meeting continuing demands for water in the arid West. To date, requests for funding for the recovery programs have received considerable support in Congress because the programs serve as a dispute resolution and provide a means to solve a very complex set of problems. However, as the amount of funding required increases because capital construction projects are underway, program participants are seeking clear statutory authority to help ensure that needed funds continue to be appropriated by Congress.

The Recovery Program is a mutually supported program including the states, government agencies, Indian tribes, private organizations, and environmental organizations. Participants in the Upper Colorado River program alone include the state of Colorado, the state of Utah, the state of Wyoming, the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Western Area Power Administration, environmental organizations, water development interests, and federal power customers.

This bill would authorize the appropriation of $46 million to the Bureau of Reclamation and the Bureau of Indian Affairs and ensure the completion of the capital projects and research needed to recover the listed species. Once the bill is enacted, non-federal participants like the states and those who purchase power from federal hydroelectric projects, will also share in the cost of the capital projects.

This bill is a good example of how the recovery of listed species can coincide with existing and future uses of water for states needs. Also, this is an opportunity to set a precedent for other regions of the country who could be impacted by the recovery of a listed species. These implementation programs are running models—showing how cooperation between states, government agencies, and private organizations can achieve results. Participants in these programs are eager to move ahead and willing to share the costs. I urge all my colleagues to support and co-sponsor this Act to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River Basins.

D.R.O.P. SPECIES ACT

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. CALVERT. Mr. Speaker, today I am dropping the fourth in a series of single-issue bills to make common sense corrections to the Endangered Species Act. My bill, the Direct Review of Protected Species Act, would amend the ESA to provide for the review and recommendation by the National Academy of Sciences of species that should be removed from the list of endangered and threatened species.

During ESA's 26 years, over 1,154 animals and plants have been listed as endangered or threatened, yet only 27 species have been removed from the list. 27! That is a recovery rate of 2 percent, which leads me to believe that either the Fish and Wildlife Service is not keeping up with their mandate to review the list every five years and remove recovered species, or their best efforts to conserve habitat at the expense of billions of dollars to taxpayers are failing. Either conclusion is unacceptable. The DROP Species Act would take the de-listing process out of the hands of politicians and place it in the hands of a well-respected, independent panel of scientists.

I'm unhappy with the Fish and Wildlife Service, Mr. Speaker. So unhappy that I will introduce one ESA reform bill every week until the Resources Committee field hearing in California on July 9. The agency has a responsibility to balance the rights of species with the rights of taxpaying citizens. This is a call to common sense.

EXPOSING RACISM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. THOMPSON of Mississippi. Mr. Speaker, in my continuing efforts to document and expose racism in America, I submit the following articles into the CONGRESSIONAL RECORD.

HARRISBURG, Pa. (AP)—The question of whether ex-cons should be able to vote is becoming an issue in Pennsylvania and nationally.

Human-rights groups and prison-rights advocates plan to challenge the law because of its ''racial implications,'' said Pennsylvania Prison Society director William DiMascio said.

In addition, there is legislation in Harrisburg seeking to overturn the law. And the chairman of the state Senate Judiciary Committee, Sen. Stewart Greenleaf, R–Montgomery County, a former prosecutor, said he is ''willing to look at'' a reconsideration of the law.

State Rep. Jerry Birmelin, R–Wayne County, chairman of the House Subcommittee on Crime and Corrections, said that while he opposes inmates voting, he'd consider extending the vote to ex-cons.

Pennsylvania's law, which passed virtually unnoticed as part of the 1995 ''motor voter'' legislation, bans felony ex-cons from registering to vote for five years after release from prison. Before 1995, ex-cons could register as soon as they got out of prison.

The law's supporters, including state Attorney General Mike Fisher, say criminals should pay for their crimes, and that losing the vote is part of the price.

''Since the Legislature has determined a convicted felon does not enjoy the same rights as people who are not convicted felons, I have no problem with that,'' Philadelphia District Attorney Lynne M. Abraham said through spokeswoman Cathie Abookire.

The effort to eliminate the ban comes as the prison inmate population rises to record levels nationally and in the face of a new Justice Department report that says blacks are six times more likely to be jailed than whites, and 2 times more likely than Hispanics.

It also comes as some Pennsylvania politicians become more concerned about losing 100,000 potential voters because of the ban.

A state-by-state study by Human Rights Watch, an international research group, estimates that 3.9 million Americans currently are banned from the ballot box. About 13 percent of black men, more than 1.3 million men nationally, cannot vote, according to the study.

While the ban applies to anyone convicted of a felony, it does not apply to people convicted or jailed on misdemeanor charges. The only problem is that many minor criminals think they also are forbidden from voting, critics say.

''We find ex-offenders and other non-felony folks under the impression they can't vote,'' said Leodus Jones, director of Community Assistance for Prisoners, a nonprofit advocacy group. ''I really believe there are thousands in Philadelphia alone.''

Only four states—Maine, Vermont, Massachusetts and New Hampshire—allow inmates to vote.

Estimating exactly how many Pennsylvanians are affected is difficult due to recidivism and because no one adequately tracks state, local and federal releases. The Pennsylvania Commission on Crime and Delinquency offered ''rough numbers,'' saying there are about 86,000 to 101,000 inmates and ex-cons who currently cannot vote.

The irony for those who believe the law is discriminatory is that in the 1995 ''motor voter'' law the ban is a part of what was designed to increase minority voting by making registration easier. However, many lawmakers say they were unaware of the felony provision, which was inserted at a time the Legislature was being hurried, under a federal court order, to pass a motor voter bill.

''We call it 'the mickey bill,' because they caught everybody asleep when they passed it,'' Jones said.

State Rep. Harold James, D–Philadelphia, a former Philadelphia police officer, said, ''When we voted on 'motor voter,' we didn't even know that was in there.''

[From the Washington Post, Apr. 20, 1999]

WORKER BIAS LAWSUITS FLOOD AGRICULTURE DEPT—MINORITIES, WOMEN ALLEGE DISCRIMINATION

(By Michael A. Fletcher)

The U.S. Department of Agriculture is grappling with a flood of discrimination complaints from minority and female employees who describe the agency as a hotbed of racial bias and harassment, where women assigned to remote work crews are physically threatened by male colleagues and minorities are routinely passed over for promotions.

Minority and women employees have long complained about what they call a deeply entrenched culture of discrimination at the sprawling federal agency, which is often derided as ''the last plantation.'' The problems have intensified in recent months as more employees have stepped forward with formal complaints, even as top USDA officials have acknowledged longstanding civil rights problems. Earlier this year, the agency agreed to a huge court settlement that could result in hundreds of millions of dollars being paid to thousands of black farmers for past discrimination.

With a work force of 89,000 and a sweeping mandate that includes administering farm aid programs, managing national forests and running the food stamp program, USDA is one of the federal government's largest departments. With many of its workers deployed in rural outposts, critics charge that USDA's rank-and-file often seems impervious to the civil rights edicts that flow from the agency's Washington headquarters.

The agency is facing at least five class action or proposed class action complaints, either in federal court or before the Equal Employment Opportunity Commission, where groups of female and minority employees allege that they have been the victims of blatant racial bias or repeated sexual discrimination and harassment. In addition, more than 1,500 individual employment discrimination complaints are pending at USDA. And of the 1,800 cases resolved over the past two years, more than 1,000 ended with settlements, indicating that they had merit, said Rosalind Gray, USDA's director of civil rights.

Charges lodged against the agency either in lawsuits or individuals' complaints run the gamut:

In several bathroom stalls at USDA headquarters, someone had scrawled ''NAACP'' and underneath it, ''now apes are called people.'' Some employees say such graffiti is evidence of workplace hostility that the agency has not done enough to address.

Black and Hispanic employee complained about working in rural offices under white supervisors who assign them few important tasks or the kind of training that would put them in line for promotions.

Women such as Ginelle O'Connor, 42, who work as Forest Service firefighters say they were subjected to a never-ending stream of taunts and sexually laced comments and even threats of rape from male colleagues.

The men ''were making bets on how they could get rid of me,'' said O'Connor, now a USDA biologist working in Northern California. ''But I was determined they weren't going to run me off.''

The settlement with the black farmers was part of Agriculture Secretary Dan Glickman's effort to ''change the culture'' of the agency. ''For far too long USDA has been ignoring serious, pervasive problems within our civil rights system,'' he said.

''Clearly, Secretary Glickman is concerned by the number of EEO complaints against USDA,'' said Tom Amontree, Glickman's spokesman, noting that the department has ''resolved the vast majority of the EEO complaints that were part of the so-called backlog.''

Amontree said that Glickman ''is impressed with the progress and the changes instituted'' under Gray. ''Under her leadership, USDA is implementing procedures that will hold people accountable, and the secretary will continue to keep a close eye on that progress.''

Despite Glickman's efforts, the barrage of slights, insults and outright harassment over the years has helped foster a culture that makes many female and minority employees at USDA complain that they feel like outsiders on their own jobs.

In a case now before the EEOC, a group of 300 African American managers at the Farm Service Agency, the branch of USDA found to have discriminated against black farmers, says they have been repeatedly passed over for promotions in favor of less qualified whites.

Charles W. Sims Sr., 55, a program coordinator at USDA's Washington headquarters, says he has been ignored for promotions on more than 40 separate occasions over the past 18 years. ''Management will not tell me why they will not hire me for a higher position,'' said Sims, who says that he was given meaningless assignments after he began filing EEO complaints against the department. ''They always tell me that I'm a great employee, so the only thing I can surmise from that is that it is a race thing.''

During his 23 years at USDA, Carnell McAlpine, a program complaint specialist in Alabama, said he has learned to ''expect the worst'' from his job. He has been passed over for promotions given to whites with less experience and made to feel excluded from the flow of information.

''Those are the adversities a black person has to deal with,'' McAlpine said. ''You just have to harden yourself. . . . When I've had good things happen to me on the job, I've learned to view them as surprises.''

Harold Connor, 46, deputy director of USDA's Price Support Division, says he has faced insults since his first days at the agency. More than 20 years ago, it was the white local farm committee member who vowed to ''go out the back door'' the day Connor, who is black, entered the front door as a new director in the St. Louis area. Now that he works in Washington, the insults are often indirect: He was advised not to seek promotions initially because he was too new. Later, he was discouraged by superiors who said he had been in Washington too long and that the agency needed fresh thinking.

''You just kind of do a slow burn,'' he said. ''First you doubt yourself. But then you realize it is not you, it's them.''

While some employee activists cite USDA as among the worst federal agencies when it comes to civil rights complaints, they point out that charges of racial and gender discrimination are not uncommon within the federal government. That is seen as a troubling reality because for years federal employment was seen as a sure route to the

middle class for women and minorities, particularly African Americans. Blacks make up 17.2 percent of the federal work force, compared with only 10.6 percent of the U.S. labor force.

Groups of minority employees have filed successful class action discrimination complaints against several federal agencies, including the Library of Congress, the Army Corps of Engineers and the State Department. Suits also are pending at other agencies, including the Internal Revenue Service and the Department of Commerce. Black employees also allege bias at the Social Security Administration [Details, Page A21]. Activists call the complaints evidence of the growing civil rights problems within the federal government.

Many employee activists say that nowhere in the federal government is the problem more pronounced than at the Department of Agriculture, an agency whose roots reach deep into rural America.

While 20 percent of USDA's employees are minorities, whites hold 91 percent of the senior management positions, a reality that critics call a direct outgrowth of the agency's culture. Some 80 percent of USDA's best-paid employees are men, although women make up more than 40 percent of the work force.

USDA officials have pointed to enforcement of civil rights laws as a priority in recent years. Since assuming his job in 1995, Secretary Glickman has convened a blue-ribbon panel on the matter, ordered a civil rights review and reactivated the agency's dormant civil rights office. Yet the problem continues to grow.

The employee complaints are buttressed by the findings of the department's own civil rights task force, which two years ago issued a report that described widespread bias both within the department's work force and in its delivery of programs to the public.

The report was a key piece of evidence in a federal lawsuit brought by black farmers. The farmers charged that USDA officials unfairly discouraged, delayed or rejected their applications for federal loans. The suit resulted in a settlement that lawyers involved in the case said could cost the federal government as much as $1 billion. A federal judge approved the deal last week.

Ironically, some USDA officials say privately that Glickman's aggressive rhetoric and work to attack employee complaints—the backlog of unresolved employee discrimination complaints has been cut significantly during his tenure—have opened the agency to more charges of discrimination. Also, top USDA officials say their civil rights efforts have been met with significant resistance.

''There are some people who don't want their way of life changed,'' said Gray, who was appointed by Glickman to be the department's lead civil rights enforcer. ''Their way of life is based on their local culture, and we have a work force that is spread out throughout the country.''

While acknowledging the hurdles, some activists complain that Glickman has not moved boldly enough. While he has threatened to fire employees found participating in reprisals against those who make discrimination complaints, few have faced such punishment.

''The secretary is selling snake oil,'' said Leroy W. Warren Jr., who chaired an NAACP task force that last summer issued a critical report on employment discrimination in the federal government. ''It is all good rhetoric. But I'm waiting on the substance.''

Similarly, many of the employees who have brought complaints against the agency say they also are waiting for justice.

O'Connor, who joined a class action filed by female Forest Service employees, said she faced harassment throughout much of her 17-year tenure at the Forest Service. In 1982, she was the only woman on the Fulton Hot Shots, an elite firefighting brigade that battles blazes in national forests.

One day, she made her way to the fire camp's bathroom for a shower. She unwittingly dropped her panties on the way from the shower. Hours later, she found her underwear flying on the antennae of a fire engine. Her colleagues drove the truck for a day before removing the underwear.

For O'Connor and other women at the Forest Service, the incident represented far more than a boorish prank: It was another example of the harrowing sexual harassment and hostility they had to endure.

Lesa L. Donnelly, a 19-year Forest Service employee and lead plaintiff in the lawsuit, said some of the hostility grew out of resentment of a federal court order requiring the Forest Service to hire more women in its western region.

In the wake of the order, she says, female firefighters were threatened with being pushed into wildfires. They were spit at and hit during physical training. Other women said they were stalked or tormented with dead animals. Some were allegedly left in the woods without transportation.

The women's class action suit is in mediation and a federal judge in San Francisco has set a May 26 deadline for settlement efforts.

''We have heard horror story after horror story,'' said Lawrence Lucas, president of the USDA Coalition of Minority Employees. ''But unless people are held accountable, nothing is going to change at USDA.''

CONGRESSIONAL BLACK CAUCUS BEGINS POLICE BRUTALITY HEARINGS

(By Paul Shepard)

WASHINGTON (AP)—Rep. James Clyburn pledges that the Congressional Black Caucus' first hearing on police brutality will yield more than a report that will sit on a bookshelf and collect dust.

''We are focused on solutions,'' Clyburn, D-S.C., said Monday. ''Panels like this often focus only on the horror stories, but we are talking solutions. We need to stay focused and achieve some meaningful results.''

The caucus on Monday hosted the first of a planned national series of hearings on police brutality designed to measure whether the recent spate of high-profile deaths of young blacks at the hands of police are an aberration or a troubling new outgrowth of tougher policing policies nationwide.

Early in the five-hour hearing, the panel heard from representatives of the civil rights community, including National Urban League President Hugh Price and Raul Yzaguirre, president of the National Council of La Raza.

''The problem isn't only excessive use of force but dragnet techniques'' that include racial profiling of suspects on traffic stops and the random stopping and frisking policies employed by New York City police, Price said.

Later, Bill Lann Lee, acting assistant attorney general for civil rights, told the caucus members that although his office is limited in its ability to bring federal prosecutions in local police jurisdictions, it has reached settlements with the cities of Pittsburgh and Steubenville, Ohio, which were judged by the Justice Department to discriminate in policing.

Lee said investigations of the Washington, New York City and New Orleans police departments are continuing.

''We have seen several tragedies in the last few months,'' Lee said. ''We have to see how we as a nation as a whole respond, not by pointing fingers but by moving forward.''

Witnesses like Dorothy Elliott provided tearful testimony of how their loved ones died at the hands of police. Mrs. Elliot's son, Archie Elliott III, 24, was stopped by Prince George's County, MD, police in June 1995 for driving erratically.

Police said Elliott, with his hands cuffed behind him in a police car, pointed a gun at them. The official version of events was that after refusing police orders to drop the gun, Elliott was shot 14 times and died.

''You can call it a tragedy, but I call it a murder,'' Mrs. Elliott sobbed. ''My son didn't resist arrest, My son's life had value.''

The shooting was ruled justified by authorities. Seated next to Mrs. Elliott was Saiko Diallo, whose son Amadou Diallo, a street vendor from Guinea, was killed Feb. 4 outside his apartment in the Bronx when four white police officers fired 41 shots, striking him 19 times and making the young immigrant a national symbol of police abuse.

''The police officers have been indicted for (second-degree) murder,'' Mrs. Diallo said in halting tones. ''But they are still working full time with a full salary. This is unfair, This is not right.''

Additional hearings are planned for New York, Los Angeles, Houston, Chicago and Atlanta.

BELL ATLANTIC WORKERS SUE COMPANY FOR $100 MILLION

(By Genaro C. Armas)

PHILADELPHIA.—A group of current and former employees of Bell Atlantic Corp. filed a $100 million federal lawsuit against the company Monday charging that a racially hostile environment led to the suicides of three employees who worked at a company garage.

The lawsuit filed in U.S. District Court alleges that company executives did not do enough to stem the discrimination allegations lodged by 10 plaintiffs against two men who were supervisors at the garage where the suicide victims worked. The three workers, all black males, died between 1994 and 1997.

The suit said the alleged harassment against the victims, as well as other black workers in the Philadelphia garage by white supervisors, Thomas Flaherty and Nick Pomponio, who were named as defendants in the lawsuit, was so harsh that some workers considered ''taking the laws into their own hands.''

''But (they) opted to endure the suffering instead, believing that Bell Atlantic would take the action it promised to take (to investigate complaints and take corrective action),'' court documents said.

Both Flaherty and Pomponio have since been transferred out of the garage, plaintiffs' attorney John Hermina said. Flaherty, reached by phone, referred comment to corporate attorneys. A number the company provided for Pomponio was incorrect and he could not be reached for comment.

Joan Rasmussen, a Bell Atlantic spokesperson in Arlington, VA., said Hermina had tried to file a similar lawsuit in federal court in Washington seeking class status but a judge ''denied their claim of a pattern of discrimination.

''Bell Atlantic is proud of its record on diversity,'' said Ms. Rasmussen, who declined to comment specifically on the Philadelphia lawsuit because she had not seen it. ''Discrimination is totally unacceptable in the workplace at Bell Atlantic.''

The lawsuit accuses the company of racial discrimination and retaliation, negligence, breach of contract, and intentional infliction of emotional distress.

''Bell Atlantic knew this was going on,'' Hermina said. ''It's a culture of neglect, because apparently Bell Atlantic felt that these African-American employees don't matter.''

IN SUPPORT OF COLORADO HOUSE JOINT RESOLUTION 99–1020

HON. BOB SCHAFFER

OF COLORADO

HON. THOMAS G. TANCREDO

OF COLORADO

HON. JOEL HEFLEY

OF COLORADO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 1999

Mr. SCHAFFER. Mr. Speaker, in the matter of designating certain additional wilderness lands in Colorado, the Colorado General Assembly has spoken clearly.

By the passage of Colorado House Joint Resolution 99–1020, the General Assembly has established Colorado's official position on pending federal legislation designating approximately 1.4 million acres of land in Colorado as wilderness.

We hereby submit for the RECORD the full text of the resolution adopted in both houses of Colorado's General Assembly and urge all colleagues to consider the stated official policy of our state regarding this important matter.

Furthermore, we commend the leadership of the authors and prime sponsors of H.J.R. 99–1020, State Representative Diane Hoppe and State Senator Gigi Dennis.

Mr. Speaker, we hereby serve notice of our intent to support and represent Colorado's official position, as expressed in H.J.R. 99–1020, regarding the relevant legislation pending consideration by the U.S. House of Representatives.

HOUSE JOINT RESOLUTION 99–1020

By Representatives Hoppe, Smith, Alexander, Berry, Clapp, Kester, Larson, McKay, Miller, Mitchell, Spradley, Taylor, Webster, T. Williams, Allen, Dean, Decker, Fairbank, Hefley, King, Lawrence, Lee, McElhany, McPherson, Nunez, Paschall, Scott, Young.

Also Senators Dennis, Anderson, Arnold, Chlouber, Dyer, Epps, Evans, Hillman, Musgrave, Teck, Wattenberg, Wham, Congrove, Lamborn, Owen, Powers.

CONCERNING OPPOSITION TO H.R. 829, THE ''COLORADO WILDERNESS ACT OF 1999''

Whereas, H.R. 829, the ''Colorado Wilderness Act of 1999'', proposes to designate another approximately one million four hundred thousand acres of land in Colorado as wilderness prior to the revision of many of Colorado's forest plans, thereby usurping the United States Forest Service's land management review process and ignoring the original wilderness recommendations made to the United States Congress by the United States Bureau of Land Management (''BLM'') that totaled four hundred thirty-one thousand acres; and

Whereas, H.R. 829 was drafted without input from either the general public or local elected officials and does away with local control over land management; and

Whereas, Federal lands in Colorado have been exhaustively studied for their wilderness suitability under the ''Wilderness Act'' of 1964, the Department of Agriculture's second roadless area review and evaluation (RARE II), the wilderness evaluation by the BLM, the ''Colorado Wilderness Act of 1980'', and the ''Colorado Wilderness Act of 1993''; and

Whereas, Many acres of federal lands slated for wilderness designation do not qualify as pristine as required by the ''Wilderness Act'' of 1964; and

Whereas, The United States Congress considered the option of wilderness designation for federal lands in Colorado and designated several areas under the ''Wilderness Act'' of 1964 and approved two statewide wilderness bills. One of those statewide wilderness bills was enacted in 1980 and classified one million four hundred thousand acres as wilderness. The other was enacted in 1993 and provided wilderness protection for six hundred eleven thousand seven hundred acres, bringing the total wilderness acreage in Colorado to three million three hundred thousand to date; and

Whereas, The United States Congress declared that lands once studied and found to be unsuitable for wilderness designation should be returned to multiple-use management; and

Whereas, H.R. 829 creates a federal reserved water right for each wilderness area, an approach specifically rejected in the 1980 and 1993 wilderness bills; and

Whereas, The designation of downstream wilderness areas may result in the application of the federal ''Clean Water Act of 1977'' requirements in a manner that interferes with existing and future beneficial water uses in Colorado; and

Whereas, The overall effect of the designation of downstream wilderness areas will be to destroy Colorado's ability to develop and use water allocated to the citizens of this state under interstate compacts, thereby forfeiting Colorado's water to downstream states; and

Whereas, Many of our rural economies are dependent on a combination of multiple uses of our public lands, such as timber production, oil, gas, and mineral development, and motorized and mechanized recreation, all of which are prohibited by a wilderness designation and also severely inhibits the ability to conduct grazing activities on public lands; and

Whereas, Wilderness designations limit the land management options available to public land managers to protect forest health and dependent watersheds; and

Whereas, Additional wilderness designation puts increased pressure on the new designated lands as well as lands currently open to multiple-use activities and limits access to only the most physicially capable individuals; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein:

That the members of the Sixty-second General Assembly oppose H.R. 829, the ''Colorado Wilderness Act of 1999''.

Be It Further Resolved, That copies of this resolution be transmitted to the President of the United States, the United States Secretary of the Interior, the Director of the United States Bureau of Land Management, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Colorado's delegation in the United States Congress.

RUSSELL GEORGE,
Speaker of the House of Representatives.

RAY POWERS,
President of the Senate.

JUDITH M. RODRIGUE,
Chief Clerk of the House of Representatives.

PATRICIA K. DICKS,
Secretary of the Senate.