SENATE—*Thursday, July 15, 1999*

The Senate met at 9:30 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, Reverend J. Blaine Blubaugh, Graham Road United Methodist Church, Falls Church, VA.

We are pleased to have you with us.

PRAYER

Almighty God, as we gather here to execute the function of our responsible positions, we are reminded of Your generosity in blessing us with this great Nation of vast human and natural resources and count it a privilege to live and serve here.

We lift before You today these women and men who lead our Senate and express gratitude for their labors. We pray for our President, the President of this Senate, Members of this Senate, and all who serve with them. May they serve with compassion and hope. Empower them to realize their potential in this service.

May all who serve here carry both the privileges and burdens of authority with well-founded responsibility and duty. May they use their influence with honor and dignity and serve to be examples to citizenry wherever they travel so that all with whom they come in contact may realize that service to our Creator and humanity is an honorable work of life. May concrete and effective help be delivered from the votes on various issues and encouragement for those who are attempting to provide a better life for all.

We pray for wisdom, sensitivity, clarity of vision, and a correct perspective which avoids superficial or temporary solutions. We express gratitude for all who make a positive impact in our world, those who lead, build, and contribute to make a difference.

We pray for the families of those who serve in this Senate and ask for a measure of strength and grace for them to cope during their separation and a sense of joy when they are reunited. May all who serve here temper their toil with periods of rest, refreshment, and recreation, and may the spirit of peace and goodwill be the order of the day for this U.S. Senate session. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. Senator CRAPO of Idaho is designated to lead the Senate in the Pledge of Allegiance to the flag.

The PRESIDING OFFICER (Mr. CRAPO) 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 ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

SCHEDULE

Mr. SPECTER. Mr. President, I would like to make opening remarks on behalf of the distinguished majority leader to the following effect, that today the Senate will immediately proceed to a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of the Patients' Bill of Rights, with Senator NICKLES or his designee to be recognized to offer an amendment. Under the previous agreement, there will be 100 minutes of debate on that amendment. Further amendments will be offered and debated in anticipation of completing the bill today. Senators can expect votes throughout the day.

As a reminder, a cloture vote on the Social Security lockbox legislation will take place during tomorrow's session of the Senate.

I thank my colleagues for their attention.

Now, Mr. President, a parliamentary inquiry. May I proceed with the 15-minute order which has been allotted to me?

MORNING BUSINESS

The PRESIDING OFFICER. The Senate is in morning business. The Senator is recognized for 15 minutes.

Mr. SPECTER. I thank the Chair.

Mr. President, I had requested this time on behalf of myself and Senator BIDEN. We had originally requested 30 minutes, but because of the crowded schedule today, the time was set at 15 minutes. But I will be delighted to share the 15 minutes with Senator BIDEN if he arrives before the expiration of the time.

ELECTRONIC FILING OF SHIPPERS' EXPORT DECLARATIONS

Mr. SPECTER. Mr. President, I have sought recognition in this special order to introduce legislation, on behalf of Senator HELMS, the Chairman of the Foreign Relations Committee; Senator BIDEN, the ranking Democrat; Senator DORGAN and Senator SCHUMER, which would provide for electronic filing of Shippers' Export Declarations. This legislation takes up a recommendation of the Commission on Weapons of Mass Destruction and is directed to assist in our export control to stop those who would acquire the material for weapons of mass destruction from accumulating those weapons. At the present time, there are very sophisticated ways of ordering the component parts of weapons of mass destruction which are not known and cannot be readily ascertained because of the voluminous paper filings.

This legislation would call for electronic filing and would enable our Government to be able to regulate in a desirable fashion, without undue burden on exporters, materials which can be used for nuclear, biological, or chemical weapons. This is a recommendation of the Commission on Weapons of Mass Destruction which filed its report yesterday with copies to the President and to the legislative leaders.

This Commission was established by legislation under the Intelligence Authorization Act signed into law in October of 1996 when I chaired the Senate Intelligence Committee. This legislation was designed to deal with the enormous threat posed to the United States by weapons of mass destruction.

When I chaired the Intelligence Committee in 1995 and 1996, I was aghast at the kinds of problems which I saw with respect to rogue nations having ballistic capabilities for the delivery of nuclear weapons. Since that time, it has been publicly commented that North Korea has nuclear capability; that they have trajectory and ballistic capability to reach parts of the United States; that they pose an enormous threat. It is well known that other rogue nations seek ballistic capability as well. We now find that a nuclear device can be carried across national borders in a suitcase. We have seen in the experience of the Tokyo subway catastrophe the potential for biological and chemical warfare.

Those capabilities are so important that there needs to be preventive action to deal with them in advance of a catastrophe. Regrettably, our Government customarily reacts, instead of acting in anticipation.

The Commission was formed because there are now some 96 separate agencies dealing with weapons of mass destruction, and the Commission filed in its report a recommendation urging Presidential action with the suggestion that the authority be concentrated in the hands of the Vice President. There have been jurisdictional disputes, turf

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

battles, but the Vice President would have the clout to adjudicate disputes and to coordinate the efforts on this matter of such enormous national and international importance.

The Commission recommended providing staffing, with a director to the National Security Council, a top level position, to preside over a council of representatives from the various Departments—State, Energy, Defense, Commerce, et cetera—with ranking officials who have been confirmed by the Senate.

One of the key recommendations of the Commission on Weapons of Mass Destruction was to mandate electronic filing on export items which are in the category that they could provide component parts for weapons of mass destruction.

My staff, Dobie McArthur, has already taken the lead in circulating this legislation among a number of Senators. We have had a favorable response from Senator HELMS and Senator BIDEN, chairman and ranking member of the Foreign Relations Committee. There is an excellent opportunity that this provision could be included in a markup of Foreign Relations this month. As noted earlier, Senator DORGAN and Senator SCHUMER have also joined as cosponsors.

What this legislation does is to provide for the electronic filing of what is known and currently required as a shipper's export declaration. In 1995, the Customs Service and the Census Bureau created the automated export system, but that system has been utilized by only about 10 percent of the filers.

This legislation provides that the electronic filing requirement would come into operation 180 days after the Secretary of Commerce and the Secretary of Treasury certify that a secure Internet-based filing system is up and running. The requirements would be directed toward components which could be used in the manufacture of weapons of mass destruction.

The problem is illustrated by action taken by Iraq in the acquisition of weapons of mass destruction. In a very sophisticated way, when Iraq was purchasing its component parts, instead of buying them all at one time and all from a single supplier, or quite a number of items from a single supplier a few times, the Iraqis would buy an item here, an item there, an item somewhere else, from a wide variety of suppliers, so it was impossible, without some tracking system, to find out exactly what Iraq was doing as they were acquiring these components for weapons of mass destruction.

As we all know, there is dual use on many of these items; that is to say, they can be used for peaceful purposes or they can be used for putting together weapons of mass destruction. In this way, with a sophisticated system, a purchaser may acquire the ingredients to produce weapons of mass destruction.

Electronic filing will put the matter all under one umbrella. Without undue burden on shippers, there can be a determination as to what is being purchased which has the potential for being turned into a nuclear weapon, a biological weapon, or a chemical weapon of mass destruction.

Mr. President, how much time remains on my allotment of 15 minutes?

The PRESIDING OFFICER. Six minutes 14 seconds.

Mr. SPECTER. Mr. President, I will use that time on another subject of currency and importance.

GATHERING EVIDENCE FOR THE WAR CRIMES TRIBUNAL

Mr. SPECTER. Mr. President, the War Crimes Tribunal, which was created by United Nations resolution for prosecuting crimes against humanity arising in the former Yugoslavia, has brought very significant indictments out of the events in Bosnia. There have been indictments; there have been some convictions. The work of the War Crimes Tribunal has taken on even greater significance as a result of what has happened in the war with Kosovo, with the very noteworthy and important indictment against President Milosevic of Yugoslavia.

The Tribunal is now in the process of gathering evidence in Kosovo. Justice Louise Arbour, who is head of the War Crimes Tribunal and has given notice of her intention to leave to become a justice in the Canadian judicial system, visited the Senate back on April 30, 1999. She met with a group of Senators, including myself, and pointed out the need for the acquisition of evidence.

There had been a preliminary allocation of some $5 million. That was supplemented in the emergency appropriations bill with the direction for an additional $13 million, for a total of $18 million to go towards the Tribunal.

The FBI dispatched a group of investigators to acquire evidence in Kosovo, but they have run out of money. Those funds, I believe, are available in the Department of State. I have discussed this matter with the FBI Director Louis Freeh. I compliment the FBI and Director Freeh for their very prompt action in going to Kosovo to gather evidence.

From my own experience as district attorney of Philadelphia, I can personally attest to the fact that evidence has to be acquired when it is fresh. If you do not get it with immediacy, it disappears.

A part of the evidence acquisition has been to question women who were subjected to rape. In conversations with officials of the State Department yesterday, I found that the $50 million which has been appropriated for the United Nations High Commissioner on Refugees has not been released. So there is an urgency in making those funds available for a variety of purposes, including a substantial part of the $50 million to give attention to the women who have been rape victims—in part to counsel them for their own mental health and in significant part to acquire their testimony in the prosecution of those violent perpetrators of the rapes.

So I make these comments and urge that we move ahead with this funding which has been authorized by the Congress, $50 million to the U.N. High Commissioner on Refugees, and also urge that funding be provided in accordance with the direction of the Emergency Supplemental Appropriations Bill so the FBI can have the funding to proceed immediately to Kosovo to gather this very important evidence.

Ms. MIKULSKI. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I will.

Ms. MIKULSKI. First, I congratulate the Senator from Pennsylvania on his leadership in this area. As he knows, we have worked together, but he has certainly been in the forefront on the war crimes issue in particular, the issue of rape as a war crime. We thank him for that.

Does the Senator from Pennsylvania know why the money is not being released?

Mr. SPECTER. I thank my distinguished colleague from Maryland for those kind remarks.

In response, I am advised by officials of the State Department that early on were some problems in the United Nations agency. There is chaos, as one might expect, in Kosovo. The Kosovars are returning to their homes. Some have raised a point that the money was not being officially utilized. I have been advised by the State Department that the issue has now been corrected; so when I made inquiries of the State Department yesterday to liberate $2 million for the FBI, I was told that they had this collateral problem and have begun discussions on the matter with our appropriate colleagues to get the funds released.

Ms. MIKULSKI. Just for a point of information and clarification back to the Senator from Pennsylvania, in a meeting yesterday with the women of the Senate—a bipartisan meeting, I might add—I believe we were told there is a hold on this among our colleagues. Perhaps we can work together to lift that hold to ensure that the bureaucracy concerns are dealt with so we can go on with the mutual humanitarian concerns that I know we share on both sides of the aisle.

Again, I thank the Senator for his leadership on this in the most sincere, kind way.

Mr. SPECTER. If I may respond, that is consistent with what I was told. I did not want to use the expression ''hold'' because of the pejorative connotation in this Chamber. I made the same point by saying that there were obstacles to getting the funds released. But I think it is a matter of enormous importance. I am glad to hear the bipartisan group of women were meeting yesterday to exercise their leadership. This business about crimes against humanity and rape is just horrendous. We have to act, and act promptly.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the Senator from West Virginia is now recognized for 15 minutes.

THE STEEL IMPORT CRISIS: ANOTHER 1,800 U.S. JOBS AT RISK

Mr. BYRD. Mr. President, I thank the Chair.

For months now, I and many of my colleagues, including the very distinguished senior Senator from Pennsylvania, Mr. SPECTER, have been alerting this Congress to the devastating nature of the steel import crisis that has plagued this Nation since the end of 1997.

A year and a half later, in yesterday's Wheeling Intelligencer headlines, we see the statement: ''Sixth Steelmaker Claims Bankruptcy.'' Let me repeat that headline from the Wheeling, WV, newspaper: a sixth U.S. steel mill has declared bankruptcy.

With that announcement, U.S. steelworkers in West Virginia, and elsewhere, are wondering when the Clinton administration and this Congress will realize that enough is enough. I have no doubt that the 1,800 people who are employed at Gulf States Steel, Inc., in Gadsden, AL—the sixth U.S. steel mill to declare bankruptcy since the steel import crisis began—are also wondering why no one is acting on a long-term basis to prevent the illegal steel dumping that has jeopardized their jobs.

I say enough is enough. Six companies declare bankruptcy, more than 6,200 jobs are jeopardized, and this Administration and this Congress still fail to act:

1,800 jobs in Gadsden, Alabama;

200 jobs in Alton, Illinois;

140 jobs in Holsapple, Pennsylvania;

2,400 jobs in Vineyard, Utah; and

540 jobs in Washington, Pennsylvania, and Massillon, Ohio.

For those who believe that the steel industry is not in difficulty, tell it to these families. Tell it to those workers who have lost their jobs. These men and women and their families are the human faces of the steel crisis. They are not just numbers. They are not just statistics. These are real faces. These are real men and women. These are real children of the steel crisis.

While we do nothing, the list of the victims of the steel import crisis grows ever longer. I hear from U.S. steelworkers. They want to know how many more bankruptcies it will take to make the President of the United States and the Congress understand that immediate action must be taken against the tide of cheap and illegal steel imports into this country. How many more U.S. jobs must be lost before we tell our trading partners that enough is enough?

We already know that there will be no quota bill passed by this Congress. The House passed a quota bill. The Senate has not passed a quota bill and will not pass a quota bill. Penalties are not likely against Brazil and Russia, even though the Commerce Department and the International Trade Commission found them to be guilty of dumping steel illegally on American shores. Instead of finding a long-term, global solution, this administration chooses to promote piecemeal solutions and negotiate suspension agreements with those two countries. Changes in U.S. trade laws to strengthen enforcement seem even more unlikely.

According to the Wheeling, WV, Intelligencer, the U.S. steel industry is still holding on to the thin hope that the steel loan guarantee program, which the Senate has already approved twice, will quickly, hopefully, be approved in the House of Representatives. While this is only a short-term program to help U.S. steel mills that have been hurt by the steel import crisis, I thank my colleagues for passing the Emergency Steel Loan Guarantee Program, authored by me, and a similar program, the Emergency Oil and Gas Guaranteed Loan Program, authored by Senator DOMENICI.

On June 21, the Senate requested a conference with the House on H.R. 1664, which contains the steel loan guarantee and the oil and gas loan guarantee, and conferees have been appointed by the Senate. I am hopeful that this conference will take place soon, and we have every right to expect that that conference will take place soon.

There was a commitment entered into not too long ago, at the time the emergency supplemental appropriations bill was in conference between the two Houses. A commitment was entered into by the leadership of both the House and Senate to call up the bill in the Senate. That was done. The majority leader of the Senate and the minority leader kept their commitments. The bill was called up in the Senate, and the steel loan guarantee program and the oil and gas loan guarantee program were passed by the Senate for the second time and sent to the House. It is to be expected that a conference will take place, as the Senate has requested. Hopefully, that conference will then meet and act, and act quickly, and hopefully, further, both Houses will quickly adopt a conference report and send it on to the President for his signature.

Illegal steel dumping has created exigent circumstances for the U.S. steel industry, and the loan guarantees will provide help to companies, small and middle-sized steel companies that employ thousands of hard-working Americans. These loan guarantees would work through the private market, help to sustain good-paying jobs, support our national security, and save taxpayers millions of dollars from lost tax revenues and increased public assistance payments for things such as unemployment compensation, food stamps, and worker retraining.

The fate of the loan programs rests today in the hands of the U.S. House of Representatives. With great respect, I urge the House to act quickly. On behalf of U.S. steel mills and U.S. steelworkers, for those 1,800 steelworkers at great risk with Gulf States Steel in Alabama, for the thousands of other steelworkers and their families across the country who cry out for help, I urge the other body to take action and to support the Emergency Steel Loan Guarantee Program.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 28 seconds remaining.

Mr. BYRD. Does the distinguished Senator from Alabama wish time?

Mr. REID. Mr. President, if I could interrupt my friend from West Virginia, the Senator from Maine has requested 5 minutes and there isn't time left for that unless he would yield to the Senator. Otherwise, she would—

Mr. BYRD. I would be very happy to yield to the Senator. First, I would like to inquire of the distinguished Senator from Alabama if he wishes some of my time.

Mr. SESSIONS. I thank the Senator from West Virginia. I do not. I expect to follow the Senator from New Hampshire. I do not seek the floor now.

Mr. BYRD. I thank the Senator.

Mr. SESSIONS. I do appreciate the leadership of the Senator from West Virginia on the steel question. It is important; a company in critical condition, with 1,800 employees in Alabama and a 30-year record of business success, which has, in just the last week, gone into bankruptcy.

And I do believe the loan guarantee could help save that historic company. I thank the Senator for his leadership.

Mr. BYRD. I thank the distinguished Senator. With my remaining time, I am very glad to yield to the Senator from Maine, Ms. SNOWE, if she wishes to have my remaining minutes.

Ms. SNOWE. I thank the Senator from West Virginia. I appreciate that. How much time remains?

The PRESIDING OFFICER. Four minutes 4 seconds.

Mr. GREGG. Mr. President, I ask unanimous consent that in addition to the 4 minutes she would be receiving from the Senator from West Virginia, the Senator from Maine receive 5 additional minutes in morning business.

Mr. REID. Mr. President, I don't want to be obstreperous, but we have to get to the bill. That is why I urged the Senator from West Virginia to give his time to the Senator from Maine. I have no problem with that. But as far as extending time, it would have to come off the bill.

The PRESIDING OFFICER. There is objection. Does the Senator from Maine desire to have the remaining time?

Ms. SNOWE. Yes, I do. I thank the Senator from West Virginia for yielding.

Mr. BYRD. Mr. President, my time is rapidly dwindling. I would like to know whether or not she wishes my remaining time.

Ms. SNOWE. Yes.

Mr. BYRD. I ask unanimous consent that my remaining time may be allotted to the Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

CONGRATULATING THE U.S. WOMEN'S SOCCER TEAM

Ms. SNOWE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 141, a resolution submitted earlier by Senator SNOWE, Senator REID, and others.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 141) to congratulate the United States Women's Soccer Team on winning the 1999 Women's World Cup Championship.

There being no objection, the Senate proceeded to consider the resolution.

Ms. SNOWE. Mr. President, I rise today to introduce a resolution along with Senators REID, MURRAY, MIKULSKI, COLLINS, LANDRIEU, FEINSTEIN, BOXER, HUTCHISON, and LINCOLN honoring the U.S. Women's National Soccer Team for their outstanding performance and dramatic victory in winning the 1999 Women's World Cup. This is a resolution that I've worked on with Senator Reid, who spoke eloquently earlier in the week on the World Cup victory, and I want to thank him for his strong support for the team and its accomplishments.

The U.S. Womens' National Soccer Team has got to be the single greatest sports story this year, and certainly of this decade. Capturing the hearts and the imagination of America with remarkable play and even higher levels of teamwork and good sportsmanship, the U.S. Women's Soccer Team has ushered in a new era in women's athletics.

We are not just talking about talented athletes here—we're talking about role models who are driven to play by the thrill of victory and the excitement of competition. And perhaps therein lies the true appeal of this team—in a time when money and commercialism often seem to overwhelm the true spirit of sport, along comes these extraordinary women who restore our faith in the virtues of athletic competition and truly give us something to cheer about.

Is it any wonder, then, that these women—as well as women from other nations who have come to the United States in search of World Cup glory—have been ''packing them in'' wherever they have played. Indeed, The Boston Globe reported that only the Pope has drawn more people to Giants Stadium in New Jersey, and all 65,080 seats at Soldier Field in Chicago were sold-out for the United States-Nigeria game—the largest crowd ever to see a soccer game at that venue.

For the final, over 90,000 fans were on hand to see the national team's dramatic victory over China—a record for an all-women sporting event. Not only has women's soccer arrived, it's taken the nation by storm.

From coast to coast, Americans tuned in to watch our team play world-class soccer—and they weren't disappointed. In fact, it's estimated that about 40 million viewers watched all or part of that nail-biting final match. That's nearly double the rating for the men's World Cup final last year between Brazil and Italy, and bests even the average national ratings for the recent NBA finals between the New York Knicks and the San Antonio Spurs.

Those of us who viewed the tournament were rewarded with victory after victory, as well as the joy of watching athletes who truly love to play. And if Saturday's real-life finale had instead been the ending to a Hollywood movie, it would have been panned for being utterly unbelievable. Who would have thought that after 120 minutes of regulation play, the score would still be tied at zero-zero, with penalty kicks the only thing standing between defeat and victory?

Throughout all that time—with the nation watching, waiting, hoping, and anticipating, with 90,000 chanting fans hanging on every kick, every header, every pass, and every breakaway—our team never gave up or gave in. Goalkeeper Briana Scurry was nothing short of remarkable, robbing the Chinese team of a critical penalty kick. And at the end, when Brandi Chastain's shot came to rest at the back of the opposing team's net, it all paid off in one of those incredible sporting moments that will go down not only in the history of sports, but in the history of womens' struggles for recognition and equality.

There is no question, Mr. President, that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can experience a positive competitive spirit applicable to any aspect of life.

They can truly learn how to ''take the ball and run with it'', not only on the playing fields, but in classrooms, boardrooms, and, yes, even the Committee rooms of Congress. Through athletics, girls and women can achieve a healthy body and a healthy mind. They gain the self-esteem to say ''give me the ball'' with the clock running out and the game on the line.

You know, when I was growing up, girls and women did not have much opportunity to participate in competitive athletics. But the enactment of Title IX of the Education Amendments of 1972 changed all that for good. Finally, with the passage of this landmark legislation, women would be afforded equitable opportunities to participate in high school and college athletics.

And the results are indisputable. Since Title IX's enactment, women and girls across the nation have met the challenge of participating in competitive sports in record numbers. In the past 28 years, the number of college women participating in competitive athletics has gone from fewer than 32,000 to over 128,000 in 1997. Before Title IX, fewer than 300,000 high school girls played competitive sports. As of 2 years ago, that number had climbed to almost 2.6 million.

The U.S. Women's Soccer Team has not only underscored the achievements of Title IX, but has encouraged even more young women to get into the arena and onto the playing fields. You know, it used to be said that girls were made of ''sugar and spice and everything nice.'' Well, the U.S. Women's Soccer Team proved that there is room for being both ''nice'' and determined. There is room for being both a woman and a competitor.

Indeed, it astounds me when I think of how far we have come since I introduced the original joint resolution of Congress establishing the very first National Girls and Women in Sports Day back in 1986. Where dreams of athletic glory were once almost the exclusive domain of boys, today—thanks in large part to out Women's National Soccer Team—girls now have aspirations of their own.

Watching this team has inspired a whole generation of girls to believe that they can go as high and as far as their talent—and their drive—will take them. Indeed, I have no doubt that girls across America will be running around the soccer fields this summer

pretending to be Briana Scurry, Michelle Akers, Mia Hamm, or whoever their particular heroine may be. Certainly, on this team, there are plenty from which to choose.

The U.S. Women's National Soccer Team is but one more example of how, when it comes to athletics, women are ''coming off the bench,'' as it were, and taking their rightful place on the fields, on the courts, in the schoolyards and in our stadiums. They prove, once again, that women are just as sure-footed in cleats as they are in heels or whatever other shoes they decide to fill.

In addition to commending the team for all they've done, I would like to take this opportunity to thank the organizers and sponsors of the entire event for the extraordinary job they did in making this tournament a success beyond anyone's wildest dreams. I have no doubt these past few weeks will have an impact on sports in America that will resonate for years.

Again, let me just express my most sincere appreciation to each and every member of the U.S. Women's World Cup Team for making us so proud. They have honored their nation with their sportsmanship, and they have honored themselves with their commitment to each other and their dedication to excellence. Now it is our turn to honor them, and I am pleased to have my colleagues' support for this resolution.

The PRESIDING OFFICER. Without objection, the resolution is agreed to, and the preamble is agreed to.

The resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 141

Whereas the Americans blanked Germany in the second half of the quarter finals, before winning 3 to 2, shut out Brazil in the semifinals, 2 to 0, and then stymied China for 120 minutes Saturday, July 10, 1999;

Whereas the Americans, after playing the final match through heat, exhaustion, and tension throughout regulation play and two sudden-death 15-minute overtime periods, out-shot China 5–4 on penalty kicks;

Whereas the Team has brought excitement and pride to the United States with its outstanding play and selfless teamwork throughout the entire World Cup tournament;

Whereas the Americans inspired young women throughout the country to participate in soccer and other competitive sports that can enhance self-esteem and physical fitness;

Whereas the Team has helped to highlight the importance and positive results of title IX of the Education Amendments of 1972 (20 U.S.C. 1681), a law enacted to eliminate sex discrimination in education in the United States and to expand sports participation by girls and women;

Whereas the Team became the first team representing a country hosting the Women's World Cup tournament to win the tournament;

Whereas the popularity of the Team is evidenced by the facts that more fans watched the United States defeat Denmark in the World Cup opener held at Giants Stadium in New Jersey on June 19, 1999, than have ever watched a Giants or Jets National Football League game at that stadium, and over 90,000 people attended the final match in Pasadena, California, the largest attendance ever for a sporting event in which the only competitors were women;

Whereas the United States becomes the first women's team to simultaneously reign as both Olympic and World Cup champions;

Whereas five Americans, forward Mia Hamm, midfielder Michelle Akers, goalkeeper Briana Scurry, and defenders Brandi Chastain and Carla Overbeck, were chosen for the elite 1999 Women's World Cup All-Star team;

Whereas all the members of the 1999 U.S. women's World Cup team—defenders Brandi Chastain, Christie Pearce, Lorrie Fair, Joy Fawcett, Carla Overbeck, and Kate Sobrero; forwards Danielle Fotopoulos, Mia Hamm, Shannon MacMillian, Cindy Parlow, Kristine Lilly, and Tiffeny Milbrett; goalkeepers Tracy Ducar, Briana Scurry, and Saskia Webber; and midfielders Michelle Akers, Julie Foudy, Tiffany Roberts, Tisha Venturini, and Sara Whalen; and coach Tony DiCicco—both on the playing field and on the practice field, demonstrated their devotion to the team and played an important part in the team's success;

Whereas the Americans will now set their sights in defending their Olympic title in Sydney 2000;

Resolved, That the Senate congratulates the United States Women's Soccer Team on winning the 1999 Women's World Cup Championship.

PATIENTS' BILL OF RIGHTS ACT OF 1999—Resumed

The PRESIDING OFFICER. The clerk will report the pending bill.

The assistant legislative clerk read as follows:

A bill (S. 1344) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Pending:

Daschle amendment No. 1232, in the nature of a substitute.

Collins amendment No. 1243 (to the language proposed to be stricken by amendment No. 1232), to expand deductibility of long-term care to individuals; expand direct access to obstetric and gynecological care; provide timely access to specialists; and expand patient access to emergency medical care.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask the Senator from New Hampshire to manage this portion of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire, Mr. GREGG, is recognized.

AMENDMENT NO. 1250 TO AMENDMENT NO. 1243

(Purpose: To protect patients and accelerate their treatment and care)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1250 to amendment No. 1243.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

SEC. . PROTECTING PATIENTS AND ACCELERATING THEIR TREATMENT AND CARE.

(a) FINDINGS.—The Senate makes the following findings with respect to the expansion of medical malpractice liability lawsuits in Senate bill 6 (106th Congress):

(1) The expansion of liability in S. 6 (106th Congress) would not benefit patients and will not improve health care quality.

(2) Expanding the scope of medical malpractice liability to health plans and employers will force higher costs on American families and their employers as a result of increased litigation, attorneys' fees, administrative costs, the costs of defensive coverage determinations, liability insurance premium increases, and unlimited jury verdicts.

(3) Legal liability for health plans and employers is the largest expansion of medical malpractice in history and the most expensive provision of S. 6 (106th Congress), and would increase costs ''on average, about 1.4 percent of the premiums of all employer-sponsored plans,'' according to the Congressional Budget Office.

(4) The expansion of medical malpractice lawsuits would force employers to drop health coverage altogether, rather than take the risk of jeopardizing the solvency of their companies over lawsuits involving health claims.

(5) Seven out of 10 employers in the United States have less than 10 employees, and only 26 percent of employees in these small businesses have health insurance. Such businesses already struggle to provide this coverage, and would be devastated by one lawsuit, and thus, would be discouraged from offering health insurance altogether.

(6) According to a Chamber of Commerce survey in July of 1998, 57 percent of small employers would be likely to drop coverage if exposed to increased lawsuits. Other studies have indicated that for every 1 percent real increase in premiums, small business sponsorship of health insurance drops by 2.6 percent.

(7) There are currently 43,000,000 Americans who are uninsured, and the expansion of medical malpractice lawsuits for health plans and employers would result in millions of additional Americans losing their health insurance coverage and being unable to provide health insurance for their families.

(8) Exposing health plans and employers to greater liability would increase defensive medicine and the delivery of unnecessary services that do not benefit patients, and result in decisions being based not on best practice protocols but on the latest jury verdicts and court decisions.

(9) In order to minimize their liability risk and the liability risk for the actions of providers, health plans and employers would constrict their provider networks, and micro

manage hospitals and doctors. This result is the opposite of the very goal sought by S. 6 (106th Congress).

(10) The expansion of medical malpractice liability also would reduce consumer choice because it would drive from the marketplace many of the innovative and hybrid care delivery systems that are popular today with American families.

(11) The provisions of S. 6 (106th Congress) that greatly increase medical malpractice lawsuits against private health programs and employers are an ineffective means of compensating for injury or loss given that patients ultimately receive less than one-half of the total award and the rest goes to trial lawyers and court costs.

(12) Medical malpractice claims will not help patients get timely access to the care that they need because such claims take years to resolve and the payout is usually made over multiple years. Trial lawyers usually receive their fees up front and which can be between one-third and one-half of any total award.

(13) Expanding liability lawsuits is inconsistent with the recommendations of President Clinton's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, which specifically rejected expanded lawsuits for health plans and employers because they believed it would have serious consequences on the entire health industry.

(14) At the State level, legislatures in 24 States have rejected the expansion of medical malpractice lawsuits against health plans and employers, and instead 26 States have adopted external grievance and appeals laws to protect patients.

(15) At a time when the tort system of the United States has been criticized as inefficient, expensive and of little benefit to the injured, S. 6 (106th Congress) would be bad medicine for American families, workers and employers, driving up premiums and rewarding more lawyers than patients.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that—

(1) Americans families want and deserve quality health care;

(2) patients need health care before they are harmed rather than compensation provided long after an injury has occurred;

(3) the expansion of medical malpractice liability lawsuits would divert precious resources away from patient care and into the pockets of trial lawyers;

(4) health care reform should not result in higher costs for health insurance and fewer insured Americans; and

(5) providing a fast, fair, efficient, and independent grievances and appeals process will improve quality of care, patient access to care, and is the key to an efficient and innovative health care system in the 21st Century.

(c) NULLIFICATION OF PROVISION.—Section 302 of this Act shall be null and void and the amendments made by such section shall have no effect.

Mr. GREGG. Mr. President, this amendment goes to one of the critical issues in the Kennedy health care bill that we have been debating for the last few days, which is the fact that the bill dramatically expands lawsuits in this country.

Our Nation is already far too litigious; 2.2 percent of our gross national product goes into lawsuits every year. That is literally hundreds of billions of dollars every year absorbed in our legal system—dollars that could be used much more productively.

Compared to other nations in the world, we are the most litigious by far. For example, Japan only uses about .8 percent of its gross national product for lawsuits. Canada, our neighbor, uses about .5 percent of its gross national product for lawsuits. These lawsuits that have, for years, been used against individuals and manufacturers accomplish some good, but in many instances they end up chilling events, creating greater costs for consumers and causing such things as research to be retarded, especially in the area of health care. This is a sensitive issue because things such as the development of new devices and the need for doctors to practice defensive medicine are issues that are highlighted and aggressively expanded by the expensive use of lawsuits.

Just this week, for example, we saw a $4 billion judgment—$4 billion—against one manufacturer in this country. That type of judgment against a medical manufacturer, for example, would end up being passed on to the consumers through an increase in premiums and an increase in the cost of insurance.

We are as a society simply too litigious. In many areas we as a society—as a government—have decided that lawsuits should be not cut off but at least curtailed to some degree.

However, the other side of the aisle has come forward with a bill which would dramatically expand the number of lawsuits available in this country. It would essentially be the ''Kennedy Annuity for Attorneys Act'' rather than a health care bill. This bill, as proposed by the other side, would create the opportunity for 48 million more incidents of lawsuits involving 48 million more individuals, which could then be multiplied in a geometric progression.

Let's just take one situation. Right here, we have the example of how 137 different doctors might treat one simple type of medical problem, ''uncomplicated urinary tract infection.'' There are 82 different treatments from 137 different treating physicians. If one of these doctors picked a treatment which didn't work, under the Kennedy bill that would immediately open a brand new lawsuit against a variety of different individuals, including the employer, the HMO, and the insurer. That lawsuit could be multiplied literally by hundreds of different treatments and hundreds of different opportunities, because this bill dramatically expands the opportunity for lawsuits.

Another example of the expansion of lawsuit opportunity under this bill is this chart. All these different blue lines are new regulatory actions which are available under the Kennedy bill. Fifty-six new causes of action are created under this bill. It is truly an explosion of opportunity for attorneys to bring lawsuits.

There would be a whole new business enterprise created in this country, and it would be a massive enterprise, the purpose of which would be to bring lawsuits under the Kennedy bill. And the practical implications of this are that the cost of health care in this country would go up dramatically.

The Congressional Budget Office has estimated that this bill, the Kennedy bill, because of the lawsuit language which allows attorneys to go out and sue in a variety of different areas—which right now they do not have the opportunity to sue in—would increase the cost of premiums by 1.4 percent.

What does that mean? That means that approximately 600,000 Americans would be thrown off the insurance rolls. The practical effect of this expansion in lawsuits is that you would see a dramatic expansion in the cost of health care in this country and an equally dramatic expansion in the number of uninsured in this country.

In addition, the cost of insurance for doctors would go up dramatically. Under a study done by the doctors' insurance agents—not necessarily the HMO insurance agents or the health plan insurance agents but, rather, the doctors—it is estimated that the premiums on the errors and omissions policies of doctors would go up somewhere between 8 and 20 percent relative to the ERISA part of their insurance.

This means we would see a massive expansion of defensive medicine being practiced. We already know that defensive medicine is practiced excessively in this country, which means procedures undertaken not because the doctor believes they have to be undertaken but they are undertaken to protect a doctor from a lawyer. We would see a massive expansion of this defensive medicine by doctors.

What does that do? That drives up the cost of medicine, and it does very little to improve the quality of care.

Equally important, what we would see is a deterioration in the availability of doctors to practice specialties, which are unique and needed in rural areas—especially OB/GYN—which we have already seen driven out of many rural areas in this country because of the cost of the error and omissions policies. An 8 to 20 percent increase in the cost of those policies would have a devastating impact on an area of medicine which is already underrepresented in the rural parts of this country.

Six-hundred thousand fewer insured people, and what do we get for this expansion in lawsuits? What does the consumer get for this huge expansion in lawsuits? They get a lot more attorneys. There is no question about that. They get a lot more wealthy attorneys. There is no question about that. They will get a lot more attorneys who will be able to contribute to the Democratic National Committee. There is no

question about that. The trial lawyers love this Kennedy bill. They are enthusiastic for this bill. If there is a basic beneficiary for the Kennedy bill, it is the trial lawyers in this country. That is what I call this bill. It is the ''attorneys' annuity bill'' rather than the Patients' Bill of Rights.

What do the consumers get when they get involved in these lawsuits? They will get very little. Will they get greater care? No. They will have to go to court to get care under this bill. A lawsuit has to be brought. Do they get better results? Absolutely not. The attorneys get 54 percent of the recovery. That leaves the litigants with a combined 46 percent after this, one-half being an economic loss and one-half being compensation for pain and suffering.

It makes very little sense when you realize that the only winners under the Kennedy bill are actually the attorneys in the expansion of lawsuits that will occur as a result of the bill.

So where does that bring us? We have come up with a better idea in our bill. We say that rather than creating a brand new opportunity to create all sorts of new lawsuits and add a lot of new attorneys to the American culture, who really add very little in the way of productivity—or better medicine, for that matter—let's let doctors take a look at what doctors are deciding for patients.

Under our bill, a patient, rather than having to go to court to have their concerns addressed, gets to have their concerns addressed by, first, a doctor in the specialty dealing with the type of problem the patient has within the clinic or the group by which the person is being served. That doctor is independent. That doctor makes a decision: Did that patient have the right care or did that patient have the wrong care? Or should that patient get more care? If the patient isn't comfortable with that decision, then the patient can go outside the clinic, outside the insurance group, and have another doctor, who is appointed after having been prequalified by a certified either State or Federal agency, and have another doctor review that patient's care.

If that doctor decides that the patient needs some other type of care—something that the clinic or the interests group did not decide that the patient should have—then that is binding. It is binding on the insurance group. There is an independent review at two different points, one inside and one outside, done by doctors who have a binding decision on the patient. If the patient again is uncomfortable with that decision, then the patient can bring a suit. But it is limited as to amount of damages, and it is limited to the cost of the event.

The practical approach they have put forward is to try to get the patient care, and get the patient good care and efficient care quickly, and make sure they have gotten fair treatment and they have had a review by the appropriate doctors.

As a result, we reduce the cost of health care. As a result, we keep more people insured. As a result, we allow more people to participate in health insurance in this country. As a result, I admit that we do not create as many opportunities for attorneys to bring lawsuits. That is absolutely right. We do not create a bill that basically underwrites the legal profession in this country. That is absolutely right. We assist patients in getting care.

That is a big difference between these two bills. The Democratic bill, the ''Attorneys' Annuity Act,'' the ''Kennedy Patients' Bill of Rights,'' is essentially a bill to promote attorneys. Our bill is a bill to promote health care.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the fact of the matter is, in the United States of America, this great country we live in, there are basically two groups of people who cannot be sued: foreign diplomats and HMOs. That is not the way it should be. We are saying HMOs should be treated like every other entity in the United States.

Today, even an HMO involved directly in dictating, denying, or delaying care for a patient can use a loophole in what we call ERISA to avoid any responsibility for the consequences of its actions. The American people simply do not support that. ERISA was designed to protect employees when they lose pension benefits to fraud, mismanagement, and employer bankruptcies, which occurred so often during the 1960s.

The law now has the effect of allowing an HMO to deny or delay care, with no effective remedy for patients. What they are trying to do is strike a provision from our bill which simply ensures HMOs can be held accountable for their actions, a responsibility of every other industry to consumers. They talk about this in vague abstract, as if this is some big cabal to change the law. All we want to do is make the law apply to HMOs.

Let's talk about a real person. Florence Corcoran is an example of the need to hold HMOs accountable. She lost a baby because the HMO refused the doctor's request for hospitalization in the last days of her pregnancy. The HMO would pay for only 10 hours of at-home care. During the final months of pregnancy, when no one was on duty, her baby went into distress and died. Because Florence received health care coverage through an employer, they had no recourse or remedy for the death of this baby. The HMO was not responsible under the law for any cost because the Corcorans never incurred any medical expenses for the loss of their baby.

The court of appeals—the court that is highest except for the Supreme Court in this country—said, and I quote from a Fifth Circuit Court of Appeals:

> The result ERISA compels us to reach means that the Corcorans have no remedy, State or Federal, for what may have been a serious mistake. This is troubling for several reasons. First, it eliminates an important check on the thousands of medical decisions routinely made in the burgeoning utilization review system. With liability rules generally inapplicable, there is . . . less deterrence of substandard medical decisionmaking.

In another case, another Federal judge, Judge William Young, said:

> ERISA has evolved into a shield of immunity that protects health insurers . . . from potential liability for the consequences of the wrongful denial of health benefits.

That is from the case of Andrews-Clarke v. Travelers Insurance Company, decided last year.

All we want to do is be able to hold the HMOs accountable.

What about the cost of this? We have an independent study by Coopers & Lybrand that found the cost to be as little as 3 cents per person per month. We can handle that. That is fairness.

This is not going to touch off a flood of lawsuits. In fact, it will make people feel better about their health care and, in fact, make health care providers be more diligent in rendering adequate, complete care to their patients. It is not going to create massive lawsuits, as Coopers & Lybrand said.

The Republican provision leaves patients with no recourse if benefits are denied. That is wrong.

I yield 10 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, it is Thursday and most of the week we have seen amendments and offerings from the majority party that do little or nothing for the vast majority of Americans.

The Gregg amendment before us, however, is an amendment that would do something. It would prevent accountability. It would say that patients have no right to expect accountability on the part of HMOs and the insurance companies.

USA Today, in an editorial, says there are ''100 Million Reasons that the GOP's Health Plan Fails.'' That is the number of people not covered by our opponent's health plan. The majority of the American people with private insurance are not helped by their proposal.

Now, some of my colleagues say that doesn't matter because the States cover these folks. Mr. President, 38 States don't guarantee access to specialists; 48 States don't hold plans accountable; 29 States don't provide for continuity of care; 39 States don't provide for omsbudsmen; 27 States don't provide a ban on financial incentives to

limit care. The fact is, the argument that the States do this is a specious argument.

Let me go back to a couple of cases I have described in the past to illustrate my point. I know some here in the Senate say this debate is not about individual cases, but I disagree. Ethan Bedrick was born in circumstances that were devastating, the umbilical cord wrapped around his neck causing partial asphyxiation. Consequently, he was born with cerebral palsy and was a spastic quadriplegic. He began to get therapy.

At age 14 months, the HMO said: We are going to cut back on Ethan's therapy.

The doctor said: You shouldn't cut back on the therapy. Ethan has a chance to be able to walk by age 5.

The HMO says: A 50 percent chance of being able to walk by age 5 is minimal or insignificant. Therefore, we won't pay for it.

Now, is somebody going to protect Ethan? Does anything proposed by anyone on the other side of the aisle in the last 3 days solve this problem? The answer is no. In nothing they proposed can they say they will have solved this problem—not just for Ethan but for all the other little Ethans in our country. They will deny him the rights that he ought to have.

What about Jimmy Adams? We had a big debate yesterday about emergency care. One of my colleagues stood up and said little Jimmy would be covered under their amendment. That is not the case. Jimmy Adams got sick with a 104 degree fever in the middle of the night. His mother and father called the HMO. They were told to go to the Scottish Rite Hospital way across the city of Atlanta.

Where is it? the mother asked.

Find a map, she was told.

So they got in the car at 2 in the morning and headed for Scottish Rite Hospital. They passed the first hospital, they passed the second and third hospitals—because they were not authorized to go to these emergency rooms by their HMO. An hour into the trip, they pulled into Scottish Rite Hospital, having passed three emergency rooms because the HMO wouldn't have paid for Jimmy's care there. At that point, Jimmy Adam's heart had stopped. They were able to get his heart restarted. They intubated him. He was a very sick young man. He survived. However, gangrene from that episode caused Jimmy to lose both of his hands and his feet.

This is young Jimmy without hands or feet. He passed three emergency rooms because the HMO said: You have to be in a car an hour to go to the emergency room we will pay for.

Is there anything offered by anybody on the other side yesterday that would have solved this problem? The answer is no because Jimmy's family is enrolled in an HMO that would not be covered under our opponent's proposal. No emergency room proposition offered by anyone over there, even though it was described in wonderful terms, would have done anything to help the Jimmy Adamses in a good many States in this country.

If you think that is wrong, I challenge anyone to tell me how you will receive this protection if you are among the 100 million not covered under the majority's bill and live in a State that doesn't have this coverage. That is the problem with the proposal by the majority party.

Let me give another example. This case deals with the issue of who determines what care is medically necessary, doctors or insurance company bureaucrats. This example was used by Dr. GREG GANSKE, a Republican Congressman from Iowa, who happens to be a reconstructive surgeon. This is a picture of a child with a very serious medical problem, a cleft lip. Dr. GANSKE contacted his colleagues in reconstructive surgery, and Mr. President, he found that 50 percent of them had cases such as this denied. In cases dealing with reconstructive surgery, 50 percent had cases denied because they were not medically necessary.

Think of that. Think of being the mother or father of this young child and being told reconstructive surgery is not medically necessary. Ask yourself whether you think that is reasonable. Yet it happens in this country and will happen again under the Republican bill because they do not allow a patient's doctor to determine what is medically necessary.

Let me show you another picture of a child with the same cleft lip problem. Now let me show Members what happens when reconstructive surgery gives this young child a chance, an opportunity. Here is the same child. Take a look at what someone decides is ''medically necessary'' and what it will mean to this young child's life. This picture demonstrates what reconstructive surgery can do for this wonderful child.

As these real cases illustrate, this debate is not about theory. It is not about arguing the terminology in some half-baked plan that doesn't do much. It is about providing assurance and guarantees to people in this country. Help this young child. Provide protection for Jacqueline Lee who fell off a cliff 40 feet, fractured her body in three places, and unconscious, is helicoptered to an emergency room. She is unconscious, out cold on a gurney. She survives and then is told by her HMO that she did not get prior approval for her emergency room visit and therefore they will not pay it.

Or Ray, the father who, with tears in his eyes, told about Matthew, his 12-year-old son, who lost his battle with cancer because they were forced to fight both the cancer and the insurance company to provide for the treatment necessary to try to save him. Ray says, ''We could not fight cancer and the insurance company at the same time, and it is not fair to ask us to do it.''

I say this to you, those who say you are providing wonderful protection—you are not. This editorial says you are not and we know you are not and you know you are not. Mr. President, 100 million people are left out of your plan and you say: Yes, they are left out of our plan but the States cover them. They do not and you know they do not. Medical necessity? Emergency room? OB/GYN? Go down the list and then tell the American people, tell these children, tell the women, tell the families why you do not think they ought to be covered.

This last amendment says to patients, we do not think you ought to be protected, but we certainly think we ought to provide protection to the insurance companies. We certainly think insurance companies ought to be given protection and patients should be denied the right to hold them accountable.

My colleague talks about lawsuits. It is interesting. Texas passed a statute allowing consumers to hold HMOs accountable a couple of years ago. There has been one lawsuit, I understand—perhaps by now two or three. Where is the blizzard of lawsuits our opponents predict when you make health care providers accountable?

Every Medicare patient in this country has the basic protections we are proposing in our Patients' Bill of Rights. Every Medicaid patient in this country has the same protections, and every Federal employee and every Senator sitting on this floor has these protections.

But we have folks in this Chamber who decide it might be good enough for Senators, they voted for it for Medicare, but it is not good enough for the rest of the American people. And the result is too many cases, too many children, too many Jimmy Adamses whose parents decide they have to comply with the rules because they do not have the money.

I remember the first time I saw an entertainer use the moon walk. It made him look as if he was moving forward when instead he was moving backwards. I see that on the floor of the Senate in this debate. People offer proposals when they want people to believe they are making progress, but in reality, they are not doing anything or maybe even moving backwards. That is not going to work in this debate. This debate is not about theory. It is about people's lives, about their medical treatment. It is about providing protection for hardworking Americans who have insurance and think they are protected with decent health coverage—only to discover at 2 a.m. that they do not have access to an emergency room.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator's time has expired.

Mr. DORGAN. I thank the Senator from Nevada for the time and yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I will yield to the Senator from Alabama in a second. I do want to point out the Senator from North Dakota, although well informed in most instances, on the issue of suing health care plans of Senators he is not informed. The fact is, under our plan we cannot sue the insurer. We are limited in our rights to sue, and our ability to recover is also significantly limited—in fact, about the same way it is limited in our bill. I would point that out as a point of clarification.

The Senator from Alabama.

Mr. SESSIONS. I thank the Senator from New Hampshire. I will delay my general remarks.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield the Senator from Alabama 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. SESSIONS. Mr. President, I will delay my overall remarks on this matter to deal precisely with some of the examples that have been cited.

There are a number of provisions in the law that allow the containment of lawsuits. Workman's comp—if a person is injured on the job, there are very limited matters for which they can sue. They do not have to prove negligence. They get compensation. They have a lot of advantages. They also are not able to sue their employer under those circumstances. Federal employees, including Senators, are not able to sue.

But let me say this, first and foremost, this is not a step backwards. Right now we have this limitation on lawsuits—not a banning of lawsuits, but a limitation on lawsuits under Federal law. This legislation will increase significantly the power of individual patients to protect their rights against HMOs. It does change existing law. It does move the bar much lower for patients, in a way that makes sense, that keeps costs to a minimum, but improves their access. Now we talk about offering a 2- or 4-year lawsuit in exchange for the plan we have proposed that would allow immediate access to a panel of medical experts to review your claim.

Let me mention some of the special cases that were discussed previously. There was a case in which the HMO had denied therapy. Under our bill, you would have the existing rights we have today to go to court, but in addition to that, you would have an internal review process by the insurance provider. In addition to that, you would be able to have an independent external review of your claim that this therapy is needed. It would require, and provide for, a person with expertise in that medical specialty who is independent of the plan. That is a major step forward for the rights of patients. We do not need to foster a jackpot justice mentality when we can get prompt, professional care.

With regard to the Jimmy Evans situation, what will our bill do for that? Obviously, this matter has been discussed over and over again. It hurts me to see the emotional arguments made that ignore what this bill provides. This bill says you could use a ''prudent layperson'' standard on emergency care. That means, if you believe your child needs to stop at the first hospital, you can stop there. A prudent layperson means the parent, using normal good judgment, is allowed to use that judgment about where to go in an emergency.

With regard to problem of cleft palate and medical necessity—we have, and have provided for, new requirements on HMOs. Ultimately, there would be an independent, medical expert to review that claim. Surgery for cleft palate is not going to be denied. That is pure scare tactics, and it is offensive to me to suggest that. You can still go to court, at any rate, for the cost of the benefit denied and still get coverage for the medical care you need. So I would say that really is discouraging.

With regard to the fundamentals of the appeals process, you do have to have a decisionmaking process in any complex contractual relationship. How are we going to do it? There is a clear choice. As a matter of fact, many have already discussed this. Friends on the other side of the aisle have said from the beginning that the biggest difference between our parties bills is the question of how to handle the liability issue. They want to add new lawsuits not provided for under current law to allow increased lawsuits. We want to increase the ability of patients to get prompt, cost-free, independent medical reviews for benefits denied when they need it.

I have heard doctors express to me they do not like dealing with bureaucrats when they need to talk about what kind of treatment their patient needs. They are frustrated about that. So this bill says: That is not good enough, HMO; if you cannot respond promptly to a physician's request that the patient receive a certain type of treatment, you are going to have to provide an independent, external expert, with a specialty related to that patient's particular medical problem, who can make a decision that is binding on the HMOs but not on the patient. Let me emphasize, it is binding on the HMO. If that expert says this treatment is needed, then it must be provided immediately.

I think these are the protections we want to provide.

This appeals process is a good plan. Basically, if a patient is denied a benefit, he or she can call the HMO for an internal review. If that is not satisfactory, he or she can demand an external review by an independent medical expert. Even after that, they still maintain the right to sue—a right which exists today.

I think this is a very good policy. As a matter of fact, the Senator from Massachusetts who was here in 1973 pointed out the obvious when he supported the establishment of HMOs. He said in his remarks on the Senate floor at that time these words:

> Medical malpractice litigation has become an onerous and protracted means to resolve medical malpractice disputes. The costs are escalating with less of the medical insurance premium dollar going to compensate the injured party. The delays in resolving such disputes average up to 4½ years from filing of a lawsuit. Litigation has failed to provide an efficient means to achieve a fair result for all concerned.

And I say amen to Senator KENNEDY. He was correct about that. This is not working. It is not the way we can assure prompt care and responses to patients, doctors and injured parties when they need help.

Senator KENNEDY went on to say:

> Litigation of medical malpractice claims have not been an effective method to monitor quality health care standards.

I agree with that also.

I believe the plan proposed by the Republicans provides for a prompt, professional, low-cost, independent determination of disputes. Make no mistake about it, lawsuits are expensive. It takes 25 months—4 years, as Senator KENNEDY says—to bring one to a conclusion. Lawyers charge $200 plus an hour. The plaintiffs' lawyers charge a 40- to 50-percent contingent fee. That means if the plaintiff receives $100,000, the lawyer gets $50,000. If the plaintiff gets $1 million, the lawyer gets $500,000. The lawyers have junior partner lawyers, paralegals, law clerks, and secretaries who work with them. They take deposition after deposition after deposition. Medical experts are called. Testimonies, reports, and legal research have to be prepared. Court appearances, pretrial hearings, discovery conferences have to be arranged and briefs have to be filed.

There is a burden on the courts when you have lawsuits. We pay the judges salaries. The more these cases are given to them to handle, the more judges we need to handle them. The judge has law clerks. Federal judges have at least two law clerks each, bailiffs, U.S. marshals, and court clerks to handle the cases—all of whom are paid for by the taxpayers. This does not include jurors and witnesses. Let's not forget the cost of the courtroom. Go to your courthouse and find out how much a courtroom costs to build. Figure it out on a weekly basis.

These cases go on for 1 year, 2 years, or even 4 years before they ever reach a conclusion.

That is not the way to help patients who need help. Some will win millions of dollars and some will win nothing. I will tell you what else will happen. It will be routine for plaintiff lawyers, to sue a doctor or hospital—which they can already do, make no mistake. Currently, if a physician treats you improperly or the hospital commits an act of negligence or a willful act of wrongdoing, you can sue them. Now we are questioning whether you can sue the insurance company for these kinds of problems.

We have made progress in allowing a good review, a tough new review process. The Kennedy plan is fatally flawed. We must not allow his plan to happen. President Clinton's own hand-picked 34-member Advisory Commission on Consumer Protection and Quality in the Health Care Industry refused to put liability reform or the Democratic liability plan in their bill when they did their report for the President. They did that for a reason. They considered the issue and decided it was not wise.

Meanwhile, for some reason the President and the Democratic Members have changed their minds. I suspect they have talked with their trial lawyer friends in the meantime and have been convinced they ought to go along with this new proposal.

It is not just the President's own review commission that has rejected liability expansion and more lawsuits, but major newspapers in this country as well.

The Los Angeles Times:

> Bad medicine for both employees and employers driving up premiums.

The New York Times:

> Jury awards in State courts for malpractice are——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I ask unanimous consent for 1 additional minute.

Mr. GREGG. I yield 1 minute.

Mr. SESSIONS. The New York Times:

> Jury awards in State courts for malpractice are notoriously capricious and do more to reward lawyers than patients.

The Washington Post:

> The threat of litigation is the wrong way to enforce rational decisionmaking.

This is a terrible idea. It is the wrong direction to go. It will add expense throughout the system and will not benefit patients by getting them care when they need it. This bill, as proposed, which I support, will do that. It will give patients immediate relief and expert evaluation of their claims.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following individuals: Kathryn Vosburgh and Jennifer Barker who are interns with Senator BYRON DORGAN of North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. On behalf of the minority, I extend 10 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. DURBIN. I thank the Senator from Nevada.

Mr. President, this is the heart of the debate. This is what the Patients' Bill of Rights is all about. The insurance companies hate the idea of being sued in court as the devil hates holy water. They do not want to be held accountable for their actions. They want to be protected so they can make the wrong decision when it comes to medical care for American families and never be held accountable.

The amendment being offered on the Republican side is an effort to take away from 123 million Americans the right to hold health insurance companies accountable. That is the bottom line: 123 million Americans will be denied an opportunity to go to court when a health insurance company makes a decision which costs them their health or their life.

Most people are stunned to know that you cannot take a health insurance company to court. Since 1974, a Federal law has protected health insurance companies from being sued.

What does that mean? When your doctor wants a certain procedure, a certain medicine, a certain specialist for your good or the good of your family, and that doctor is overruled by a health insurance company bureaucrat, the doctor is the only one who will be taken to court, not the health insurance company.

If we pass nothing else in this Patients' Bill of Rights but this section which says health insurance companies will be held accountable in court, it would be a major victory for America. I trust the judgment of 12 citizens of this country in a jury box to decide the fairness and legality of an issue. Obviously, the Republican side does not. They do not want the health insurance companies to go to court. They do not want them to face a jury. They do not want them to be held accountable.

This party, which parades and triumphs values and responsibility does not want to hold the health insurance companies responsible in the most basic form of adjudication in our country: a jury of your peers.

Oh, they make a lot of arguments about, oh, we are just gilding the lily and feathering the nests of all these trial lawyers. That is not what it is all about. You know it and all America knows it.

The health insurance companies, with the Republican majority, are determined to stop 123 million Americans from ever having a day in court. Ever.

For the last 2 days, Senator KENNEDY, Senator REID, and all of my colleagues have brought stories to the floor—chilling, heartbreaking stories. Here is one. Florence Corcoran. Let me quote Florence Corcoran:

> They let a clerk thousands of miles away make a life threatening decision about my life and my baby's life without even seeing me and overruled five of my doctors. They don't get held accountable. And that's what appalls me. I relive that all the time. Insurance companies don't answer to nobody.

That is what Florence Corcoran says: ''Nobody knows about ERISA,'' this Federal law that protects health insurance companies.

If you are listening to the debate, you would think: Well, surely there must be a long roster of companies in America that receive the same kind of immunity from liability that cannot be brought to court. No. This is it, folks. This is the only sector of the American economy—maybe the only sector in America—that is going to be allowed to be held above the law.

The Republican majority and the health insurance industry are determined to protect their immunity from a lawsuit so that Florence Corcoran, when her life and the life of her baby were threatened by the decision of a health insurance company, can't even take that health insurance company to court.

The Senator from Alabama gets up and talks about: Oh, this legal system, it is so expensive. It takes so long. Let me tell you, when it is your life or the life of your baby, and this is the only place to turn, this is where you will turn. Yes, you will go to a lawyer because you are not wealthy, who will charge a contingency fee, meaning if he wins he gets paid; if he loses, he does not. That is part of the American system.

How many times, day in and day out, do we hear about these cases—simple, ordinary Americans, living their life, doing what they are suppose to do, paying their taxes, going to work every day. They get caught up in a situation where someone's negligence or wrongdoing hurts them. It could be an accident; it could be medical malpractice; it could be a decision by a company that was just plain doing wrong.

Where do you turn? You write a letter to your Senator. That isn't worth much, I will tell you. We will read it. We will write a reply. But if you want justice in America, then you have a chance to go in the court system. But the Republican majority says, no, close the door to America's families so that they cannot hold health insurance companies accountable in court.

For the last 2 days, we argued about all the outrages in these health insurance policies, that you can't go to the nearest emergency room when someone

in your family is hurt, that you can't go to the specialist your doctor wants you to go to—the cases go on and on and on—and we try, item by item, to make these health insurance plans more responsive to the reality of life and more responsive to the medical needs of Americans.

But let me tell you this. All of those amendments, all of those votes notwithstanding, this is the bottom line. This will change the mentality of these health insurance companies that say no, because they are driven by the ambition for greed and profit, say no over and over, regardless of the outcome.

The Cortes family from Elk Grove Village, IL, their tiny little baby, Rob, who is now 1 year old, has spinal muscular atrophy. For a year they tried to keep their family together with this little boy on a ventilator at home—on a ventilator at home. They have been fighting this disease, and every week they fight the insurance companies. Will they cover this care? Will they cover this drug? The battle goes on and on.

Mark my words—and I say this to my Republican colleagues—if that health insurance company knew their decisions would be judged by 12 of their peers, 12 American citizens, sitting in a jury box, I bet the Cortes family would get a lot better treatment. You know they would. They know they would be held accountable.

But the health insurance industry and the Republican majority does not want the 123 million Americans to ever have a day in court when it comes to these health insurance decisions. Their arguments are as weak as they can be.

The State of Texas passed a patients' bill of rights. They said you could take the health insurance company to court for certain insured people in Texas. You would think, from the arguments on the Republican side, that the sky fell on Texas 2 years ago. It did not happen. You know how many lawsuits have been filed since this law was enacted, a law which Governor Bush vetoed, but the legislature overrode his veto? Three lawsuits—three lawsuits in 2 years. Does that sound as if we are flooding the courts?

But I will tell you something. In that State, for those who are protected by that law, I will bet you there has been a change in the way they do business.

Let me give you a quote from a health insurance executive. This is from the Washington Post.

> . . . currently, ''We would charge the same premium to a customer with the ability to sue as we do to those who do not have the ability to sue.''. . .

This is from Aetna. Have you picked up the Washington Post lately? Two-page ads every day begging us not to vote for the Patients' Bill of Rights—Aetna sponsors them, full-page ads. But their spokesman said:

> Why? Those judgments to date have been a very small component of overall health care costs.

That is what Mr. Walter Cherniak, Jr. of Aetna said.

So the argument that this was going to flood the courts did not happen. It did not happen in Texas. As to the argument that it is going to raise premiums, according to a man who does this for a living, it makes no difference in the premium charged for those insured who have the right to sue and those who do not.

Take a look at some of the numbers that have come out in terms of the estimated costs of increases in premiums if there is a right to sue. How much is it going to go up? The Republicans argue it is going to skyrocket. The Congressional Budget Office estimated the impact on premiums to be 1.4 percent; Multinational Business Services, less than 1 percent; Muse and Associates, a private firm, they say .2 percent.

Is it worth a quarter a month to you as an American with a health insurance policy to have the right to go to court when it is your baby's life?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DURBIN. I say to my colleagues, this is the key vote on the Patients' Bill of Rights. This is a vote about whether 123 million Americans will be precluded from court by the Republican majority and the health insurance industry.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I simply note ERISA does not cover 123 million Americans, so the Senator from Illinois is incorrect.

I yield to the Senator from Iowa 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, this is a Democratic leadership war on health insurance coverage. This is their proposal to subject employer-sponsored health plans, and thus employers, to lawsuits. As a member of the Judiciary Committee, I have worked for tort reform throughout my tenure in Washington. I believe our tort system is badly broken, so it will come as no surprise that I have grave reservations about sending more disputes into it.

First, the big picture: The proliferation of lawsuits has damaged the efficiency, effectiveness and integrity of America's civil justice system. Almost as bad, it is injuring the nation's economy. Now, our Democratic colleagues propose to declare a ''new gold rush'' for the legal industry, this time in the area of health insurer liability. And the harm that results from doing so will not be limited to our judiciary or our economy—it will harm our health. It's downright unhealthy for America. Is that an overstatement, Mr. President? Well, people with health insurance are likely to have better health than those without it. If the Democrats are now saying that insurance coverage doesn't affect health status, then they'll have to explain why they keep coming up with all kinds of ideas on how to insure people. Five years ago, they thought insurance coverage was important—so much so that they wanted the government to insure everyone. Of course, even with a Democratic President and Democratic control of both Houses of Congress, they didn't manage to do it. It's funny how we don't hear about that effort anymore, but it's certainly not because we solved the problem.

The President acknowledged the problem of the uninsured again when he proposed to allow people under age 65 to buy their way into the Medicare program. By the way, with a hefty subsidy from other Americans under age 65 who pay payroll taxes. Why does the President propose this unless he thinks insurance coverage will improve peoples' health status. Health insurance coverage is not an end unto itself, but a means to an end, and the end is better health. So when the Democrats propose things that will lessen health insurance coverage, and thus harm the health of the American people, we need to ask why.

Some argue that liability laws are a good way to guarantee quality of care. We're certainly not hearing much from the other side in this debate about quality, but objective people think that ensuring quality of care should be the point of patient protection. I care a great deal about health care quality, let me tell you about research that has been done in the context of medical malpractice. These studies, particularly the well-known Harvard study, tell us that the medical liability system is simply not an effective way to ensure quality. There is a tremendous mismatch between incidents of malpractice, on one hand, and the lawsuits that are brought, on the other. For many reasons, instances of substandard medical care often do not give rise to lawsuits, while many lawsuits that are brought are groundless. In the malpractice context, it is not feasible to have immediate appeals of physicians' decisions when they make them, so we're stuck with the tort system.

But when we talk about insurance coverage decisions, we do have an alternative to lawsuits. We can have immediate, independent, external reviews of these decisions. We can do better than lawsuits after-the-fact. That's what our Republican Patients' Bill of Rights will do. It will get patients' claims decided when the patient needs the care. Isn't that the best thing for the patient? Yes—but it's not the best thing for the lawyers, and that's why we're here today.

Mr. President, the other day, I heard a Senator note that only a handful of

medical malpractice cases have ever been tried to a jury in his state. His point, apparently, was the lawyers don't really bring lawsuits: just a myth. Well, I am certain that the former trial lawyers in this body understand that defendants in cases sometimes pay out money in settlement of a claim, whether the claim was well-founded or not. Where do my colleagues believe that the money comes from? It comes out of the pockets of the people who buy tht good or service, obviously.

In medical malpractice cases, the cost of medical settlements, just like the cost of jury verdicts, is paid for by you and me. We pay in two ways: higher prices for medical services, and higher insurance premiums. When my friends on the other side say that creating a right to sue health plans somehow will not bring about more lawsuits, they should pay more attention to what their trial lawyer allies are up to. Who knows, maybe if they took a look at what trial lawyers are doing to our economy, they'd have second thoughts about supporting them all the time.

Let's see what an objective source says. The Congressional Budget Office has noted that the lawsuit provision of the Democrat proposal is, by far, the most expensive single item in their bill. More than anything else they are proposing, this liability piece is what will drive people out of their insurance coverage into the ranks of the uninsured. That's a high price to pay to keep the lawyers happy.

Employers are not required by law to offer health insurance coverage to their employees. There are tax advantages for employers to do so, but we're finding that those aren't enough. More and more employees are dropping coverage for their employees. That's not an opinion, that's a fact. My friends across the aisle have repeatedly noted that many liberal advocacy groups support their version of patient protections. Those groups have every right to get involved in this debate, and I'm glad that they are. But my point is that most Americans don't work for liberal advocacy groups. In fact, very few do. I'll also note that most Americans don't work for plaintiffs' law firms.

Even if you're anti-business, you have to admit that businesses provide health insurance coverage to most Americans, and businesses are in a position to discontinue that coverage. The businesses that most Americans do work for, both large and small, are telling us that the Democratic bill will force many of them to drop coverage for employees; hence adopt the Republican Patients' Bill of Rights instead.

Let's keep our eye on the ball. There are two goals that we should be trying to achieve. One is to ensure that people get the appropriate health care to which they are entitled under their insurance coverage. But the 2nd goal is to avoid taking that very insurance coverage away. There are many times in politics when it's impossible to achieve two goals at the same time, but we can this time. We have a Republican approach that achieves both goals. I call on my colleagues to support this approach, and to resist the temptation to join the other side's war on health insurance coverage.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, in the last few days, the Senate has revealed a lot about itself and where it stands.

Members of the Senate have had a chance to respond to the needs of American women in allowing OB/GYNs to be their primary health care provider, and they failed. Members of the Senate have had a chance to protect traveling Americans across the country, allowing access to emergency rooms, and they declined. Americans have asked that doctors make final medical judgments. That issue was brought to the Senate. The Senate declined.

Senator DURBIN now brings to the floor of the Senate one last chance for the Senate to do something fair and decent for the American people in this plan to protect people in Health Maintenance Organizations—to give them the right afforded every other American with every other industry to bring their grievance to a court of law.

It is ultimately the choice between a Patients' Bill of Rights or an insurance protection plan. If we fail, make no mistake about it, this debate and this vote will be noted for the fact that the Senate balanced the interests of 120 million Americans against several dozen insurance companies and made the wrong choice.

In a nation in which we pride ourselves on access to the system of justice and equal rights for all people in this land, there are two privileged classes. By international treaty, foreign diplomats cannot be sued; and by ERISA, insurance companies in the health insurance industry cannot be sued. Here is a chance to reduce that list and make insurance companies and those responsible for our health accountable like everybody else.

Every small business in America is responsible if they do damage to a customer, every dry cleaner, every trucking company, every mom and pop store. This industry, and this industry alone, is treated differently.

Under the Republican proposal, that status quo is protected.

Under Mr. DURBIN's amendment, they will be held accountable. As other Members of the Senate, I have heard constituents come forward where an HMO has failed to diagnose cancer in a small child and months later, because they could not get access to an oncologist, a leg or an arm is lost. Tell that parent they cannot go to court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TORRICELLI. This is a great opportunity to provide fairness and access. It is the last chance to do something decent in this debate for the American people.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself 8 minutes.

The longer this debate goes on, the stranger I find those who are supporting the Republican proposal. Their basic proposal started out costing $1 billion. They will have the agreement later this morning, with the acceptance of the long-term care credit, that will end up costing $13.1 billion—$1 billion for patient protections; 100-percent deductibility, $2.9 billion; liberalized MSAs, $1.5 billion; flexible spending accounts, $2.3 billion. That adds to $7.7 billion. And the deductibility of long-term care is $5.4 billion, according to the Senator from Oklahoma. That is $13.1 billion, and not a cent of it is paid for.

Their proposal has gone from $1 billion to $13 billion. Our proposal, according to CBO, is approximately $7 billion, which represents the 4.8 percent figure from CBO. I certainly hope we won't hear any more about the cost of our proposal from our good friends. That was a hot button item. It didn't have anything to do with protecting patients, but it was a hot button item.

Secondly, I hope we won't hear any more about one-size-fits-all. We listened to that line for 3 days. We will probably hear it later in the course of debate on many different measures. ''We don't want a solution of one-size-fits-all.'' Our good friend, Senator COLLINS from Maine, used that 10 times in her presentation. We are having a one-size-fits-all with the Republican proposal because, effectively, they are excluding the States from making their own determination as to what actions the state might take in holding people accountable. The Republican proposal can be labelled ''one-size-fits-all'' if they are successful on this measure.

They are saying to every State in the country: No, you cannot provide the remedies you would like for malpractice by those making health care decisions. We have one industry in this country that is going to be sacred, one industry that will not be held responsible. You can continue to sue doctors, but we will not permit any State in this country to determine whether you can sue your HMO.

That is an extraordinary position for our good friends, the Republicans, who

are always talking about one-size-fits-all, who are always saying that Washington doesn't always know best. I hope we are not going to continue to hear, ''Washington doesn't know best. The people in the hinterlands know what is going on. They can make up their minds in the States. The States are the great laboratories for innovation and creativity.''

I can give those speeches, but they are wiping that out with this particular amendment. As the Senator from Illinois pointed out, this amendment is so basic and fundamental in protecting American citizens.

Even my good friend from New Hampshire has addressed this issue—I am sure he expected to hear this, but he ought to hear it as one of the principals, and now as acting manager. Last year, when we had the issue of liability of tobacco companies, this is what he said, and we will include the statement in the RECORD:

When you eliminate that right of redress issue—

Which is effectively what the Republican proposal would do—

which this bill does, when you take away the ability of the consumer, of the person who has been damaged, of John and Mary Jones, of Epping, NH, to get a recovery for an injury they have received, you have artificially preserved the marketplace, but, more importantly, you have given a unique historic and totally inappropriate protection to an industry.

The Senate accepted that position overwhelmingly. I think there were 20-odd votes in opposition on that issue. But here we have the insurance industry. Evidently, the message is that the insurance industry is more powerful than the tobacco industry. Apparently, the insurance industry has the votes to get their way on this issue.

Why is this issue important? This issue is important for two very basic and fundamental reasons. First, by making the right to sue available, there is an additional incentive—a powerful incentive—to HMOs and others in the health delivery system. There is an incentive to make sure they do what is medically appropriate because they know they may be held liable if they do not.

You may say: That is good in theory, but is it so? Look at Medicaid. Under the Medicaid system, a plan may be held liable, the health delivery system may be held accountable. Do we have people abusing the liability provisions? The answer is no. The answer is no.

As the Senator from Illinois pointed out, the State that allowed for liability most recently was Texas. Has there been a resulting proliferation of lawsuits, as the Senator from Alabama has suggested? The answer is no. There is one legal case that was brought and possibly one or two more pending.

City and State officials have the right to sue. You can take the example of CalPERS, one of the largest health delivery systems in the country, with 1.2 million members. They have had the right to sue for a number of years. You can look at CalPERS premiums over the last 5 years. The cost increase of the premium for CalPERS—whose members have the right to sue—has actually been below the national average for HMOs over the last 5 years. The Senator from Illinois has indicated, as well, the findings of the various studies which support this.

Most important, the answer we get from the other side is we don't need accountability because we have a good internal and external review system under the Republican proposal. That is a phony argument. Over the past 3 days we have shown why this argument is phony. The Republican appeals proposal is a fixed system. There is no de novo review. There are many other problems in their appeals system which we have previously addressed. Yet their best answer is that the external review program is a substitute for the right to hold plans accountable in court.

What happens when the plan drags its feet through the review process until it is too late for the patient? What happens when the plan doesn't tell the patient an external review is even available and the patient doesn't find out about its availability until the damage is done? What happens when the plan makes a practice of turning down everyone—this is reality—who applies for an expensive procedure, knowing there will be an appeal in only a fraction of the cases? Knowing that the worst penalty they could have is to pay the cost of the procedure that should have been provided in the first place?

The PRESIDING OFFICER. The time of the Senator has expired. Fourteen minutes remain.

Mr. KENNEDY. The patient never learns the procedure should have been provided until it is too late.

What happens when the plan refers the patient to an unqualified doctor for a procedure because it doesn't want to pay for a more qualified specialist outside the network? What happens when the patient trusted the plan to do the right thing?

According to the opponents of this proposal, those kinds of abusive practices should carry no penalty at all because you can't sue your way to quality. I would like to hear them say that to a widow who lost a husband—the father of her children—to a plan's greed.

I would like to hear them say that to a young man disabled for life because his health plan insisted on the cheapest therapy instead of the best therapy.

I would like to hear them say that to the parents whose child has died because the health plan mislead them about the availability of appropriate treatment.

I challenge the opponents of this provision to tell the American people why public employees in there own States should have the right to hold their health plan accountable, but the equally hard-working family just down the street employed in the local bank or grocery store shouldn't have the same right.

I challenge them to explain to the child or spouse of someone who has died or become permanently disabled due to HMO abuses, why they should have to live in poverty while a multi-billion-dollar corporation gets off scot-free.

I challenge those on the other side—who talked so much during the debate on welfare reform about the need for people to take responsibility for their actions—to explain why this standard should apply to poor, single mothers but not to HMOs.

I challenge them to explain why every other industry in America should be held responsible for its actions, but HMOs and health insurance companies should be immune from responsibility.

The time has come to say that this unique immunity should end.

The time has come to say that someone who dies or is injured because an insurance company accountant overrules the doctor is entitled to compensation.

The time has come to say that profits should no longer take priority over patients' care.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. BURNS). Who yields time?

Mr. GREGG. Mr. President, I yield 7 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, nothing could more dramatically illustrate the differences in general attitudes and attitudes towards health care between the Senator from Massachusetts and the Members on this side than his statement that his bill would be preferable to ours because it would only ''cost'' the American people $7 billion, while ours would ''cost'' the American people $13 billion.

In fact, of course, overwhelmingly, the ''costs'' of his bill will be evidenced in higher taxes on the American people. His so-called ''costs'' of our bill are, in fact, the reduction of taxes on the American people so they can use their own money to take care of more of their own health care costs. But to the Senator from Massachusetts, it is the same thing—more taxes, not less taxes.

We do not think that is the same thing by any stretch of the imagination.

In addition, of course, he ignores entirely the costs imposed on the American people by paying higher health insurance premiums. Those presumably are irrelevant.

But the subject before us primarily is lawsuits.

There is widespread agreement in this body and across the United States that the medical malpractice system is simply broken, that it comes too late, that it costs so much, that less than half of the dollars that it costs ever get to victims and the rest is consumed by lawyers and by the administration of the system itself.

The problem is, of course, we have never come up with a majority for a way in which to fix that medical malpractice system. But the proposition that it is broken is very widely held.

It is into that broken system the Democrats' plan pours another element of our health care system and says: Oh, the system may be broken, but the only solution is to make it worse, is to make it more widespread.

Pouring good wine into a broken bottle with what impact? Better health care? No. We know the medical malpractice system doesn't create more and better health care.

More lawsuits? Clearly, yes. One aspect of that broken system, of course, is the costs go not into providing better health care for the people of the country but into the system itself.

But the patients—ultimately, the people who buy insurance, the people who consume health care—pay the entire bill, including all of the bills for the lawyers. With what impact? Higher costs for everyone who is insured and therefore fewer insured.

But I think that is perhaps the least of the vices of the Democratic proposal because it allows, under certain circumstances at least, the employer—the person who is providing health care to his or her or its employees—to be sued. As well, it will drive logical and thoughtful employers out of the business of providing insurance at all. And it will do that in a devastating degree.

I suspect that perhaps half of the employers, when they find they are going to be sued, will simply say: We are not interested in any more lawsuits. Sure. We will give each of our employees more money for the cost of that health insurance in cash, and the employee can do what he or she wishes with it.

Some will ignore the cost of health care insurance and will become self-insured—some very much to their pain. Others will attempt to buy individual policies, which will inevitably cost more and give them less than any kind of group policy does. So we will have less insurance under this set of circumstances in order to have more lawsuits.

Let's go back to this whole idea of medical malpractice as a broken system.

What we should be searching for is a better system, and the better system is exactly the plan that the Republican proposal has. It says instead of lawsuits after the harm has been done with the reward, if any, coming 3, 4, or 6 years later, we tell the potential patient who thinks his health care system has not done right by him that he has a right to get an answer promptly before the damage is done.

This is the system we ought to expand to other health care systems. This is the system we are asked by the Supreme Court of the United States to apply to asbestos litigation—a unanimous Supreme Court of the United States.

But instead, if the Senator from Massachusetts has his way, we will simply take a broken system and apply it in more areas than it applies to right now.

That is a perverse answer to a very serious question. We will not treat the patients. They will treat the court system.

Mr. KERRY. Mr. President, we have heard the horror stories: An HMO delays a breast cancer patient's treatment until the cancer has spread throughout her body. Parents are forced to drive their critically ill child to a hospital 50 miles away from their home because their insurer refuses to let them take the boy to a hospital 5 miles from their home. A patient complaining of chest pains is not allowed to see a cardiologist, and as a result suffers a fatal heart attack. Americans want their doctors—not managed care bureaucrats—to make their medical decisions. And when managed care wrongfully delays or denies care, Americans want the right to bring a lawsuit to hold managed care responsible for its misconduct.

And let me tell you directly—the Gregg amendment won't do a thing to help Americans who suffer from the abuse of HMOs. It will maintain the provision in ERISA that allows patients in employer self funded plans to only recover damages in court from an HMO related to the cost of the treatment delayed or denied. It denies the right of Americans to receive punitive damages that send the message to insurance companies that when they do wrong, they'll be held accountable for the wrong they do.

The Gregg amendment sets up a weak appeals process where patients could first dispute the HMO's ruling with a doctor within the insurance plan (but not the one they saw for treatment) and if they are still not satisfied then they can talk to a second doctor that is outside of the insurance plan but regulated by either a state or federal agency. Whatever each of the doctors rule would then be binding. The Gregg amendment only exacerbates a bureaucratic nightmare. It doesn't allow Americans to hold insurance companies accountable in court. It doesn't address the real impediment to accountability in health care: ERISA.

Today, even if an HMO has been directly involved in dictating, denying or delaying care for a patient, it can use a loophole in the Employee Retirement Income Security Act (ERISA) to avoid any responsibility for the consequences of its actions. ERISA was designed over 25 years ago, long before managed care companies became the powerful entity in controlling the health care of Americans that it is today. ERISA was originally designed to protect employees from losing pension benefits due to fraud, mismanagement and employer bankruptcies during the 1960's, but the law has had the affect of allowing an HMO to deny or delay care with no effective remedy for patients.

Judge William G. Young, a Reagan appointed US District Judge, in his landmark opinion in one case, laid the problems out before us in clear language. He said, and I quote, ''ERISA has evolved into a shield of immunity that protects health insurers, utilization review providers, and other managed care entities from potential liability for the consequences of their wrongful denial of health benefits. ERISA thwarts the legitimate claims of the very people it was designed to protect.'' Judge Young was barred by law from awarding damages for wrongful death in an HMO case—his hands were tied by ERISA—but he laid out the point we're trying to make today. We need to end the ERISA nightmare that is hurting ordinary Americans.

We have built a system that puts paperwork ahead of patients and ignores the real life and death decisions being made in our health care system. We must do better. Americans deserve better care, and deserve the right to hold insurers accountable if they do not receive that care.

Our opponents erroneously argue that ensuring that plans are held accountable will drive up premium costs and result in lost coverage. They fail to acknowledge however, that the timely appeals mechanisms in our amendment could prevent lawsuits before harm can occur. In fact, an independent study by Coopers and Lyband found that the Democratic provision to hold health plans accountable would cost a mere 3 to 13 cents a month. Ironically, the industry's cry that liability will raise costs assumes that health plans are very negligent and that patients do indeed suffer real harm.

History bears out our case: access to the court system for ordinary Americans—the right to seek redress—rescued America from Pintos that caught on fire, it gave us seatbelts, bumpers, airbags in cars, and every innovation in safety for consumers that we've witnessed over the last thirty years.

So why would we oppose access to the court system for patients injured by runaway insurance companies? Well, some have said it will clog the courts and increase costs and premiums on insurance. And all the studies that prove otherwise aren't enough for these ideologies. Well, they might

want to take a look at the State of Texas, where, over Governor George Bush's objections, they gave Texans the right to sue their HMO. And what's been the result? In 2 years since an external review process was established, only 480 complaints have been filed with the Texas Independent Review Organization—about 30 times less than the 4,400 complaints that were predicted in the first year alone by the Texas Department of Insurance. Even more important, only one medical malpractice lawsuit has been filed under this law. Mr. President, the Republicans have been asking America to look towards Texas for some answers—Mr. President, this is one issue on which I think we ought to follow Texas's example. It works.

Americans overwhelmingly favor holding managed care plans accountable. A Kaiser Family Foundation/Harvard School of Public Health survey released in January of this year found that 78 percent of voters believe that patients should be able to hold managed care legally accountable for malpractice. A poll released in September of 1998 by The Wall Street Journal and NBC News revealed that 71 percent of voters favor legislation that gives patients the right to hold managed care accountable for improper care, even if that might increase premiums—which studies show it would not.

Mr. President, it is clear that accountability is the key to enforcing patients' rights. A right to emergency room care on a ''prudent layperson'' standard or a right to specialty care does little to protect patients if such care can routinely be delayed or denied. Only legal remedies provide adequate protection against managed care's biggest abuses. And it's time we embraced those legal remedies. That is something about which we should all agree.

I ask unanimous consent to have articles from the New York Times and the Wall Street Journal printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 11, 1998]

HANDS TIED, JUDGES RUE LAW THAT LIMITS H.M.O. LIABILITY

(By Robert Pear)

WASHINGTON, July 10—Federal judges around the country, frustrated by cases in which patients denied medical benefits have no right to sue, are urging Congress to consider changes in a 1974 law that protects insurance companies and health maintenance organizations against legal attacks.

In their decisions, the judges do not offer detailed solutions of the type being pushed in Congress by Democrats and some Republicans. But they say their hands are tied by the 1974 law, the Employee Retirement Income Security Act. And they often lament the results, saying the law has not kept pace with changes in health care and the workplace.

The law, known as Erisa, was adopted mainly because of Congressional concern that corrupt, incompetent pension managers were looting or squandering the money entrusted to them. The law, which also governs health plans covering 125 million Americans, sets stringent standards of conduct for the people who run such plans, but severely limits the remedies available to workers.

In a lawsuit challenging the denial of benefits, a person in an employer-sponsored health plan may recover the benefits in question and can get an injunction clarifying the right to future benefits. But judges have repeatedly held that the law does not allow compensation for lost wages, death or disability, pain and suffering, emotional distress or other harm that a patient suffers as a result of the improper denial of care.

Congress wanted to encourage employers to provide benefits to workers and therefore established uniform Federal standards, so pension and health plans would not have to comply with a multitude of conflicting state laws and regulations.

The United States Court of Appeals for the Fifth Circuit, in New Orleans, reached a typical conclusion in a lawsuit by a Louisiana woman whose fetus died after an insurance company refused to approve her hospitalization for a high-risk pregnancy. The woman, Florence B. Corcoran, and her husband sought damages under state law.

In dismissing the suit, the court said, ''The Corcorans have no remedy, state or Federal, for what may have been a serious mistake.''

The court said that the harsh result ''would seem to warrant a reevaluation of Erisa so that it can continue to serve its noble purpose of safeguarding the interests of employees.''

In another case, Judge William G. Young of the Federal District Court in Boston said, ''It is deeply troubling that, in the health insurance context, Erisa has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect.''

Judge Young said he was distressed by ''the failure of Congress to amend a statute that, due to the changing realities of the modern health care system, has gone conspicuously awry,'' leaving many consumers ''without any remedy'' for the wrongful denial of health benefits.

Disputes over benefits have become common as more employers provide coverage to workers through H.M.O.'s and other types of managed care, which try to rein in costs by controlling the use of services.

Here are some examples of the ways in which judges have expressed concern:

Judge John C. Porfilio of the United States Court of Appeals for the 10th Circuit, in Denver, said he was ''moved by the tragic circumstances'' of a woman with leukemia who died after her H.M.O. refused approval for a bone marrow transplant. But, he said, the 1974 law ''gives us no choice,'' and the woman's husband, who had sued for damages, is ''left without a remedy.''

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the law protected an H.M.O. against a suit by the family of a Missouri man, Buddy Kuhl, who died after being denied approval for heart surgery recommended by his doctors. ''Modification of Erisa in light of questionable modern insurance practices must be the job of Congress, not the courts,'' said Judge C. Arlen Beam.

The United States Court of Appeals for the Sixth Circuit, in Cincinnati, said that Federal law barred claims against a ''utilization review'' company that refused to approve psychiatric care for a man who later committed suicide. Because of Erisa, the court said, people who sue an H.M.O. or an insurer for wrongful death ''may be left without a meaningful remedy.''

Federal District Judge Nathaniel M. Gorton, in Worcester, Mass., said that the husband of a woman who died of breast cancer was ''left without any meaningful remedy'' against an H.M.O. that had refused to authorize treatment.

Federal District Judge Marvin J. Garbis, in Baltimore, acknowledged that a Maryland man may be left ''without an adequate remedy'' for damages caused by his H.M.O.'s refusal to pay for eye surgery and other necessary treatments. But, Judge Garbis said, whether Erisa should be ''re-examined and reformed in light of modern health care is an issue which must be addressed and resolved by the legislature rather than the courts.''

The United States Court of Appeals for the Ninth Circuit, in San Francisco, ruled last month that an insurance company did not have to surrender the money it saved by denying care to a Seattle woman, Rhonda Bast, who later died of breast cancer.

''This case presents a tragic set of facts,'' Judge David R. Thompson said. But ''without action by Congress, there is nothing we can do to help the Basts and others who may find themselves in this same unfortunate situation.''

Democrats and some Republicans in Congress are pushing legislation that would make it easier for patients to sue H.M.O.'s and insurance wrong decision, he or she can be sued, said Representative Charlie Norwood, Republican of Georgia, but ''H.M.O.'s are shielded from liability for their decisions by Erisa.''

Changes in Erisa will not come easily. The Supreme Court has described it as ''an enormously complex and detailed statute'' that carefully balances many powerful competing interests. Few members of Congress understand the intricacies of the law. Insurance companies, employers and Republican leaders strenuously oppose changes, saying that any new liability for H.M.O.'s would increase the cost of employee health benefits.

Senator TRENT LOTT of Mississippi, the Republican leader, said today that he had agreed to schedule floor debate on legislation to regulate managed care within the next two weeks. Senator TOM DASCHLE of South Dakota, the Democratic leader, who had been seeking such a debate said, Mr. LOTT's commitment could be ''a very consequential turning point'' if Democrats have a true opportunity to offer their proposals.

But Senator DON NICKLES of Oklahoma, the assistant Republican leader, said, ''Republicans believe that health resources should be used for patient care, not to pay trial lawyers.''

Proposals to regulate managed care have become an issue in this year's elections, and the hottest question of all is whether patients should be able to sue their H.M.O.'s. The denial of health benefits means something very different today from what it meant in 1974, when Erisa was passed. At that time, an insured worker would visit the doctor and then if a claim was disallowed, haggle with the insurance company over who should pay. But now, in the era of managed care, treatment itself may be delayed or denied, and this ''can lead to damages far beyond the out-of-pocket cost of the treatment at issue,'' Judge Young said.

H.M.O.'s have been successfully sued. A California lawyer, Mark O. Hiepler, won a

multimillion-dollar jury verdict against an H.M.O. that denied a bone marrow transplant to his sister, Nelene Fox, who later died of breast cancer. But that case was unusual. Mrs. Fox was insured through a local school district, and such ''governmental plans'' are not generally covered by Erisa.

The primary goal of Erisa was to protect workers, and to that end the law established procedures for settling claim disputes.

Erisa supersedes any state laws that may ''relate to'' an employee benefit plan. Erisa does not allow damages for the improper denial or processing of claims, and judges have held that the Federal law, in effect, nullifies state laws that allow such damages.

[From the Wall Street Journal, July 8, 1998]

LAWSUITS HAVE LITTLE EFFECT ON PREMIUMS

(By Laurie McGinley)

WASHINGTON—Adding fuel to one of the most contentious issues before Congress, a study found that allowing patients to sue their health plans over treatment denials hardly increased premiums.

Though laced with caveats, the study could have a significant impact on the managed-care debate heating up on Capitol Hill, where a key question is whether injured patients should be permitted to sue their plans for damages. The report, by Coopers & Lybrand for the Kaiser Family Foundation, is the first attempt by an independent group to look closely at the costs associated with litigation. It undercuts assertions by the managed-care industry and employer groups that imposing legal liability on health plans for wrongly denying treatment would send insurance premiums soaring.

After examining three big health plans for state and local government employees, who already have the right to sue, the study found that the cost of litigation was between three and 13 cents a month per enrollee, or 0.03% to 0.11% of premiums.

''Coopers found that in these places where patients can sue, very few have and the costs have been rather small,'' said Kaiser Foundation President Drew Altman. He cautioned against drawing strong conclusions from the data. ''These are real-life examples, but you can't necessarily use them to generalize to the whole country.''

MORE COST ESTIMATES COMING

The study won't be the last word on the subject. The Congressional Budget Office is working on a cost estimate of a Democratic ''patients' bill of rights'' proposal that includes a managed-care liability provision. And the managed-care industry has touted its own study, by the Barents Group, which estimated that the right-to-sue provision could raise premium costs by 2.7% to 8.6%.

The report came as Senate Democrats fired the opening shot in what is likely to be a protracted struggle over managed-care reform. Last night, Minority Leader Tom Daschle of South Dakota tried to attach the Democratic bill to a funding bill for the veterans and housing departments. In response, Majority Leader Trent Lott of Mississippi pulled the bill off the floor. Meanwhile, GOP senators are working on their own, slimmer, managed-care bill.

The Kaiser report gives the Democrats and their legislative allies, including the American Medical Association, added ammunition on the right-to-sue provision. ''The study strips away the only serious argument against the right to hold health plans accountable that has been made by the opponents of change,'' Sen. Edward Kennedy (D., Mass.) said in a statement.

Richard Smith, vice president for policy at the American Association of Health Plans, which represents more than 1,000 managed-care plans, said the study was deficient because it doesn't include the cost of ''defensive medicine''—the provision of services solely to avoid lawsuits. Such practices, he said, would be the ''single largest cost driver'' resulting from the right-to-sue provision.

Larry Atkins, president of Health Policy Analysts, a Washington consulting group, said that ''it's impossible to assess the real cost'' of liability, but its passage would end managed care's success in curbing health costs.

SUITS IN FEDERAL COURT

Under the 1974 Employee Income Retirement Security Act, injured patients enrolled in employer-sponsored health plans can't sue their plans for damages under state law if they're improperly denied treatment. They are permitted to bring actions in federal court, but if they win they receive only the value of the denied benefit.

But the law doesn't apply to employees of state and local governments, so Coopers & Lybrand examined the litigation experience of the California Public Employees Retirement System, the Los Angeles Unified School District and the State of Colorado Employee Benefit Plan. Altogether, the three plans cover 1.1 million workers. ''All three programs reported very low rates of litigation ranging from 0.3 to 1.4 cases per 100,000 enrollees per year,'' the study said.

Coopers & Lybrand cautioned that public employees may be less likely to sue than their counterparts in the private sector.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes.

Mr. REID. Mr. President, our bill that is now being attempted to be wiped out as far as liability has not established a right to sue but simply says Federal law cannot break what the States say are appropriate remedies for patients and families who are harmed.

Our legislation protects employers against liability.

I repeat. Our legislation protects employers against liability.

It allows patients who are harmed by an insurance company's decision to deny or delay care to hold their insurance company accountable—not their employer.

There is a lot of talk about the ads that are being run that the employers are going to be held responsible. That is absolutely not true.

Under the Republican amendment, if someone dies of cancer because an insurer refuses needed tests, all the insurer is responsible for is the cost of that test. It may be $20 or $30. That will be the extent of liability. Doctors and other health providers can be sued for harm, pain, and suffering. Yet health plans that make decisions to deny or delay care will continue to be off the hook. Doctors and other health providers can be sued, and yet these HMOs continue to be left off the hook.

It is ironic that those who defend States rights so much on the floor of the Senate obviously don't follow through because they are the loudest and the first to use Federal law to protect health insurers that injure patients.

That is another way of saying the insurance industry is being protected by the majority.

Democrats believe insurance companies should be held accountable when their decisions lead to injury or death. And our opponents claim that isn't the way it should be. They say they should be protected in this separate category, as has been pointed out about the foreign diplomat.

In fact, I repeat what I said earlier this morning. An independent study by Coopers & Lybrand, the international accounting firm, found that the provision in our bill to hold health plans accountable would cost as little as 3 cents per person per month.

Our legislation is directed toward patients, not profits. Our legislation wants to maintain and reestablish the party-physician relationship, which the Republican, the majority, have attempted to destroy with their protecting of the HMOs.

The Republican, the majority, bill is an insurance protection bill; ours is one that protects patients.

Mr. GREGG. Mr. President, I note for the RECORD that the bill sponsored by the Democratic side does allow employers to be sued under subsection A(302). It says specifically ''shall not preclude any cause of action described in paragraph one against employer.''

Mr. REID. Will the Senator yield?

Mr. GREGG. Under the Senator's time.

Mr. REID. If the Senator is accurate in his statement, it would have said the only time an employer can be held responsible is when the employer is involved directly in a specific case and makes a decision that leads to injury or death.

Of course that is fair. If an employer makes a decision—not the employer's HMO, not the employer's doctor, but the doctor himself is involved in making a decision that leads to injury or death—that seems fair to me.

Mr. GREGG. Actually, the language says ''discretionary authority,'' which is a very broad term.

I yield the Senator from Oregon 7 minutes.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Oregon.

Mr. SMITH of Oregon. Madam President, many of the HMOs that Senator REID identifies are self-funded insurance plans that are provided by businesses. They certainly are included.

As Senator GREGG has noted, the language reads ''discretionary authority'' which is a very broad term. The potential for liability is very great.

As I speak to my colleagues and the American people today, I simply say we have a problem. We are mortals,

and no one gets out of this life alive. When people die and when they get sick, there are lots of tears. We would like to help. Often, as we reach out to help, we look also for people to blame for tragedy. There are plenty of people in the legal profession to help them find others to blame.

I stand before the Senate as a member of the bar. But I am not going to speak as a member of the bar. I am going to speak as the Senator from Oregon and as a member who holds a somewhat unique perspective in this Chamber—as a businessman, also as someone who has actually paid the health care bills.

Colleagues, as I have listened to Senator FRIST I have been impressed by his skill as a physician, his nuances and his understanding of these issues and they have been helpful to me. As I watched Senator EDWARDS of North Carolina use his great skill and ability as a trial lawyer to make the case for liability, I was also impressed.

However, there are not many people in this Chamber who have actually written the check to provide the health care coverage to their employees. My experience before coming to this Senate was as a food processor. I provided health insurance to hundreds of employees and their families. For nearly 20 years in which I managed that business, I saw health care costs rise three, four, even five times the rate of inflation. My business was not to provide health care, it was to produce food. It was—beyond all others—a cost out of control.

These people who are writing the checks, trying to live up to the promise that we all want in this country for health care, are not the enemy. They are trying to do a good job, and to meet the needs of their employees. I cannot think of a single thing that would imperil health care more in this country than removing the protections provided to employers on the issue of liability.

We are shown all of the terrible situations by the charts shown in this Chamber. But I say to you, I have a heart, too. I would like to help. But I also know that when you deal with an inflationary cost such as medicine, sometimes you don't have the ability—particularly in agriculture—to pass those costs on in the price of your product. So when you add on top of that the potential cost of liability, I fear that employers will not be able to bear it and will turn that benefit into cash for their employees and simply say to employees—you will have to buy it yourself.

But people don't have the ability to buy health care coverage as individuals as well as when they are pooled in employer groups. I support employer-provided health care. I think we are imperiling it if we remove the protections provided to employers by ERISA.

Now, employer-provided health care has an interesting origin in our country. It was very rare prior to World War II when we put on wage and price controls but did not limit the ability of businesses and labor to bargain for benefits. When the men went off to war, businesses reached out to many of the women. They could not offer them a higher wage, so they offered them the benefit of health care. Then businesses began to do this more and more, and it became the subject of collective bargaining under Taft-Hartley and other labor provisions. By the 1970s, nearly three quarters of the American people were covered by employer-provided health care plans.

Congress wanted to go further. In fact, it was a Democratic Congress in 1974 that produced the protection called ERISA to further induce and incentivize businesses to expand in a multistate way to provide health insurance.

Folks, it has worked. Right now the frustrating thing to me is, as we try to legislate, we inevitably have to draw lines and make decisions.

We once were in the position in the State of Oregon of figuring out how best to allocate Medicaid resources. We don't like to have uninsured people in our State; we want them to be insured. Our current Governor's name is John Kitzhaber. He is a medical doctor; he is an emergency room physician. He is a Democrat. He came to the Federal Government, along with many on the Republican side, and said: Let's take this Cadillac plan for a few and essentially turn it into a Chevrolet plan for many.

So we got a waiver. Instead of rationing medicine through waiting lines and price, we did it upfront by saying: These are the health care procedures that are available.

The Vice President, AL GORE, and others referred to our Governor sometimes in very disparaging terms. He was even called ''Doctor Death'' by the media. But he had the courage, and many with him, to make decisions that were tough.

So when we see the pictures and the charts, I say to you that I have been there, I have seen and lived them before. My heart strings are pulled by those, too. But I also know that we don't help them by increasing health care costs—we uninsure them.

What we are debating, really, is where to draw the line, how to make health care more affordable to more people. The last thing in the world we should be doing is so disincentivizing the ability of small businesses to afford health care that they will simply turn it into cash.

I ask unanimous consent to have printed in the RECORD a letter on behalf of the National Grocers Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GROCERS ASSOCIATION

Reston, VA, July 9, 1999.

Hon. GORDON H. SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: On behalf of independent retail and wholesale grocers nationwide, I am writing to express our strong opposition to legislation that allows employers to be sued for health plan decisions or that modify or eliminate ERISA preemption of state regulation. The National Grocers Association (N.G.A.) is the national trade association representing retail and wholesale grocers who comprise the independent sector of the food distribution industry. This industry segment accounts for nearly half of all grocery sales in the United States.

Under current law, the Employee Retirement Income Security Act (ERISA) supersedes all state laws concerning employee benefits. This means that states cannot regulate or tax employer health and welfare plans, and beneficiaries may not sue plans or employers for violations of state law. The purpose of ERISA preemption of state law is to encourage businesses to offer health insurance to their employees by guaranteeing a uniform national regulatory system and limiting liability. It has served this purpose extremely well.

Elimination of the ERISA preemption would subject companies in the food distribution industry to a patchwork of new regulations in the states in which they operate, and expose them to a new class of possible lawsuits in each of those states. Plans would be forced to cover treatments to avoid litigation, thereby driving up the cost of offering health insurance. There is tremendous concern that the new costs associated with removing the ERISA preemption could cause many businesses to stop offering health insurance to their employees.

Again, I urge you to oppose legislation to modify or eliminate the ERISA preemption thereby increasing the cost of health care while expanding employer liability. Thank you in advance for your consideration of our concerns.

Sincerely,

THOMAS K. ZAUCHA,
President and CEO.

Mr. SMITH of Oregon. The letter talks about how many small grocers, as many in business, simply will not be in a position to bear this additional burden.

I ask Members to understand, we are talking about a very significant thing. It is not just about price; it is about the ability to participate, and to continue providing health insurance to the working men and women of this country. I ask my colleagues to vote against expanding liability and in support of the Gregg amendment.

Mr. KENNEDY. Madam President, I yield myself 5 minutes. Do we have 9 minutes left? Please let me know when 4 minutes are up.

Madam President, statements have been made here to the effect that we should not let this process go forward. Statements have been made that this is basically a Democratic initiative, a partisan issue. We have claimed it is an issue of fundamental justice.

Let me quote Frank Keating, the Republican Governor of Oklahoma, a man who was so respected in his own party

that he was elected chairman of the Republican Governors' Association. According to an Oklahoma newspaper, in an interview with Keating, Keating sided with congressional Democrats. He said health maintenance organizations should be open to lawsuits if they are grossly negligent. Keating said his oldest daughter had a heart defect since birth, but that the gatekeeper at her health maintenance organization in Texas told her she did not need to see a cardiologist. Keating said he made a call to a top aide to Texas Governor George W. Bush to get some action. He said he realized other people might not be able to pull such strings.

That is what a Republican Governor has said is the reality in real America.

We see it in the Federal courts. I will have printed in the RECORD a series of statements from judges who are seeing these cases. Let me read one by Federal Judge William Young, a longtime Republican, who, incidentally, was appointed to the bench by President Ronald Reagan. He said that disturbing to this court is the failure of Congress to amend a statute that, due to the changing realities of the modern health care system, has gone conspicuously awry from its original sense. This court has no choice but to pluck the case out of State court and then, at the behest of the insurance company, slam the courthouse door in the wife's face and leave her without any remedy.

Judge Young came down here and urged us to include this particular provision in our legislation because of what he has seen occur in the Federal courts.

I could read instance after instance. Judge Spencer Letts has a long statement about this as well. He said that it is not just the parents. They are the most powerful voices, but it is the judges who are appalled at the inequity and outrageous injustice that is taking place in the Federal courts all over this country, and it is wrong.

Most Americans would be shocked to know that HMOs enjoy immunity from suits. If a doctor fails to treat a patient with cancer correctly and if the patient dies, you can sue the doctor for malpractice. But if a managed care company decides to pinch pennies and overrule the doctor's recommendations on treating the patient and the patient dies, the insurance company is immune from responsibility. No other industry in America enjoys this immunity from the consequences of its actions. The HMOs do not deserve it. On this life-and-death decision, immunity from responsibility is literally a license to kill.

Madam President, we ought to at least leave this matter up to the States, not preempt the States.

I want to say the strongest supporters of this provision are the doctors. The reason the doctors are the strongest advocates of this position is because they are sick and tired of having their medical recommendations overruled by HMOs. That is the basic justification.

Ultimately, it is basic fairness to the individual who may be harmed. The provision ultimately improves the quality of care by ensuring their accountability. Finally, we have the doctors themselves pleading, pleading, pleading for Congress to act.

The American Medical Association has indicated its strong support in a letter. I ask unanimous consent to have that printed in the RECORD as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, Il, July 8, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the 300,000 physician and student members of the American Medical Association (AMA), we are pleased that the Senate has agreed to begin debate on patient protection legislation. Bipartisan enactment of comprehensive legislation in this area is urgently needed.

* * * * *

This bill should remedy the inequity that results from health plans' ability to routinely make medical decisions while remaining unaccountable for the injuries they cause. Health plans duplicitously argue that they should make medical necessity decisions and control utilization review and appeals processes while stating that they want to be protected by ERISA preemption. By not removing that immunity, this bill would fail to hold those health plans accountable. Presently, 125 million enrollees participate in ERISA–covered health plans, and despite state legislative initiatives to provide adequate legal remedies, those enrollees are all without effective legal recourse against their health plans. This is an issue of fundamental fairness. The AMA firmly believes that Americans covered by ERISA plans must have the same right of redress as those who are covered by non-ERISA plans. We therefore request that S. 326 be amended to remove ERISA preemption for health plans.

* * * * *

In conclusion, the AMA appreciates the Senate's efforts to adopt legislation that would promote fairness in managed care. We urge you to join us in advancing patients' rights by strengthening the ''Patients' Bill of Rights Act,'' S. 326, to guarantee all patients these essential protections.

Respectfully,
E. RATCLIFFE ANDERSON, Jr., MD.

Madam President, I hope this amendment will be defeated and that we let the States make the final judgment. They ought to be the ones who make the decision about protecting their own citizens. On this issue, it should not be the Federal Government or the Senate preempting and denying States the opportunity to protect their citizens.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 29 seconds.

Mr. KENNEDY. I yield 2 minutes on the bill to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 2 minutes.

Mrs. BOXER. Madam President, I thank Senator KENNEDY for his incredible leadership on this issue.

Last night, I said the score was 8 to 0; it was 8 for the HMOs, patients nothing. I think this amendment is worth 2 points, so it will either be 10 to nothing or 8 to 2.

Let me tell you why I think this amendment is so important. If this amendment is agreed to and the HMOs cannot be held accountable in a court of law, it means that if they kill you, if they maim you, if they hurt you or your family or your children due to callous and uncaring bureaucrats, they cannot be held accountable. We set no new Federal cause of action. We simply say if the States believe it is right—such as Texas decided it was—then they can allow these lawsuits to proceed.

Let me tell you about an emergency room physician I met. He came before the Congress. He told a harrowing tale of a man who was brought into the emergency room with uncontrollable blood pressure. The doctor tried everything. Finally, by administering drugs through an IV, he was able to control the pressure. He felt the man needed to stay in the hospital at least overnight. He called the HMO. The HMO said, ''Absolutely not. Give the man his medication and send him home.''

The doctor begged. The doctor cajoled. The HMO was unrelenting. The doctor went to the patient. He said, ''Your HMO will not allow you to stay here, sir, but I strongly advise you to stay here.''

The patient said, ''What will it cost?''

The doctor said, ''About $5,000.''

This gentleman started laughing. He said: I don't have $5,000. I have a family. I have to go home. I have a job. I am sure my HMO would never do this to me, would never put me in danger. If they say I can have the drugs, give me the drugs, and I will go home.

The doctor could not prevail with the gentleman. The gentleman went home and had a stroke. He is now paralyzed on one side of his body.

I ask for an additional 30 seconds on the bill.

Mr. KENNEDY. I yield 30 more seconds.

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mrs. BOXER. So now what happens? This man is paralyzed for life. Oh, he could sue the doctor, that good doctor who begged the HMO. Yes, he could sue the hospital. The hospital had nothing to do with it.

I am saying to my friends on the other side of the aisle, you are always talking about States rights. We come in here and get lectured every day. All this amendment, under the underlying bill, says is, if a State decides to allow

their people the right to sue a callous, uncaring, and negligent HMO, as Texas decided to do and other States did, let them do it.

I hope this amendment will be defeated. Remember, it is worth 2 points.

Mr. NICKLES. Madam President, I ask that the Senator from New Hampshire yield me 1 minute.

Mr. GREGG. I yield the Senator from Oklahoma 1 minute.

Mr. NICKLES. Madam President, I ask unanimous consent to have printed in the RECORD a letter from the Republican Governors Association, signed by Governor Keating from Oklahoma, Ed Schafer, Governor of North Dakota, and Don Sundquist, Governor of Tennessee, all urging us to defeat the KENNEDY bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLICAN GOVERNORS ASSOCIATION,
Washington, DC, July 14, 1999.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, U.S. Capitol, Washington, DC.

DEAR SENATOR NICKLES: As Congress begins debate on managed care reform legislation, we would like to emphasize our confidence in states' achievements in managed care and ask that any legislation you consider preserve state authority and innovation. We applaud the Republican Leadership's efforts to complement the states' reforms by expanding managed care protections to self-insured plans without preempting state authority.

Historically, regulating private insurance has been the responsibility of the states. Many, if not all of the ideas under consideration now in Congress, have been considered by states. Because the saturation of managed care is different throughout the nation, each state has its own unique issues relative to its market place. We have concerns about the unintended consequences of imposing one-size-fits-all standards on states which could result in increasing the number of uninsured and increasing health care costs.

As Governors, we have taken the reports of abuses in managed care seriously and have addressed specific areas of importance to our citizens. As you know, some analysts estimate that private health insurance premiums could grow from the current 6 percent to double-digit increases later this year. This does not include the costs of any new federal mandates. Health resources are limited.

We hope the Congress' well-intended efforts take into account the states' successful and historical role in regulating health insurance.

Sincerely,

FRANK KEATING,
Governor of Oklahoma, Chairman.

ED SCHAFER,
Governor of North Dakota, Vice Chairman.

DON SUNDQUIST,
Governor of Tennessee, Chairman, RGA Health Care Issue Team.

Mr. NICKLES. I want to be clear. The Governors do not want us micromanaging their health care. The Governors, frankly, do not want us driving up health care costs. The Governors do not want to have a bill that is not really for patients rights, but rather for trial lawyers' rights. It would be great for lawsuits, but it would be terrible for health care. It basically would have people dropping health care all across the country because, not only do you sue HMOs, but you sue employers as well. Maybe many people have missed that part of the debate.

The Kennedy bill says, let's sue employers. If your health care is not good enough, sue your employers. The employers say: We do not have to provide health care; we are going to drop it. Employees, I hope you take care of it on your own. If you want to increase the number of uninsured, pass the Kennedy bill. This amendment would strike the provision. I think it would be very positive for health care in America.

Mr. GREGG. I yield, off the bill, to the Senator from Pennsylvania, 3 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes off the bill.

Mr. SANTORUM. Madam President, I thank the Senator from New Hampshire. Many have said that you cannot sue your HMO. There are three Federal Circuit Court cases and 12 Federal District Court cases that have said ERISA does not preempt State law when you want to sue your HMO for malpractice.

I ask unanimous consent to have this list printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ERISA IS NOT A BARRIER TO HMO MALPRACTICE LIABILITY

The key argument made time and again by sponsors of the Kennedy unfunded mandates bill is that we need expanded liability because managed care companies are shielded from being held accountable for malpractice by the federal ERISA (Employee Retirement Income Security Act).

The fact is that in at least 15 cases since 1995, federal circuit and district courts have ruled that ERISA does not shield an HMO from being sued for medical malpractice.

Federal circuit court

In Dukes (1995), the third circuit court held that ERISA did not preempt Pennsylvania state law on medical negligence action involving an HMO.

In Pacificare (1995), the tenth circuit court held that ERISA did not preempt Oklahoma state law, stating, ''just as ERISA does not preempt the malpractice claims against the doctor, it should not preempt the vicarious liability claim against the HMO . . .''

In Rice (1995), the seventh circuit court held that ERISA did not preempt Illinois state law medical malpractice action.

Federal district court

In Henderson (1997), the court rejected claims of ERISA preemption in a malpractice case against an HMO, its hospitals, and treating professionals and settlement for $5 million was reached shortly thereafter.

In Prihoda (1996), the court held that ERISA did not preempt vicarious liability of an HMO.

In Kampmeier (1996), the court held that ERISA did not preempt Pennsylvania state law claim for medical negligence.

In Quellette (1996), the court held that ERISA did not preempt Ohio state law claim for medical negligence.

In Roessert (1996), the court held that ERISA did not preempt California state law for negligence.

In Fritts (1996), the court held that ERISA did not preempt Michigan state law for medical negligence.

In Lancaster (1997), the court held that ERISA did not preempt Virginia state law medical negligence claim.

In Blum (1997), the court held that ERISA did not preempt Texas malpractice claim against an HMO.

In Edelen (1996), the court held that ERISA did not preempt District of Columbia law in malpractice action against an HMO.

In Prudential (1996), the court held that ERISA did not preempt Oklahoma malpractice law in an HMO case.

In Ravenell (1995), the court held that ERISA did not preempt Texas malpractice law in an HMO case.

State court decisions

In Pappas (1996), Pennsylvania Superior Court held that medical malpractice action against an HMO was not preempted by ERISA.

In Naseimento, Massachusetts Superior Court held that ERISA did not preempt liability of an HMO, and a jury awarded $1.4 million.

Mr. SANTORUM. So the issue is not whether you can sue your HMO. That is not why we are so adamantly against the provision in the Kennedy bill. It is not to be able to sue your HMO. I do not have any problem with your being able to sue your HMO. What I do have a problem with is what this bill does; it allows you to sue your employer. It allows you to sue the employer for a decision made by an HMO, by an insurance company. What will that mean?

You heard the Senator from Oregon, who is a small business owner, say—and, by the way, I have talked to dozens of employers who have said this:

If you are going to open up the books of my corporation—I make widgets or I make steel or I make desks or I make pencils—you are going to open up my books for my employees to sue me for a decision my insurance company, that I hired, made. I cannot afford it. I am not in the business of health care. I am not managing these health care decisions. I hired someone to do that, but I am going to get sued for their decisions? Sorry, as much as I would love to provide group health insurance to you, I cannot allow the corporation—our corporation, our effort—to be jeopardized by a decision made by someone outside of what I do.

I cannot let it happen. They will drop their insurance. I ask for 30 additional seconds.

Mr. GREGG. I yield the Senator 30 seconds.

Mr. SANTORUM. Who will be the first person, once these employers drop their insurance as a result of this bill, to run to the Senate floor and say:

These nasty employers, look at them; they are dropping their insurance; we need the Government to take over the health care system?

Yes, the Senator from Massachusetts would be the first person on the Senate floor calling for a Government health care system.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that 23 cases emphasizing ERISA's limitations, Federal cases from most every circuit plus various State courts around the country, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COURT CASES EMPHASIZING ERISA'S LIMITATIONS

A. FEDERAL APPELLATE DECISIONS

1. Bedrick v. Travelers Insurance Company (4th Cir. 1996) 93 F.3d 149

Ethan Bedrick was born with severe cerebral palsy and required speech therapy and physical therapy to prevent contraction of his muscle tissues. In April of 1993, Travelers Insurance Company terminated the speech therapy and severely restricted physical therapy when Ethan was 14 months old. When Ethan's father threatened to sue, the insurance company reviewed the decision. The insurance company concluded, without updating Ethan's file or consulting with his physicians, that intensive physical therapy would not result in what the insurance company described as ''significant progress'' for Ethan.

In its ruling in 1996, the Fourth Circuit held that Travelers' decision was arbitrary and capricious because the opinions of their medical experts were unfounded and tainted by conflict. The court observed that neither the insurance plan nor the company's internal guidelines required ''significant progress'' as a precondition to providing medically necessary benefits. ''It is as important not to get worse as to get better'', the court noted. The court noted that ''the implication taht walking by age five. . . would not be 'significant progress' for this unfortunate child is simply revolting.'' (page 153)

ERISA left the Bedricks with no remedy to compensate Ethan for the developmental progress he lost during the three years and more that his parents had to litigate the benefit denial by Travelers. The Bedricks' state law causes of action were eliminated due to ERISA.

2. Corcoran v. United Healthcare, Inc. (5th Cir. 1992) 965 F.2d 1321

Mrs. Corcoran was in an employer-sponsored health plan using Blue Cross as administrator and United Health Care handling utilization review. Mrs. Corcoran was pregnant and had a history of pregnancy-related problems. Although her own doctor recommended hospitalization, United Health Care denied that hospitalization was medically necessary and did not pre-certify a hospital stay. Instead, 10 hours of daily in-home nursing care were authorized. When the nurse was not on duty, the fetus developed problems and died. The Corcorans had no remedy for damages against United under ERISA. The Corcorans' claim for state damages were eliminated due to ERISA.

The court noted: ''The result ERISA compels us to reach means that the Corcorans have no remedy, state or federal, for what may have been a serious mistake. This is troubling for several reasons. First, it eliminates an important check on the thousands of medical decisions routinely made in the burgeoning utilization review system . . . Moreover, if the cost of compliance with a standard of care (reflected either in the cost of prevention or the cost of paying judgements) need not be factored into utilization review companies' cost of doing business, bad medical judgements will end up being cost-free to the plans that rely on these companies to contain medical costs. ERISA plans, in turn will have one less incentive to seek out the companies than can deliver both high quality services and reasonable prices'' (page 1338).

3. Cannon v. Group Health Services of Oklahoma, Inc. (10th Cir. 1996) 77 F.3d 1270

Ms. Cannon was diagnosed with elobastic leukemia. She received chemotherapy treatments, and her leukemia went into remission. Subsequently, her insurer amended her policy to state that preauthorization would be denied for an autologous bone marrow treatment if sought after the first remission.

Ms. Cannon's doctor recommended an autologous bone marrow treatment and requested preauthorization from the insurer. When the insurer denied the treatment as experimental, the doctors made a second request which was also denied. Through persistence by the doctor and Ms. Cannon, the insurer reversed its decision and authorized the treatment approximately seven weeks after the first request was made. It was not until 18 days after the decision to authorize the treatment was made that Ms. Cannon learned of the reversal. Two days after notification, she was admitted to the hospital and died the following month.

Ms. Cannon's surviving spouse brought several state law claims. The court held that the state law causes of action were preempted due to ERISA and that there was no remedy under ERISA for the delay in receiving the authorization. The court apologized for the result and wrote ''although we are moved by the tragic circumstances of this case and the seemingly needless loss of life that resulted, we conclude the law gives us no choice but to affirm'' (page 1271).

4. Jass v. Prudential Health Care Plan, Inc. (7th Cir. 1996) 88 F.3d 1482

Ms. Jass was in an employer-sponsored health plan using Prudential Health Care Plan to administer the plan. She had complete knee replacement surgery. A utilization review administrator for Prudential determined that it was not necessary for Ms. Jass to receive a course of physical therapy following the surgery to rehabilitate the knee.

Ms. Jass claimed that her discharge from the hospital was premature since she had not received required rehabilitation and she had permanent injury to her knee.

Ms. Jass had no damages remedy against either the utilization review administrator or Prudential under ERISA. The court found that ERISA preempted any state claim against Prudential for vicarious liability for the doctor's alleged negligence in connection with the denial of rehabilitation.

5. Comer v. Kaiser Foundation Health Plan (9th Cir. 1994) 1994 U.S. App. LEXIS 27358, 1994 WL 718871

Although Ryan Comer had been diagnosed with an unusual form of pediatric cancer, Kaiser denied coverage for high-dose chemotherapy and denied authorization for an autologous bone marrow transplant. Ryan subsequently died.

Ryan's parents' state wrongful death action was preempted by ERISA. Ryan's parents had no damage remedy available to them under ERISA.

6. Kuhl v. Lincoln National Health Plan of Kansas City, Inc. (8th Cir. 1993) 999 F.2d 298

Mr. Kuhl had a heart attack. His doctor decided on June 20, 1999 that he required specialized heart surgery. Because the hospitals in his town did not have the necessary equipment for such surgery, the doctor arranged for the surgery to be performed in St. Louis at Barnes Hospital.

When Barnes Hospital requested precertification for the surgery, the utilization review coordinator at Mr. Kuhl's HMO refused to precertify the surgery because the St. Louis hospital was outside the HMO service area. Accordingly, the surgery scheduled for July 6 was canceled. The HMO instead sent Mr. Kuhl to another Kansas City doctor on July 6 to determine whether the surgery could be performed in Kansas City. That doctor agreed with the first doctor that the surgery should be performed at Barnes Hospital. Two weeks later, the HMO agreed to pay for surgery at Barnes Hospital. By then, the surgery could not be scheduled until September.

When the doctor at Barnes Hospital examined Mr. Kuhl on September 2, Mr. Kuhl's heart had deteriorated so much that surgery was no longer a possibility. Instead, he needed a heart transplant. Although the HMO refused to pay for an evaluation for a heart transplant, Mr. Kuhl managed to be placed on the transplant waiting list at Barnes. Mr. Kuhl died waiting for a transplant.

The survivors of Mr. Kuhl have no damages remedy against the HMO under ERISA. Mr. Kuhl's survivors' state law causes of action were eliminated due to ERISA.

7. Spain v. Aetna Life Insurance Co. (9th Cir. 1993) 11 F.3d 129, cert. denied (1994)

Mr. Spain was diagnosed with testicular cancer. The recommended course of treatment was three-part procedure which had to occur in a short time period. Although Aetna initially approved the treatment, Aetna withdrew its approval prior to the third part of the procedure.

While Aetna ultimately changed its position and authorized the third part of the procedure, it was not authorized until it was too late to be effective. Mr. Spain died. There are no damage remedies against Aetna under ERISA. Mr. Spain's survivors' state law causes of action were eliminated due to ERISA.

8. Settles v. Golden Rule Insurance Co. (10th Cir. 1991) 927 F.2d 505

Mr. Settles was in an employee-sponsored health plan. The employer paid a monthly premium to Golden Rule and the employer was required to give written notice to the insurer in advance of terminating Mr. Settles' coverage. On October 24, the insurer notified Mr. Settles by a letter that it had terminated his insurance unilaterally. That same day Mr. Settles suffered a heart attack and he died five days later.

The widow sued Golden Rule in state court alleging that the death of her husband was caused proximately by the insurer's unilateral decision to terminate his insurance. The court ruled that ERISA preempted her state claims. ERISA does not provide a damage remedy for her losses.

B. FEDERAL DISTRICT COURT DECISIONS

9. Wurzbacher v. Prudential Insurance Co. of America (E. Dist. Ky. January 27, 1998)

Mr. Wurzbacher received monthly injections of leupron as treatment for his prostate cancer. Under his retiree health plan,

the treatment was fully covered (paid 100% of the $500 charge) and paid for. When Prudential took over as the plan administrator, it changed the coverage stating the plan would now only over 80% of $400 ($320) of the $500 charge for each injection. Since Mr. Wurzbacher could not afford to pay the additional $180, he asked his physician for alternatives. In light of the aggressiveness of the cancer, the doctor said the only alternative was castration. The request was approved by Prudential and he was castrated.

When he returned home, he found a letter from Prudential notifying him that it had made a mistake and that the plan would pay the full $500 for the monthly leupron injection.

The court held that the Wurzbachers' claims for state damages were eliminated due to ERISA. Neither Mr. Wurzbacher nor his spouse have a damage remedy under ERISA for alleged negligence by Prudential in denying the claim.

10. Andrews-Clarke v. Travelers Insurance Co. (D. Mass. Oct. 30, 1997) 21 EBC 2137, 1997 WL 677932

Richard Clarke's health plan covered at least one 30-day inpatient rehabilitation program per year when necessary. Travelers refused to approve Richard's enrollment in a 30-day inpatient alcohol rehabilitation program. Instead it approved two separate brief (five and eight days, respectively) hospital stays. Within 24 hours after the second hospital stay, Richard attempted suicide in the garage with the car engine running while he consumed a combination of alcohol, cocaine, and prescription drugs. His wife discovered him by breaking through the garage door. Mr. Clarke was taken to the hospital where he was treated for carbon monoxide poisoning.

At his mental commitment proceeding, the court ordered Mr. Clarke to participate in a 30 day detoxification and rehabilitation program following his release from the hospital. Travelers ''incredibly refused'' to authorize admission under his plan. Instead, for his detoxification and rehabilitation, Mr. Clarke was sent to a correctional center, where he was forcibly raped and sodomized by another inmate. He received little therapy or treatment at the correction center. Following his release, he went on a prolonged, three-week drinking binge. He was hospitalized overnight with respiratory failure. After his release from the hospital, he began drinking again. He was found the following morning dead in his car, with a garden hose running from the tailpipe into the passenger compartment.

Mr. Clarke's widow and four minor children sued Travelers and its utilization review provider under state law. ERISA was held to preempt all of these and to provide no remedy. The Court noted that ''the tragic events set forth in Diane Andrews-Clarke's Complaint cry out for relief'' (p. 2140) and ''Under traditional notions of justice, the harms alleged—if true—should entitle Diane Andrews-Clarke to some legal remedy on behalf of herself and her children against Travelers and Greenspring. Consider just one of her claims—breach of contract. This cause of action—that contractual promises can be enforced in the courts—pre-dates the Magna Carta'' (p. 2141).

But the Court also noted: ''Nevertheless, this Court has no choice but of pluck David Andrews-Clarke's case out of the state court in which she sought redress (and where relief to other litigants is available) and then, at the behest of Travelers and Greenspring, to slam the courthouse doors in her face and leave her without any remedy'' (p. 2141).

In discussing the need for ERISA reform the Court was quite clear:

''This case, thus, becomes yet another illustration of the glaring need for Congress to amend ERISA to account for the changing realities of the modern health care system'' (pp. 2141-2142).

''It is therefore deeply troubling that, in the health insurance context, ERISA has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect. What went wrong?'' (p. 2144).

''The shield of near absolute immunity now provided by ERISA simply cannot be justified'' (p. 2151).

The Court, recognizing ''the perverse outcome generated by ERISA in this particular case,'' called upon Congress for reform.

11. Thomas-Wilson v. Keystone Health Plan East HMO (E.D. PA 1997) 1997 U.S. District court LEXIS 454, 1997 WL 27097

In May of 1995, Ms. Thomas-Wilson was diagnosed with Lyme disease. She began receiving intravenous antibiotic treatment on June 6, 1995, which the HMO covered. In August of that year, the HMO denied continuation of that treatment. Since she could not afford to pay herself for the treatments, she stopped receiving them and her condition worsened. She could not work or perform household duties. Her neck and back pain became so severe and persistent that she needed a full-time caregiver.

From September through December of 1995, the HMO required her to undergo extensive testing to determine if she had Lyme disease. In December of 1995, the HMO reinstated coverage for the intravenous antibiotic treatment.

Ms. Thomas-Wilson filed suit alleging that she became severely disabled and endured great pain, suffering, depression, and changes in personality as a result of the interruption of her treatment.

The court found that Ms. Thomas-Wilson's and her spouse's state tort claims against the HMO were preempted by ERISA. There was no damage remedy available under ERISA.

12. Turner v. Fallon Community Health Plan Inc. (D. Mass. 1997) 953 F. Supp. 419

Mrs. Turner's HMO refused to authorize cancer treatment. She died. Mr. Turner sued his spouse's HMO for allegedly causing her death by refusing to authorize treatment.

The court held that, even assuming there had been a wrongful refusal to provide the treatment to Mrs. Turner, her surviving spouse's state claims were preempted by ERISA. Mr. Turner has no damage remedy available under ERISA.

13. Foster v. Blue cross and Blue Shield of Michigan (E.D. Mich. 1997) 969 F. Supp. 1020

Mrs. Foster was diagnosed with breast cancer and Blue cross refused to approve the treatment prescribed of high dose chemotherapy with peripheral cell rescue and autologous bone marrow transplantation. Because of this denial, Shelly Foster did not receive the treatment and died. The court, noting that this was a ''harsh result,'' held that the claims of her spouse for breach of contract, bad faith and infliction of emotional distress, negligent misrepresentation and fraud, and wrongful death, as well as any claim under the Michigan civil rights statute, were all preempted by ERISA. Mr. Foster had no damage remedy under ERISA.

14. Smith v. Prudential Health care Plan, Inc. (E.D. Pa. 1997) 1997 WL 587340

Mr. Smith's contract with Prudential through the PAA Trust required pre-authorization for medical treatment before insurance coverage would be provided. After Mr. Smith injured his leg in an automobile accident on January 18, 1995, he needed surgery to reduce his heelbone. When no doctor participating in the Prudential HMO was available, Mr. Smith found a qualified out-of-network doctor to perform the surgery. Prudential would not authorize the surgery since ''surgical correction is no longer possible.'' Mr. Smith filed a state action for breach of contract, negligence, and negligent performance of contract. The court ruled that plaintiff's claims were preempted by ERISA. Mr. Smith has no remedy under ERISA.

15. Udoni v. The Department Store Division of Dayton Hudson Corporation (N.D. Ill. 1996) 1996 U.S. Dist. LEXIS 8282, 1996 WL 332717

Mrs. Udoni's bone deterioration in her facial bones, caused by osteoporosis, prevented her from eating food. Her bone deterioration caused numerous other problems. Her doctors had to replace her facial bones with bones from her hip.

Under Mrs. Udoni's medical plan, medical conditions were fully covered but treatments to correct conditions of the teeth, mouth, jaw joints were excluded. The plan's administrator classified Mrs. Udoni's operation as ''dental'' and denied coverage for surgery.

The court ruled the interpretation of the plan was arbitrary and capricious. The physicians had provided evidence repeatedly explaining the medical necessity and classification of her specific surgery. Recognizing that to remand the case to the administrator would be futile in light of its ''continued refusals to consider (or even acknowledge) substantial evidence of the merits'' of Mrs. Udoni's claim, a bench trial was scheduled.

ERISA provides no remedy for complications resulting from the deterioration in Mrs. Udoni's physical condition during the coverage disputes. Mrs. Udoni's claim for damages arising from improper denial of benefits were eliminated under ERISA.

16. Bailey-Gates v. Aetna Life Insurance Co. (D. Conn. 1994) 890 F.Supp. 73

Mr. Bailey-Gates was hospitalized in May of 1991 for physical and mental disorders. A managed care nurse for Aetna ordered him released on June 18, 1991. He was released on June 25 and less than two weeks later, on July 4, 1991, he committed suicide.

His survivors sued Aetna for negligently releasing him while he was still in need of hospitalization for his disorders. The court ruled that ERISA preempted his survivors' state claims. Mr. Bailey-Gates' survivors have no damage remedy under ERISA.

17. Gardner v. Capital Blue Cross (M.D. Penn. 1994) 859 F.Supp. 145

Although Ms. Wileman's tumor from her peripheral neuroectodermal cancer was reduced by 70% from chemotherapy, only a bone marrow transplant could possibly eliminate the cancer. Blue Cross initially denied the request and refused to pre-certify the procedure. Blue Cross reconsidered and agreed to pay for the bone marrow transplant after it heard from Ms. Wileman's lawyer and the Pennsylvania Insurance Department.

Ms. Wileman's condition worsened sufficiently during the delay following the denial. Her doctors decided she was too weak to undergo the bone marrow transplant when they were preparing for the transplant in June of 1993. In September of 1993, Ms. Wileman died.

The court held that ERISA preempted her survivors' state negligence claims against the HMO. Her survivors have no damage remedy under ERISA.

18. Nealy v. U.S. Healthcare HMO (S.D. N.Y. 1994) 844 F. Supp. 966

Mr. Nealy had been treated by his doctor for an anginal condition. The HMO had assured Mr. Nealy that he could continue the care he was receiving for his pre-existing condition and be treated by the doctors he had been seeing.

After Mr. Nealy enrolled in the HMO, he was not issued an identification card. One week after first seeking an appointment, Mr. Nealy was examined on April 9, 1992, by a primary care physician who refused to refer Mr. Nealy to his former cardiologist. The HMO explained its refusal in an April 29, 1992 letter saying it had its own participating cardiologists. On May 15, 1992, the primary care physician authorized Mr. Nealy to see a cardiologist on May 19, 1992. Mr. Nealy suffered a massive heart attack on May 18, 1992 and died.

The court ruled that Mr. Nealy's surviving spouse's state claims were preempted due to ERISA. Mrs. Nealy has no claim for damages under ERISA.

19. Dearmas v. Av-Med, Inc. (S.D. Fla. 1993) 814 F. Supp. 1103

Ms. Dearmas was injured in an automobile accident, and she was transferred to four different hospitals in three days by her HMO based on the availability of providers participating in her plan at those facilities. As a result of those transfers, as well as other delays in her treatment, she alleged irreversible neurological damage.

The court held that ERISA preempted her state negligence claims against the HMO. Ms. Dearmas has no claim for damages under ERISA.

20. Pomeroy v. Johns Hopkins Medical Services, Inc. (D. Md. 1994) 868 F. Supp. 110

Mr. Pomeroy required surgery for dilopia (double vision). The HMO denied his claim. Five months later, in September of 1990, suffering from back pain and severe depression, the HMO again denied treatment. After these denials, he became addicted to a pain killer. When he sought treatment for the addiction, the HMO once again denied his claim.

Mr. Pomeroy pursued his benefits under the state Health Claims Arbitration Board and the HMO removed the case to federal court.

The court dismissed with prejudice Mr. Pomeroy's state claims for mental, physical and economic losses due to ERISA preemption. The court also dismissed without prejudice his benefit claim. Mr. Pomeroy has no claim for damages under ERISA.

21. Kohn v. Delaware Valley HMO Inc. (E.D. Penn. 1991) 14 EBC 2336

Mr. Kohn entered outpatient drug and alcohol rehabilitation in 1989. His HMO primary care physician admitted him in February of 1990 into an in-patient program. When the 15 days concluded, the therapist determined additional inpatient care was necessary. The HMO not only refused coverage for the additional inpatient care but refused to allow Mr. Kohn's family to pay for that additional care. While attempting to cross the railroad tracks in a drunken stupor, he was struck, and killed by a train two weeks after leaving the rehabilitation center.

The court found that ERISA preempted his survivors' claims based on denial of additional treatment. The court also held that a vicarious liability claim against the HMO based on ostensible agency would not be preempted if the HMO doctors committed malpractice. The survivors had no claim for damages under ERISA.

Mr. REID. I yield the final minutes we have on this amendment to the Senator from Illinois, the floor leader for the Democrats.

The PRESIDING OFFICER. Four minutes 24 seconds remain.

Mr. GREGG. Will the Senator suspend?

Mr. REID. Will the Senator withhold?

Mr. GREGG. I understand this is your last speaker. We have Senator DOMENICI, and then I will close. If Senator DOMENICI can go in between that.

Mr. REID. The Senator wants Senator DOMENICI to go now, if Senator DURBIN will withhold.

Mr. GREGG. I yield 5 minutes off the bill to Senator DOMENICI.

Mr. DOMENICI. I thank the Senator from New Hampshire.

Madam President, I want Senator KENNEDY to know that I will not get red in the face today. My wife is watching, and she tells me I do better when I do not yell.

Looking at America today, I ask this question: Is the best way to resolve the problem of somebody who is a patient and sick, and the kind of coverage and care to which they are entitled, to give it to the trial lawyers to resolve before juries in court cases?

I cannot believe the best we can do to arbitrate and settle these disputes is to say: Let the trial court do it; let the juries do it. We already know, if you are looking for an egregiously inefficient way to resolve disputes, use the trial lawyers and use the courts of America. It just does not target the problem. It resolves issues in a very arbitrary way.

I say to everybody here, I am convinced that letting the trial lawyers solve a medical problem is borderline useless. It will cost immeasurable amounts of money because every lawsuit will be worth something and because everybody will be frightened to death to try something before a jury, not because they are guilty but because jurors and the trial system are apt to award a gigantic verdict. Then every case is worth something.

Can we not figure out a better way than that? Whatever the arguments in this Chamber, the issue is: When people are covered by managed care or private health care, to what are they entitled?

It is not an issue of whether a doctor performs malpractice. That litigation is wide open. It is, if they are not getting what they are entitled to, how do you fix that? Frankly, I believe to fix it by throwing every one of those decisions into the lap of a trial lawyer who can file a lawsuit is, for this enlightened America, borderline lunacy. For an intelligent, bright America, it is ludicrous to suggest that as a way to settle disputes about coverage and quality of care.

Think of this: You open this up to the trial lawyers, and whatever an HMO or a managed care or an employer's policy provides for people is going to be in question unless the patient turns out healthy, safe, and sound.

If it turns out that they get sick or sicker, what do you think the case is going to be? They should have provided a different kind of care; I am in court; I am going to get an expert to say it should have been different; I am going to get a contract lawyer, an expert, to read into this contract what they think I should have.

Then they are liable for wrongful death, they are liable for any kind of illness, because the patient did not get well.

Frankly, I believe that is a giant mistake, and everybody should understand we are adding billions of dollars to the cost of health care through this and maybe will not get the kind of relief the people need.

Whatever the Republicans' final package is, I hope and pray that as part of the external review process we put in something that is very tough on HMOs and managed care and other policies, that they will provide what an independent medical expert says they are supposed to do, and it will force them to do it, not in a jury trial but in the process run by the States and their policymakers and insurance carriers.

Do we want the final decision as to the kind of coverage, the propriety of what was given to patients, to be decided by jurors in a courtroom with monstrous liability attached to it, or do we want it to be done by an expert as part of a review process with short timeframes and mandatory performance when they make a decision as to what they are entitled to?

I believe an enlightened America should opt for the latter. I do not believe an enlightened America should even consider having contract disputes of this type determined by trial lawyers in courtrooms by jurors.

Which do we want? Do we want health care or do we want a jury verdict? Do we want health care as it should be or do we want a trial in the courts of this country? I choose the former, and you can do it without putting these issues into the courts of America, Federal or State.

I yield the floor.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair.

Let me say at the outset that the Senator from Pennsylvania misstated this amendment. This amendment says an employer can be held liable only when that employer uses his discretionary authority to make a decision on a claim. If a decision is made by an insurance company hired by the employer, the employer cannot be held liable. That is what this language says clearly.

Is there a time when an employer could be held liable? We found two cases. You decide whether they should be brought into court.

The employer collected the premiums from the employee and did not turn them in to the insurance company. When the employee had a claim, the insurance company said: You are not on the books.

In the second situation, the employee was a full-time employee and had worked 9 months at this firm. He filed a claim with the health insurance company. The insurance company said: No; we see you as a part-time employee. It is a dispute over part-time/full-time.

Those are two instances under law where employers are brought into court. Employers do not make these medical decisions. They would not be subject to this lawsuit.

Please bear with me for a minute. This is the most important amendment we will consider on this bill.

The Senator from New Hampshire corrected me. He is right. It does not keep 123 million Americans out of court. It keeps 120 million Americans out of court. I stand corrected, I say to the Senator. He is right. It is only 120 million Americans and their families who will be denied a day in court by the Republican amendment, an amendment which is a Federal prohibition against State lawsuits against health insurance companies.

Across the street at the Supreme Court building, you will find the phrase, ''Equal Justice Under Law.'' This amendment says to that phrase: Denied; denied. Equal justice under law is denied for those families who want to take health insurance companies into court and hold them accountable for their wrong decisions.

The Senator from New Mexico said: What are we doing taking contract questions into courts? I do not know where that Senator went to law school, and I do not know whether he follows law and order in other programs, but that is what courts do. Courts decide questions like contract coverage. That is part of the law of the land for every business in America, except health insurance companies.

The Republicans have come forward with this amendment, an amendment which the insurance industry wants dearly so that they cannot be held accountable in court. What this means is that families across America, when decisions are made, life-or-death decisions, will not have their day in court. The Republicans want to continue to prohibit American families from holding these health insurance companies accountable for their bad decisions.

From USA Today: The central question is, Should HMOs, which often make life or death decisions about a treatment, be legally accountable when their decisions are tragically wrong? Right now the answer is no.

If we pass the Democratic Patients' Bill of Rights, finally the courthouse doors will open to families across America. If the Republicans and the insurance industry prevail on this amendment, those doors are slammed shut. What will that mean? It will mean not just fewer verdicts, not just fewer settlements, but the continued attitude of this health insurance industry that they are held unaccountable, they cannot be held accountable to anyone. They will make decisions—life and death decisions—for you and your family and never face the prospect of going to court.

This is an internal memorandum from an HMO. This memorandum says it as clearly as can be. What they conclude is: Stick with the current law that keeps us out of court. This gentleman, who is in charge of management, said: We identified 12 cases where our HMO had to pay out $7.8 million. If we had it under the ERISA provisions that the Republicans want to protect, we would have paid between zero and $500,000 to those 12 families.

This is what it is all about. Someone who is maimed, someone who loses their life, their family goes to court and asks for justice. Equal justice under the law, that is all we are asking for.

The Republican majority and the insurance industry do not want to give American families that opportunity.

Vote to make sure we have equal justice under the law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. I yield myself 5 minutes off the bill. I will be the last speaker, so Members can understand there will be a vote in about 5 minutes—two votes. I stand corrected.

There have been a lot of representations in this argument in the last hour and a half or so. Let me make a couple points.

First off, once again, the Senator from Illinois cites the wrong number of people covered by this proposal. That does not really go to the core of the issue, but it should be clarified. The Senator from New Jersey said there are only two classes of people who are covered by this type of situation, diplomats and insurance companies. Actually Senators and members of the Government are covered in the same way. In fact, it was an OPM directive from the Clinton administration on April 5, 1996. I will simply quote from it. It says:

> Legal actions to review actions by OPM involving such denials of health benefits must be brought against OPM and not against the carrier or the carrier subcontractor.

It further states those actions can only be for certain limited amounts of recovery. So essentially we are tracking that proposal which is what Senators are presently covered by.

Also, the Senator from Massachusetts said—and this point was made by the Senator from Washington—that, yes, our proposals cost $13 billion and, yes, your proposals cost billions of dollars.

But there is a little bit of difference. We cut taxes. We give people assets. We put money in their pockets. We say to your folks: You can go out and use that money to benefit your family. Your proposals increase the cost of premiums and drive people out of the health care system and create more uninsured people. There is a fairly significant difference between the two cost functions of these two bills.

But this amendment goes to the fact that the proposal from the other side of the aisle essentially dramatically expands the number of lawsuits which will be brought in the United States, lawsuits which will be brought in all these different areas by aggressive and creative attorneys, lawsuits which today and under our bill would be settled under a procedure which is reasonable, which has independent doctors looking at the issue. Those decisions, by doctors who are independently chosen by independent authorities, are binding, binding on the health care provider group.

So we take out all these lawyers, all these attorneys. I think of this one procedure I cited before where you have literally 137 doctors talking about 82 different ways to treat one different type of health complication. That can be multiplied by thousands, if not millions, giving literally millions upon millions of opportunities for attorneys to bring lawsuits because one doctor shows treatment A and another doctor chose treatment A–82 or B–82.

The fact is the decision should not be made by an attorney. That decision should be made by an outside doctor who has independence, who is chosen by an independent group, and who has binding authority.

The end product of this bill will be to create a lot of new attorneys in this country having a lot of new opportunities to bring a lot of new lawsuits. In fact, there has been an lot of hyperbole on this floor. I want to put it in perspective. It might be hyperbole, but it is still fairly accurate.

There is a show on Saturday morning that I enjoy listening to on National Public Radio. Some may be surprised that I enjoy listening to National Public Radio, but I do. The show is called ''Car Talk.'' In ''Car Talk,'' there is a law firm in Cambridge, MA. I know it is euphemistic, but they call them, so far: Dewey, Cheatum & Howe? They represent the folks on ''Car Talk.'' Their offices are somewhere in Cambridge in Car Talk Plaza, and they represent the Tappet Brothers. Today I think they have three attorneys: Dewey, Cheatum & Howe.

If this bill is passed, Dewey, Cheatum & Howe are going to have to build a new building in Cambridge, and they

are going to have all these attorneys working for them because that is how many people will be needed to bring all the lawsuits that are going to be proposed under this bill as a result of its expansion.

What is the serious, ultimate outcome of this? It drives up costs. That is the serious ultimate outcome. It was almost treated as if that was an irrelevancy by one of the other speakers. Well, 1.4 percent of the premiums are going to go up. That does not mean anything? I say 1.4 percent translates into 600,000 people.

There have been a lot of pictures brought to the floor about people who have not gotten adequate health care, and I am sure their stories are compelling. But this floor would be filled if we put up the 600,000 pictures of people who will lose their health care insurance—filled right up to the ceiling by people who no longer have health care insurance as a result of all these lawsuits driving up all these costs for health care.

As the Senator from Pennsylvania pointed out, what will be the outcome of that? What will be the outcome of all these people being put out of their health care insurance because the cost has gone up so much? These are CBO's estimates, not mine. It will be that somebody will come to the floor from the other side of the aisle saying: We have to nationalize the whole system in order to take care of all the uninsured we just created by creating all these lawsuits for all these attorneys to pursue. What a disingenuous approach to health care, in my opinion.

The Republican plan has a constructive way to approach this. It leaves the decision of care to the patient, to be reviewed by a doctor, who is independently chosen, who is in the specialty where the patient needs the care. That decision is binding, binding on the health care provider.

I hope Senators will join me in supporting my amendment which voids the language which expands the lawyers' part of this bill.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, for the information of all Senators, I think we are ready to vote on the Gregg amendment, which strikes the liability provision. I also notify Senators that immediately following that vote, there will be a vote on the first-degree amendment, the amendment offered by Senator COLLINS dealing with long-term care deductibility and also dealing with ER and OB/GYN and access. So that vote will be immediately after the Gregg amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1250. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. FITZGERALD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—53

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner
Enzi	McCain	

NAYS—47

Akaka	Feingold	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Fitzgerald	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Specter
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Edwards	Levin	

The amendment (No. 1250) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, previously I indicated we would have two rollcall votes back to back. Since we found out there is a Special Olympics luncheon several of our colleagues wish to go to, I ask unanimous consent the pending Collins amendment No. 1243 be temporarily laid aside and the vote occur on the amendment first in the next series of votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized

Mr. KENNEDY. May we have order, Mr. President? Mr. President, the Senate is not in order. We have done very well during the course of the morning. We have had good attention, a good exchange, and good debate. This is an important amendment. If we could make sure the Senator could be heard and the Senators give their full attention, we would be very appreciative.

The PRESIDING OFFICER. The Senate will be in order. Any Senators with conferences, please take them off the floor. Staff will take their conferences off the floor.

The Senator from Oregon.

Mr. WYDEN. I thank the Chair.

AMENDMENT NO. 1251 TO AMENDMENT NO. 1232

(Purpose: To prohibit the imposition of gag rules, improper financial incentives, or inappropriate retaliation for health care providers; to prohibit discrimination against health care professionals; to provide for point of service coverage; and, to provide for the establishment and operation of health insurance ombudsmen)

Mr. WYDEN. 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 Oregon (Mr. WYDEN), for himself, Mr. REED, Mr. HARKIN, Mr. WELLSTONE, and Mr. BINGAMAN, proposes an amendment numbered 1251 to amendment No. 1232.

Mr. REID. 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. REID. Mr. President, the Senator is yielded 6 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Thank you, very much.

Mr. President and colleagues, I offer this amendment with a number of our colleagues to protect the relationship between health professionals and their patients.

What this amendment is all about is essentially ensuring that patients can get all the facts and all of the information about essential health care services for them and their families.

If ever there was an amendment that does not constitute HMO bashing, this would be it.

I don't see how in the world you can make an argument for saying that in the United States at the end of the century, when doctors sit down with their patients and their families, the doctors have to keep the patients in the dark with respect to essential services and treatment options for them.

Unfortunately, that is what has taken place. They are known as ''gag clauses.''

They are chilling the relationship between doctor and patient, and they are at the heart of what I seek to do in this amendment with my colleagues.

I think Members of this body can disagree on a variety of issues with respect to managed care. I have the highest concentration of older people in managed care in my hometown in the United States. Sixty percent of the

older people in my hometown are in managed care programs. We need this legislation, but at the same time we have a fair amount of good managed care.

But today we are saying even though Members of the Senate will have differences of opinion, for example, on the role of government and health care, we will have differences of opinion with respect to the role of tax policy in American health care.

If you vote for this amendment, you say we are going to make clear that all across this country, in every community, when doctors sit down with their patients and their families, they will be told about all of their options—all of their options, and not just the ones that are inexpensive, not just the ones that perhaps a particular health plan desires to offer, but all of the options.

It doesn't mean the health plan is going to have to pay for everything. It means the patients won't be in the dark.

By the way, when I talked to the distinguished Senator from Massachusetts shortly after coming to the Senate, a majority of Members of this body said these gag clauses should not be a part of American health care.

Let's differ on a variety of issues—the role of government, the role of taxes—but let's not say, as we move into the next century in the era of the Internet and the opportunity to get information, that the one place in America where you keep patients in the dark would be when they sit down with their provider and cannot be told all the options.

There are other important parts of this amendment. One that complements the bar on gag clauses, in my view, is the provision that makes sure providers would be free from retaliation when they provide information to their patients, when they advocate for their patients.

This amendment is about protecting the relationship between patients and their health care providers. If ever there was something that clearly did not constitute HMO bashing, it is this particular amendment.

Unfortunately, across this country we have seen concrete examples of why this legislation is needed; why, in fact, we do have these restrictions on what forces health care professionals to stay in line rather than tell their patients what the options are with respect to their health care. We have seen retaliation against health care workers who are trying to do their job.

It strikes me as almost incomprehensible that a Senator would oppose either of these key provisions. What Member of the Senate can justify keeping their constituents in the dark with respect to information about health care services? I don't see how any Member of the Senate can defend gag clauses. That is what Senators who oppose this amendment are doing. This amendment says to patients across America that they will be able to get the facts about health care services.

We talked yesterday about costs to health care plans. What are the costs associated with giving patients and families information? That is what this legislation does. In addition, it says when providers supply that information, plans cannot retaliate against providers for making sure that consumers and families are not in the dark.

We have seen instances of that kind of retaliation. It strikes me that it goes right to the heart of the doctor-patient relationship if we bar these plans from making sure patients can get the truth. It goes right to the heart of the doctor-patient relationship if providers are retaliated against, as we have seen in a variety of communities.

Mr. KENNEDY. Will the Senator yield?

Mr. WYDEN. I am happy to yield to the Senator.

Mr. KENNEDY. The argument on the other side will be, Republicans will say: We ban the actual gagging of a doctor.

The real distinction between the amendment of the Senator from Oregon and the Republican amendment is that this amendment ensures the doctor will not risk his job if he advocates. He might be able to tell the patient they need a particular process, the doctor will be permitted to relay that information, but then he can be fired under the Republican proposal.

Also, they will have the option of giving financial incentives for doctors not to provide the best medicine.

The amendment of the Senator from Oregon is the only amendment that does the job.

Mr. WYDEN. The Senator is absolutely right. What the Senator has pointed out is that you gut the effort to protect patients from these gag clauses unless you ensure that the providers are in a position to do their job and not get retaliated against and not face this prospect of getting financial incentives when they do their job.

The Senator from Massachusetts is absolutely right. We are making sure that providers can be straight with their patients. We are actually giving them the chance to carry out that antigag clause effort by making sure they will not be retaliated against and by making sure they will not face the prospect of their compensation in some way being tied to doing their job.

I am very hopeful all of our colleagues can support this amendment. It tracks what the majority of the Senate is already on record in voting for, the effort that the Senator from Massachusetts and I led in the last Congress shortly after I came here.

I was director of the Gray Panthers at home in Oregon for about 7 years before I came to Congress. I can see a lot of areas where Democrats and Republicans have differences of opinion on American health care. There are a lot of areas where reasonable people can differ. I don't see how a reasonable interpretation of what is in the interest of patients and providers can allow for gag clauses and then give these plans the opportunity to vitiate any effort to bar gag clauses by saying: If you try to be straight with your patients, we will retaliate against you; we will tie your compensation to your keeping these parties in the dark.

I hope my colleagues will support this amendment. It shouldn't be partisan. It doesn't constitute HMO bashing.

I yield the floor.

Mr. KENNEDY. I yield 6 minutes to the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the Senator.

I strongly support the effort my friend from Oregon is making to ensure that there is a provision in this bill that is finally passed prohibiting these gag provisions. I think that is very important.

I want to speak about a different aspect of this larger amendment. This is a provision that Senator HARKIN has taken the lead on, that I am cosponsoring with him. It deals with the problem of discrimination against nonphysician providers of health care services.

What am I talking about when I talk about ''discrimination against nonphysician providers of health care services''? I am talking about the people whom everyone, on occasion, wind up going to for high-quality professional health care. I am talking about nurse anesthetists, about speech and language pathologists, nurse practitioners, physical therapists, nurse midwives, occupational therapists, psychologists, optometrists, and opticians. These are health professionals who are licensed to provide particular medical services.

All we are providing in Senator HARKIN's amendment, which I cosponsor, is that a health maintenance organization cannot arbitrarily prevent a whole category of health care providers from providing that health care they are licensed and qualified to provide.

This is an extremely important issue for a State such as New Mexico where we have a great many rural and underserved areas. That is where the impact is the greatest because we have too few physicians in my State. The reality is that if a person is limited in obtaining their health care from a physician, in many cases in many parts of our State they either have a choice of driving a great distance or going outside their health plan and paying out of their pocket for something that ought to be covered by the premium they are already paying.

It is a serious issue that needs to be addressed. In my State, the estimate is

that we are losing 30 physicians. I believe it was 30 physicians in 1 month, according to the estimate. So we have a shortage of physicians. We are losing many of the ones that we have. We need to be sure people have access to the nonphysician health care providers who are very qualified to provide some of these services.

Let me show a chart on one of the specialties I am talking about. This is on anesthesia providers.

As I indicated before, nurse anesthetists are covered as one of the groups of health care providers. In our State, if you want anesthesia services, if you have to have anesthesia provided to you, your ability to get that strictly from a physician occurs in only one small area of our State. That is the area in blue. In all of the rest of our State, you are forced to rely upon someone other than a physician to provide that service.

All we are saying is, in the case of anesthesia services, a health maintenance organization should have to allow those services to be provided by another qualified person other than a physician, where that person is available. This is a simple matter of fairness to patients in rural areas. It is something that does not involve significant costs. In fact, the estimate of the Congressional Budget Office is less than half a percent change in cost over a 10-year period.

The reality is that many of these nonphysician health care providers provide these services at a much lower cost than the physician does. So, in fact, it is not a question of increasing the cost. In many cases, it is a question of decreasing the cost.

We offered this amendment in committee when this bill was considered in the Health and Education Committee. I offered this exact language. Senator HARKIN did. Several of our Republican colleagues at that time expressed their support—not with their votes but with their statements—for providing this type of guarantee. So it is nothing radical. This is a simple fairness issue, and it is one that makes all the sense in the world as far as the economics of health care is concerned.

If we are really concerned about getting adequate health care to the rural underserved areas of our country, such as I represent in New Mexico, such as Senator HARKIN represents in his State, it is essential we have this amendment as part of what we pass out of Senate.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. BINGAMAN. I am glad to yield.

Mr. KENNEDY. President Clinton, as I understand, has insisted this be part of the Medicare Program. So it is in the Medicare Program. Could the Senator indicate to me how this is working in his own State? Is it working well? It would appear to me to be a precedent for this, unlike other public policy issues, and it appears we have a pretty good pilot program—more than a pilot program. Perhaps the Senator would share with us his experience.

Mr. BINGAMAN. I thank the Senator for that question. It is an extremely good point. This is the nondiscrimination requirement that was put into the Balanced Budget Act in addition to Medicare.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield another minute.

Mr. BINGAMAN. I thank the Senator. In relation to Medicare managed care plans, and in relation to Medicaid, it has worked extremely well in those cases. As far as I know, there has been no objection raised to it.

So I believe what has worked there makes good sense in this area as well. I believe it is very important we have this provision included in the bill we finally pass.

One other example. In my State, certified registered nurse anesthetists are the sole anesthesia providers for 65 percent of our rural hospitals. If our rural hospitals are going to continue to function, as they must, then we need to be sure the nonphysician providers who are able to provide services in these smaller communities are able to do so and be compensated through these health maintenance organizations.

I think this is an important provision. I hope very much Senators support it and we can get this adopted as part of a bill we finally pass.

I yield the floor.

Mr. REID. Mr. President, the minority yields 6 minutes to the junior Senator from Iowa.

The PRESIDING OFFICER. The distinguished Senator from Iowa.

Mr. HARKIN. Mr. President, I join my friend and colleague from New Mexico. Together, we are cosponsoring this very important, vital amendment.

Again, I will repeat some of what the Senator said. The most important thing I heard him say was, in the State of New Mexico, only 65 percent of the State has nurses that provide anesthesiology.

I have a map of my State of Iowa. There are a lot of different colors on it, and I will not go into all the explanation, but the reality is, the vast majority of the State of Iowa only has certified nurse anesthetists to provide services to all of the State of Iowa. We have a few counties, about nine or 10, that have doctors, MDs. The rest are registered nurses. That is all. So someone up here in northwest Iowa or southwest Iowa, someplace up in this area, would have to drive hundreds of miles just to access an MD who is an anesthetist.

Here is a letter from Preferred Community Choice PPO. I will not read the whole thing. It says:

At this time, participation is limited to MD and DO degrees only.

I ask unanimous consent the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PREFERRED COMMUNITYCHOICE PPO,
Mountainview, AR, November 1, 1995.

GREETINGS: Thank you for recent inquiry regarding participation in our network of providers. At this time, participation is limited to MD and DO degrees only. We have created a file for interested providers who fall outside of these two categories. Should we expand the network in the future, we will use the information that you have provided for future contact. We appreciate your interest in Preferred CommunityChoice.

MICHAEL H. KAUFMAN,
Provider Relations.

Mr. HARKIN. That is what we are trying to get over with our amendment. As the Senator from New Mexico pointed out, this would cover such things as physician assistants, nurse practitioners, psychologists, optometrists, chiropractors, et cetera. This is not an ''any willing provider'' amendment. We are not saying that. We are not saying that we require a plan to open up to any provider who wants to join. We are simply saying a health plan cannot arbitrarily exclude a health care professional based on his or her license. That is all we are saying: They cannot do it based upon licensure.

Second, this provision does not require health plans to provide any new benefits or services. It just says, if a particular benefit is covered and there is more than one type of provider that can provide a service under their State license or certification, the health plan cannot arbitrarily exclude this class of providers. For example, if a plan offers coverage for the treatment of back pain, it cannot exclude State-licensed chiropractors.

Third, and I want to make this point very clearly, this provision would not expand or modify State scope-of-practice laws. Decisions about which providers can provide which services are left where they belong: to the States.

Again, I just want to remind everyone, this Congress supported this concept when we passed provider nondiscrimination language as part of the Balanced Budget Act for Medicare and Medicaid programs. The Senator from Massachusetts made an inquiry. He said: How is this working? I can tell you, it is working great in my State for elderly people under Medicare because now a lot of elderly people, who live in sparsely populated areas of my State, can access, for example, for back pain, chiropractors. They can access nurse practitioners, physician's assistants, a whole host of different providers under Medicare who are licensed by the State of Iowa. That is what our amendment does.

Again, I have to ask, if people in these programs, people in Medicare and

Medicaid, have the right to choose their provider, should not all Americans?

That is why this is a very simple and straightforward amendment. Thirty-eight States have recognized the need for this provision by passing similar legislation. Thirty-eight States have passed legislation providing that people can have their choice of providers as long as they are licensed or certified by the State.

You might say, why would we do it here if 38 States already cover it? The problem is, the State laws do not apply to the 48 million Americans who are in self-funded ERISA plans. That is the problem. That is the loophole we are plugging.

This provision is critically important for those who live in rural areas; those who do not have access to an MD or a DO; those who rely upon others who have State licensure or State certification to provide the kind of medical services they need.

In our amendment, the amendment by the Senator from New Mexico, Mr. BINGAMAN, and me, we are basically saying we want to give people a little more power, to empower them a little more, and to provide freedom of choice for the American consumers. It is very simple. This provision says a managed care plan cannot arbitrarily exclude a health care professional on the basis of the license or the certification.

It is a simple and straightforward amendment. It has broad-based support. I have a list of all the different associations supporting it. I would point out the broad-based support that it indeed does have, by everything from the American Academy of Physician's Assistants, nurse anesthetists, chiropractors, nurse midwives, the American Dental Association, American Nurses Association, Occupational Therapy Association of America, the American Optometric Association, the Physical Therapy Association, Speech, Language, and Hearing Association, and the Opticians Association of America. A broad range of providers support this provision.

The PRESIDING OFFICER (Mr. BUNNING). The Senator's 6 minutes have expired.

Mr. HARKIN. Mr. President, I hope at least we can support this and provide our people freedom of choice.

Mr. REID. I yield the Senator from Rhode Island 6 minutes.

Mr. REED. Mr. President, I rise in strong support of this amendment. There are many very important provisions, but I want to focus on one provision, and that is the creation at the State level of ombudsman programs or consumer assistance centers. I have been working on this provision, along with Senators WYDEN and WELLSTONE. We introduced separate legislation, and today, as part of this amendment, we are considering this very valuable and very important opportunity to empower consumers of health care services in this country.

One of the persistent themes we have heard throughout this debate is how do we give consumers more leverage in the system against these huge HMOs, against what appears to be illogical, indifferent decisions about the health of themselves and their families.

We rejected some proposals which I believe we should have embraced. For example, we just defeated an opportunity to give people a chance, in extremist, to go to court if necessary. This is something that has been adopted in Texas and is working very well. If we cannot do any of those things, then I think we must do at least this; and that is, to give the States the incentive to develop consumer assistance centers so individual health care consumers—patients—when they have frustrating denials, have someplace to turn.

We all know, because we all listen to our constituents, that every day there are complaints about the inability to get straight answers from their HMO, of the inability to get coverage, the inability to get what you paid for. Where do they turn? Too many Americans cannot turn anywhere today. If we pass this amendment, we will give them a chance to turn to a consumer assistance center.

I will briefly outline the provisions of the legislation. We provide incentives to four States to set up consumer assistance centers. These centers will operate as a source of information. They can give direct assistance in terms of advice or assistance to someone who is in a health care plan who has a question about their coverage. They will operate a 1–800 hotline. They will be able to make referrals to appropriate public and private agencies. They will not be involved in any type of litigation. This is not an attempt to provide an opportunity to recruit litigants. This is a consumer assistance center concept. I hope also that these centers will educate consumers about their rights.

This is something that has been promoted by many different organizations. The President's health care advisory commission in 1997 pointed out this is efficiency and every State, every region should have these types of centers.

We have similar centers with respect to aging and long-term care ombudsman programs working very well. Several States—Vermont, Kentucky, Georgia, and Virginia—have adopted these programs because they want to give a voice and give some type of power to their consumers in health care. Florida and Massachusetts have programs they are trying to get up and running, and just a few weeks ago on this floor in response to profound concerns we have about the military managed care program, the TriCare program, we adopted legislation that would set in motion the creation of an ombudsman program for military personnel. It is not a controversial idea. We passed this idea with overwhelming support.

This is something we can do. This is something we should do, and, frankly, if we rejected all the remedies we are proposing to give to consumers, we have to adopt at least this one. We have to give an incentive to States for working through not-for-profit agencies to set up these consumer assistance programs. Frankly, this is something that is long overdue, noncontroversial, and it should be done.

I see the Senator from Oregon, who has been a stalwart on this issue, is standing. He might have a comment.

Mr. WYDEN. I appreciate my colleague yielding. I so appreciate his leadership because this is a chance, with the Reed proposal, to make sure the consumers in this country can get what they need without litigation. I hope Members of the Senate will see this ought to be the wave of the future. It is a revolution in the concept of consumer protection because what this part of our proposal does, under the leadership of the Senator from Rhode Island, is essentially say: Let's try to help the patients and the families early on in the process. Let's not let problems fester and continue and eventually result in huge problems which can lead to litigation.

It seems to me—I want the Senator from Rhode Island to address this—what he is doing is essentially changing consumer protection so it ought to be at the front end when problems have not become so serious.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WYDEN. I ask the Senator from Rhode Island be given 2 additional minutes.

Mr. KENNEDY. I yield 1 minute.

Mr. WYDEN. I do not think there is a good health plan in America that cannot support the idea of a good ombudsman program so we can solve problems without litigation. I thank my colleague.

Mr. REED. I thank my colleague from Oregon. Let me reaffirm what my colleague said. This whole concept of ombudsman and consumer assistance centers is designed to allow the consumer in the first few hours, or even minutes, when they encounter problems in the health care system, to get advice and assistance. This is not a theoretical concept. It works already in several States.

California has a model program around the Sacramento area. People have benefited from this. This is what we want to see in every State in the country.

Again, if we cannot be sensitive enough to recognize the need for consumer assistance early in the process, then I believe we are failing the American public miserably. I hope we can

embrace, support, and adopt this amendment, particularly this provision with respect to the ombudsman consumer assistance program.

I yield back my time.

Mr. KENNEDY. I yield 4 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. EDWARDS. Mr. President, I rise in strong support of this amendment. I particularly want to address the issue of financial incentives, which this amendment addresses, which essentially is HMOs and health insurance companies providing financial incentives for physicians to provide less than appropriate care to limit the treatment options for patients or, in the case I am about to talk about, not calling in other physicians or doctors when they may be needed under the circumstances.

This is the story of something that actually happened in North Carolina.

A young mother was in labor. During the course of her labor, she was being overseen by an obstetrician/gynecologist who was responsible for her care. Unfortunately, this single OB/GYN was responsible for the care of a number of mothers in labor on this night.

During the course of the evening and the morning, the mother developed severe complications with her labor. There were clear signs the baby was in serious trouble and was having trouble getting oxygen and needed to be delivered. Something needed to be done immediately. The nurses taking care of this mother did exactly what good nurses would do under the circumstances: They paged the doctor. They called the doctor who was on call. They could not get him there. They had no understanding of why he was not responding to the call. They notified, by way of the call, that it was an emergency situation. Still no response.

More and more time was passing when the child within the mother's womb was not receiving the oxygen it needed and continued to suffer injury and damage.

Finally, the doctor appeared and delivered the baby by cesarean section. Unfortunately for this child and the family, it was too late. The child suffered severe and serious permanent brain injury. The child has severe cerebral palsy and, essentially, will require extensive medical care for the course of its life.

Later we learned that what happened was the physician who was in charge of this patient's care had a financial incentive, because of his contract with the HMO, not to call in additional physicians. In other words, he was rewarded where, on a consistent basis, he did not call in backup help—even though in this situation he was taking care of too many patients, too many mothers.

There was an emergency, and the bottom line is this: Because of a financial incentive, an insurance HMO credit with its doctor, we have a young child who will have cerebral palsy for the rest of his life. This is the kind of thing that should not happen in America. This is what this amendment addresses. It specifically deals with the issue of financial incentives in a thoughtful, intelligent way, limiting the financial incentives that can be allowed and requiring their disclosure—both of which are absolutely needed and absolutely necessary.

I might add one final thought. This child, who for the rest of his life will be severely brain damaged, will require extensive medical care, very expensive medical care, running in the many millions of dollars. His family, who are responsible for this child's care, who live with this problem 24 hours a day, day in and day out, year after year—this child's medical care is being paid for by Medicaid.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EDWARDS. If I may have 30 more seconds?

Mr. KENNEDY. I yield the Senator 30 more seconds.

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mr. EDWARDS. Since this child suffers from a severe injury as a direct result of an incentive that the HMO, the health insurance company, provided to the doctor, since this child suffers this severe injury and will have millions of dollars of medical problems over the course of his life, the question is, Who pays for this cost? The HMO is not going to pay for it. Who is going to pay for it is the taxpayers of America, through Medicaid.

So the financial burden of what happened as a result of this financial incentives clause, a clause which is absolutely fundamentally wrong and should not be allowed, is that every American taxpayer is responsible for carrying the burden of these millions of dollars in medical costs.

Thank you, Mr. President.

Mr. KENNEDY. I yield 9 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 9 minutes.

Mr. WELLSTONE. Thank you, Mr. President.

I thank the Senator from Massachusetts, the Senator from North Carolina, and the Senator from Oregon for their work on the floor of the Senate.

Mr. President, I say to Senator WYDEN from Oregon that I did not get a chance to hear his remarks on the floor of the Senate, but I think this whole question of whether or not doctors and providers can advocate for their patients and speak up when they think their patient is being denied care unfairly is extremely important. It is a little shocking, but it is really true that we all hear from doctors who tell us that they do not believe they can do that. They have no protection. They are worried about losing their jobs.

So I just say that if we are about being on the side of consumers, which I think is what we are about, Senator WYDEN's amendment is extremely important.

I will speak to another provision in this amendment which we actually have not discussed on the floor of the Senate. Of course, my fear is that Republicans will come out with a second-degree amendment and try to essentially wipe this amendment out. I wish—in fact, I would give up half of my 9 minutes if somebody from the other party would come down here; I would give up 4 and a half minutes just to get their other point of view, because the argument I am about to make goes as follows.

This is about ''points of service,'' which actually is about consumer choice. What we are saying in this provision is that if you are paying extra or are willing to pay a little extra, you should have the choice to be able to stay with your doctor, to be able to go to the clinic to which you have been going.

For example—and this just drives people in Minnesota crazy—an employer may shift a plan, and then what will happen is, even though you have been taking your child or your children, or you yourself have been seeing the same doctor whom you trust, who knows you well, who knows your family well, all of a sudden you no longer can see them.

What we are saying is, don't the consumers and don't the families in Minnesota and Oregon and Massachusetts and Kentucky—all around the country—have some choice? My gosh, if people are willing to even pay a little extra in premium, how can anybody come out on the floor of the Senate and say they are not entitled to some continuity of care and some choice when it comes to being able to continue to see their doctor?

I can give a lot of examples. Let me simply go through the Republican proposal for a moment and then come back to some examples.

In the Republican proposal, only if the employer has 50 employees or more is there any discussion at all about any alternatives; and even there, it is two panels of providers. But two panels of providers does not make for choice. And if it is under 50 employees, there is no choice at all.

We have gone over this over and over again. For the 115 million people who are excluded, they do not have any protection whatsoever.

So again, the clock is ticking away. But if, in fact, any Republican wants to come and debate me, I would be pleased to give up my 4 minutes or 3 minutes or whatever.

Again, this is about choice. We are saying is that if you and your family have been seeing a doctor and going to a clinic for 5 or 6 or 7 years, if you have paid extra, and all of a sudden your employer shifts plans or your managed care plan narrows the number of doctors you can see, you ought to be able to continue to see your doctor, you ought to be able to continue to go to that clinic.

We have all had this experience of—well, maybe we have not; I have. You go into the hospital; you put on one of those gowns. I think I could become rich by coming up with an alternative gown that does not tie in the back, because it just makes you nervous right away; you are very nervous, and you do not know what is going to happen to you.

You know what? It sure makes a difference if it is your family doctor who is there with you. It sure makes a difference if you have the sense that there is a doctor or a nurse or people from the clinic who have recommended you need to have the surgery who are there with you, who care about you, who know you, who love you.

I will say it again, consumer choice is what this amendment is about. How can the Republicans come to the floor of the Senate with a piece of legislation that they claim is patient protection and not give families this choice? If a family in Minnesota wants to pay or can pay a little more in premium to make sure that if their employer shifts plans they will be able to stay with their family doctor, or if you are an elderly citizen and you have Parkinson's you will be able to stay with your neurologist, or you have a child who is very ill with cancer you will be able to stay with your pediatric oncologist, I would think, for gosh sakes, we would want to allow a family to have that choice.

I do not want to hear my colleagues on the other side of the aisle talk about freedom of choice if they are going to come out here with a second-degree amendment that is going to wipe out this very important choice that this amendment says people and families should have in our country.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. Three minutes.

Mr. WELLSTONE. If I only have 3 minutes left, since we are in the last day of the debate, I want to try to pull this into focus, at least as a Senator from Minnesota.

I would like to say one more time, if you take, for example, this amendment—and I do not have the time to read it, this amendment has the support of the Patient Access Coalition with 134 members. Every kind of consumer organization, provider organization, children's organization, women's organization, and advocacy organization for people with disabilities, all are saying: Please make sure that families in this country have a choice and do not get cut off from seeing their doctor, do not get cut off from seeing a specialist who can really help them. I see the same pattern in all of this. We have said we ought to cover all 165 million Americans. We shouldn't be covering 43 million Americans. We ought to have some standard of protection for all families in the country that States can build on. Republicans say no.

We say you ought to have a guarantee of access to specialists, if you need those specialists. There should be a panel in the plan. If there isn't a specialist in the plan to help you or a member of your family, you ought to be able to go outside the plan and receive that care. Republicans vote no.

Then we say, if you are denied care, there ought to be an appeals process. You ought to have a right to seek redress of grievance. When you do that, there ought to be an independent appeals process, and there ought to be some people you can go to. There ought to be some advocacy for consumers. On that strong consumer protection amendment, Republicans vote no and basically want to stop it.

I think the logic of this debate is clear. I have seen a little bit of confusion in a couple of articles. I do not believe this is about Senators who cannot sit down in the same room and agree with one another, and therefore, why can't they do that. What is wrong with them?

I think this is a very honest debate where you have two different definitions of what is good. I think we are talking about two different frameworks of self-interest and power. I think there is a reason that every single children's consumer and provider organization has supported our amendment and wants to see real patient protection. There is a very good reason why the insurance industry is the only interest that is supporting the Republican proposal.

It is because the Republican Party, the other side of the aisle in this debate, is marching lock, stock, and barrel with the insurance industry, and we are on the side of consumers and families. As Democrats, that is exactly where we should be.

I yield the floor.

The PRESIDING OFFICER. The Senator's time as expired.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. SCHUMER. I thank the Senator from Massachusetts.

Mr. President, I rise in support of this amendment. It looks as if even this amendment will be defeated, if the past is any pattern. It is so minimal: the right to ombudsman, points of service, a gag rule so your physician can tell you the truth, financial incentives. It is hard to believe this amendment is going down, but it is, and so is every other reasonable provision.

So as we come to the close of this week's debate, it is worth looking at what has happened in the Senate. What has happened this week can be summed up in one sentence: The insurance industry won; American families lost.

The insurance industry won and American families lost because the right to emergency room treatment at the nearest hospital is not granted. The insurance industry has won and American families have lost because access to specialists is not guaranteed. The insurance industry has won and American families have lost because the right to appeal an unfair decision by the HMO is not guaranteed. The insurance industry won and American families lost because the right to sue, even the most egregious, outrageous behavior by an HMO, is not granted.

The insurance industry won and American families lost because the right of so many women, the desire of so many women to have an OB/GYN as their primary care physician is not there. And most of all, the insurance industry won and the American people lost, because instead of covering 161 million people, we are only covering 48 million people. Even the minor changes that were made by those on the other side of the aisle are underscored by these two numbers: 161/48, 161 million people covered by our proposal; 48 million by theirs.

What about the other 113 million? They get no rights at all.

I am going to make a prediction. This will not be the last time we take up the Patients' Bill of Rights.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. KENNEDY. I yield a half minute.

Mr. SCHUMER. I thank the Senator. I was just finishing my thought.

The mothers and fathers of America, who have been wrestling with the HMO bureaucracy, struggling with it, are not going to have their problems solved. They will come back to us, and we will be back to pass a better bill.

Mr. KENNEDY. Mr. President, I think we have 2½ minutes. How much remains on the other side?

The PRESIDING OFFICER. Fifty minutes.

Mr. KENNEDY. I will withhold the remainder of my time to respond to some of the points made on the opposite side.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, if I may, I ask unanimous consent that Sofia Lidskog be granted the privilege of the floor during the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield myself such time as I might take for some additional views.

During the Health, Education, Labor, and Pensions Committee consideration of S. 326, I asserted strong positions on several key components of the managed care reform debate. These additional views are intended to reiterate my support for S. 326, provide the committee with a cohesive explanation of my position on specific policy, and express my appreciation to the committee for reporting to the full Senate a good bill for health consumers.

S. 326 offers a series of patient protections to consumers in Employee Retirement Income Security Act (ERISA) regulated health plans. Direct access to OB/GYN and pediatric providers, a ban on gag clauses, a prudent layperson standard for emergency services, a point-of-service option, continuity of care and access to specialists will provide consumers in self-funded plans the same protections being offered to state-regulated plans participants. Additionally, all ERISA regulated plans will be required to disclose extensive comparative information about coverage, networks and cost-sharing. This requirement is complemented by the establishment of a new binding, independent external appeals process, the lynchpin of any successful consumer protection effort.

I believe the two most contentious elements of the managed care reform debate are addressed favorably for consumers in S. 326. The first is holding health plans accountable for medical versus coverage decisions; the second is ensuring that health plans cannot manipulate the definition of ''medical necessity'' to deny patient care.

S. 236 does not expand the liability of ERISA plans by exposure to state tort laws, which has been proposed as a way to hold health plans accountable for medical decisions. Rather, S. 326 gets patients the medical treatment they need right away through a timely appeals process. Get the care; then worry about the problems. It doesn't require them to earn it through a lawsuit. I do understand the frustration expressed by physicians who are held liable for their medical decisions. It is for that very reason that the bill I support securely places the responsibility for medical decisions in the hands of independent medical experts. These decisions are binding on health plans, who run the risk of losing their accreditation, daily fines and, ultimately, their stake in the market.

Likewise, the external appeals process in S. 326 prohibits plans from hiding behind an arbitrary definition of medical necessity to deny care. S. 326 expressly establishes a standard of review, including: the medial necessity and appropriateness, experimental or investigational nature of the coverage denial; and, any evidence-based decision making or clinical practice guidelines, including, but not limited to, those used by the health plan. This is in subtitle C. Sec. 503(e)(4). In other words, the independent external reviewer—required by the bill to have appropriate medical expertise—will have access to the patient's medical record, evidence offered by the treating physician and all other documents introduced during the internal review process. Additionally, the reviewer will consider expert consensus and peer-reviewed literature, thus incorporating standards of ''medical necessity'' clearly outside those prescribed by the plan. The bill also requires that, during the internal appeals process, the medical necessity determination is made by an independent physician with appropriate expertise—not by the plan.

Since its inception in 1974, this is the first major reform effort of ERISA as it pertains to the regulation of group health plans. The focus of the mission—regardless of politics—should be to protect patients. Protecting patients means not only improving the quality of care but expanding access to care and allowing consumers and purchasers the flexibility to acquire the care that best fits their needs. The contention has been how to do this in the context of our health delivery system. I believe S. 326 is a responsible approach to protecting consumers in the managed care market.

While bipartisanship was in short order during committee consideration of S. 326, it is my hope that through the balance of this process we will continue discussions among Members to advance needed patient protections without jeopardizing access to health care. While we have been unable to bridge some of the partisan barriers during floor consideration, I believe a better plan for health care consumers is being passed today.

I suggest the absence of a quorum and ask unanimous consent that the time be charged to our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise today pleased with the discussion and the debate which has taken place over the last 4 days, recognizing that we have a number of other amendments as we go forward and hopefully look for a vote later today for final passage.

I want to mention a couple of things I haven't had the opportunity to speak on earlier yet I continue to be asked about by my colleagues and by various people in the media and constituents continue to call about. One of them has to do with an issue we debated yesterday, which will be voted on at 3:30; that is, access to specialty care.

A number of issues have arisen. I think it is important that our colleagues all understand that the Republican bill ensures access to specialty care. Again, the easiest way for me to take care of that, without getting involved in a lot of the rhetoric that goes back and forth, is with the wording in the underlying bills that is a little bit different. ''Specialty'' versus ''specialty care'' has all kinds of connotations that allow people to confuse the issue.

But in section 725 of our bill, it states that plans—and I begin my quotation by saying—''shall'' ensure access to specialty care as covered under the plan.

What is important is that people understand that the ultimate decision of what is ''medically necessary and appropriate''—those exact words that are used in the various bills and amendments that have come forward to ultimately decide what is ''medically necessary and appropriate''—ends up being with a physician who is independent of the plan, who is a medical expert, who is a specialist, who is appointed not by the plan.

We have heard again and again that in some way this independent reviewer is tied to the plan. The words are written in the bill. I don't know how much more we can do in terms of distancing this reviewer, this physician, this independent reviewer, who is appointed by an entity, which is regulated by the Government, and is another sort of separation from the plan. This entity can be approved either by the Secretary of Health and Human Services or by the State or by the Federal Government. This entity appoints this third party reviewer who ultimately decides what is ''medically necessary and appropriate.''

When we use those words ''medically necessary and appropriate,'' again and again it has come back that at least we should consider putting it in Federal statute and defining in Washington, DC, what ''medically necessary and appropriate'' means.

I reject that, and I think we should reject that because it is difficult—I think it is impossible, but I will say it is difficult—to define what is ''medically necessary and appropriate.'' To pretend that we can do it on the Senate floor is misleading. In fact, many think tanks and many Senators, Congressmen and women have tried to do it, and

we haven't been able to define it in Medicare or in CHAMPUS. The President's Quality Assurance Commission was unable to define what is ''medically necessary and appropriate.''

Thus, we don't attempt to define it. We say it is important, but we say ultimately it has to be defined by an independent medical specialist, independent of the managed care company. Then we have a whole list of things that he or she has to take into consideration.

We continue to limit what that third party independent reviewer—he or she—actually considers the best practice of medicine, which is very different, I should say, from ''generally accepted medical practices.'' ''Generally accepted medical practices'' haven't been defined very well. There is not a book of ''generally accepted medical practices.''

I say that because if your sick heart is not beating very well, there are procedures that may not be ''generally accepted'' but they can be lifesaving. They may not be done very much in a community. Whether you do a transplant, or you put a wrap around the heart, or you take out a section of it, that may not be the overall best practice, but it could be ''generally accepted practice'' or ''generally accepted'' but not the ''best medical practice.'' I don't want to get into writing these definitions into Federal statute.

The distinction that has been made in several bills when we talk about ''medical necessity'' is also a very important issue because for the layperson, or the patient sitting out there, you would think that ''medical necessity'' would be easy to define. But saying what is going on out there in the health care arena, what is the range of treatment—we have seen charts on the floor that basically show that the range of treatment is huge in America, charts on how to treat urinary tract infections 80 different ways by 170 different physicians.

What that basically says is the range of treatment is huge—the variety. It doesn't say whether all of those are good or whether all of those are bad. But the fact that it doesn't say that and the practice is so wide, we don't want to make that the gold standard. If we were going to write something into Federal statute, we shouldn't say ''generally accepted medical practices'' because in truth it takes not the lowest common denominator but it takes the common denominator and makes that the standard.

I think it is very dangerous to say ''best practices'' will be the standard. That is why I don't think ''best practices'' should be written into Federal statute as the definition.

Why is that? It is because ''best practices'' are evolving over time. Yes, you can have studies in the New England Journal of Medicine and in the Journal of the American Medical Association of the greatest breakthrough, but you can't expect that greatest breakthrough which might be in truth the best practice 3 or 4 or 5 years later to immediately be disseminated to hundreds of thousands of physicians the next day across the United States of America.

I am trying to spend a little bit of time with this because I think it is dangerous to try to define ''medical necessity'' in Federal statute. We can still use the terms. You need ''medical necessity'' in there—what is ''medically necessary and appropriate''—but I don't think we should. I think we are doing a disservice if we try to define it. I struggled. We tried in our committee and in our staff to come up with a good definition. It doesn't mean that health care plans aren't going to try to define what is ''medically necessary and appropriate.''

The reason this bill is necessary is that some managed-care plans have terrible definitions. They say what is ''medically necessary and appropriate.'' They might say that it is effective and that it has had proven efficacy in the past. But some will go so far as to say what is the most efficient or what is—they don't say it this way—but what is the least expensive, and once they have put it in the contract, the people will come back and point to that.

Those are bad definitions. But that same sort of risk of writing in the definition in Federal statute, again, can be very dangerous if we are looking for quality of care in an evolving health care marketplace.

The beauty of our bill is that we fix the system. We go to where the problem is. We don't bring in a trial lawyer or a lottery where people wait 5 years on average to have a medical malpractice lawsuit.

I didn't participate in the earlier discussion today. But when you look at medical malpractice, my experience in medicine is that when you look at health care and lawyers, it is in medical malpractice. Basically, we know that is a very costly system. Most people just want to get something covered and don't know how to go out and hire a lawyer. Most lawyers, because they are operating on contingency fees, aren't going to fool with the $5,000 case, or the $20,000 case, or the $50,000 case. They will fool with the $1 million case. Then it becomes very arbitrary. You have a costly system that is an arbitrary system.

The third point is that it takes forever. It is a time consuming system. Earlier studies, I am sure, were quoted on the floor. The average malpractice case takes 5 years before recovery is made. That is an average of 5 years. That means some are 6, 7, 8, or 9 years.

The American people want to fix the system. They want the reassurance that their managed care plan is not denying coverage.

I yield myself 3 more minutes, and then I will yield to the Senator from Texas, if I may. I will finish this one thought.

What the American people want is for us to get away from this fear that managed care is overriding what they or their physician, in consultation with each other, think and believe is appropriate and, in truth, provides good quality of care. The reason I believe we were stuck on this vote earlier is the American people are saying let's fix the system, but let's make sure that we remove the barrier to the coverage that I deserve, that I expect, and that is appropriate for me, and that it is delivered in a timely way.

That is not helped by a very expensive lawsuit which is not going to be settled for about 5 years, at least in medical malpractice. It will not allow a person to get coverage for that cleft lip repair of a child or the appendectomy or the laryngitis.

We want to do what is best for Americans, best for children, and allow that timely access of care, removing unnecessary barriers. There will be certain barriers. remove the unnecessary, unjustified barriers, so that Americans can rest assured they can, in a timely way, receive good, quality care. That is the purpose of this bill.

I have been pleased with our discussions. As we accept some amendments and reject others, I know we can come up with a good bill later today.

I yield such time as necessary to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is it possible to have 20 minutes?

Mr. FRIST. I yield 20 minutes.

Mrs. HUTCHISON. I thank Senator FRIST for his leadership in this area. Certainly all Members look to the one doctor in our body to give us advice, not only on what we need to do to make patient care better but to know the system well enough to know what will cause more harm than good. I appreciate the steady level-headedness of the Senator from Tennessee. We are fortunate to have a physician in our midst.

Our Nation has the highest quality health care anywhere in the world. There is no question about that. In my home State of Texas, in our largest city of Houston, the biggest employer in the whole city is the health care industry, the Texas Medical Center. It contains world-class hospitals, including the renowned University of Texas M.D. Anderson Cancer Center, which is the finest cancer treatment center in the world. Baylor College of Medicine, too, is a world leader in the treatment of cardiovascular disease. Houston is the home of the fathers of modern heart surgery: Dr. Michael DeBakey and Dr. Denton Cooley.

In the city of Dallas, TX, the University of Texas Southwestern Medical School has four Nobel laureates. They are doing research that is changing the quality of health care for our future. They are doing it because we have a system that allows for the investment in research. It allows for the treatment that is the best for diseases.

We don't want to break something that isn't broken. We don't want to try to fix something that isn't broken. We want to make sure we are giving better quality health care, that we are going to continue to have research and be in the forefront of research and technology as we go into the next millennium, trying to make sure we are doing the right thing.

There are problems. We have too many uninsured. Too rapid growth of HMOs and other service providers has caused some to be left behind. We must address these problems. Are there problems with HMOs? Absolutely. Do we need to increase the number of insured Americans? Of course.

If the American people remember the health debate we had in 1993, this Nation soundly rejected an outright Federal takeover of health care. That bill went down once America realized that their doctor, their hospital, everyone involved in the health care industry in this country would have to answer to a massive bureaucracy in Washington, DC.

Under global cost limits, total health care spending in this Nation would be capped by Washington. Any way you slice it, what the administration offered was Government rationing of health care.

Today, we are considering legislation that would impose 350 new Federal mandates and regulations on our Nation's health care system. There has been discussion about the cost of these mandates, whether they will cost as much as a Big Mac or a McDonald's franchise. Either way, there will be increased costs, and more Americans could lose their insurance.

Once a mandate becomes law, a Federal agency here in Washington will issue regulations or interpretations of that mandate. We have only to look as far as the Health Care Financing Agency to see what a total disregard of congressional intent can do in the health care industry. While Congress did mandate more efficiencies, they did not mandate the cuts that HCFA made in our hospital industry and to our health care providers, such as physicians and home health care service agencies. We can see what Federal control of a health care industry does by looking at what HCFA is doing to the health care providers in this country today.

I think we need to move very carefully into the arena of more Federal regulations of our health care industry. We do need to do something more than we are doing right now. However, I think we need to be very aware that we could go too far and throw out the baby with the bathwater.

I believe Democrats and Republicans want to make sure patients have basic rights when they and their family members need health care. It is wrong for an HMO to deny coverage for medically necessary treatment. It is wrong to allow a patient to get lost in red tape and unnecessary delays.

Both of our bills seek to empower patients when they are dealing with their health care industry and their insurance companies. However, there are three major differences in the way in which Democrats and Republicans are approaching the issue of managed care.

First, we believe that cost matters and that higher costs will translate into more Americans losing their coverage.

Second, Republicans recognize that the Federal Government and a Federal bureaucracy should not impose a one-size-fits-all approach to ensuring quality care.

Third, we believe good health care is better than a good lawsuit.

With regard to costs, the Congressional Budget Office has said that the Democrats' plan will cause health insurance to increase in price by 6 percent above the current rate of inflation. By some estimates, that could lead to an estimated 1.8 million Americans losing their health coverage.

Mr. President, 1.8 million people is a city the size of Houston relying on free clinics or charity coverage. That is what the Democrat bill will do.

The new mandates in the Democratic bill will also cost an estimated 190,000 American jobs and additional out-of-pocket costs by the average family of $207 a year. This is not acceptable. The average cost per family for employer-provided health premiums has already more than doubled over the last decade from $2,530 in 1988 to $5,349.

The provisions of the Republican bill will also cost money, but the total cost of our bill as calculated by the Congressional Budget Office is less than 1 percent in increased health premiums. These increases are more than offset by the provisions in our Patients' Bill of Rights Plus that will make health care more accessible and affordable for all Americans.

For the self-employed, our approach will make 100 percent deductibility of health insurance available next year—not in 5 years, as currently envisioned. Next year, every small business owner, every stay-at-home parent with their own business, will get exactly the same tax treatment for health insurance that corporations presently enjoy. This is long overdue.

The bill will allow employees the so-called flex plans or cafeteria plans to roll over to the next year up to $500 in unused funds to health insurance premiums or other out-of-pocket health costs. Under the present use-it-or-lose-it flex plans, they are not able to keep the money they have not spent. We want to encourage them not to spend money they do not need to spend by allowing them to roll it over.

The second major difference between our two bills and our two approaches is that the Democratic plan assumes Washington knows better than individuals, States, and health care providers what is in their best interest. We heard so much this week about how some of the provisions of the Republican bill do not apply to all private health care insurance. That is true. For those health plans that are now regulated exclusively by the Federal Government, we ensure that patients have their rights, such as direct access to OB/GYNs, direct access to pediatricians, access to specialists, and access to emergency room care. But, for the vast majority of Americans with health care, it is the States that have jurisdiction over their plans. This has been the case for several decades, ever since there has been health insurance in our country. Since the advent of HMOs, more and more States have acted to regulate managed care plans to ensure that the residents of their States enjoy the same protections we are proposing for the federally regulated plans. Every State in America has some regulation of their managed care companies today.

There are wide differences in approach by various States, but there are wide differences among the States. Why should there not be wide differences if the States are acting on behalf of their own constituents, which they know better than we do? Who is to say the patient protections and regulations in New York are the same that the citizens of Texas would want? I do not want to take responsibility for deciding that New York should be doing something because Texas likes it.

The Democratic bill is too federally centered and heavyhanded in other areas as well. We have heard much discussion of medical necessity. The Democrats say they only want to allow physicians to do what is medically necessary. That sounds fine, but what do they mean by medical necessity? It goes to an agency that will have 250 pages of regulations about what is a medical necessity. And there we have it again, one-size-fits-all.

By trying to do this in Federal law, the Democratic plan empowers a Federal Government employee to make those decisions, not your doctor talking to you about your needs. Under our system, we let an external review board of professionals, who are not associated with the HMO, decide who is right in making the call for the care. If the HMO says they are not going to cover a certain procedure, and the patient and the doctor decide that is not the right decision, the patient can internally appeal within the HMO, within

a short period of time, and then appeal again to an outside panel of experts not associated with the HMO. That is the system we have in Texas, and it is working.

In 1997, Texas enacted an innovative and broad set of managed care reforms, including a host of patients' rights that are included in our bill today. The Texas plan includes the right to both internal and external appeal if the HMO denies a claim. In fact, in Texas, before you can even think of suing your HMO in court, you must exhaust your administrative remedies, and because the State tried to apply its external review provisions to federally regulated as well as State regulated HMOs, a Federal court has struck down part of the State law. But it was working very well.

The State recently acted to revive the external review section of the law. Now the system is voluntary. But, surprisingly, HMOs and other health plans are still willing to participate and be bound by the external review process in Texas. And it is working.

The Republicans' Patients' Bill of Rights Plus establishes a national, internal, and binding external appeals process using the Texas statute as a guide. It is a good system. I think it will work for the federally covered plans as it has worked in Texas. In fact, in Texas it has worked so well that, of more than 300 appeals heard under the external review system, only one lawsuit has emerged, and the appeals have gone about 50–50 in favor of both patients and health plans.

This brings me to the third major difference between the Democrat and Republican approach, and that is they believe lawsuits are the answer to better care, and we disagree. Good health care is prospective. A lawsuit is retrospective. An adequate external review process helps ensure that HMOs will not arbitrarily deny coverage for benefits. It will make them want to improve the quality of the care and services they provide in the future. A lawsuit, on the other hand, only seeks to shift money around long after the fact, to try to determine who was at fault and how much they owe. At that point, patient care is obsolete. We are talking about fault. I would rather focus on what we can do to give that patient the care when the patient needs it.

All one needs to do, if the suggestion is that more lawsuits are the answer, is to look at our current medical malpractice tort system. Many physicians in this country may be upset with the growth of managed care, but most of them are far more concerned with the tidal wave of lawsuits against doctors and other health care providers that we have seen in recent decades. These lawsuits, costing hundreds of billions of dollars, have done little to improve the practice of medicine in America. In fact, I wonder if they do not cause more defensive medicine rather than better care. In fact, in some ways, I think they have alienated the doctor-patient relationship.

So look at the range of views here. The Washington Post said last year that expanding lawsuits in this area was probably wrong. The Post wrote:

> There appears as well to be an impulse among congressional Democrats to make insurers and companies that self-insure liable for damages. The impulse is understandable but the threat of litigation is the wrong way to enforce the rational decisionmaking that everyone claims to have as a goal. The proposed appeals system should be given a tryout. ''First do no harm'' is the rule of medicine. It should be the rule on legislating as well.

Mr. President, I know my colleagues across the aisle are trying to address complaints they have heard from their constituents. But rather than again mandating new rules that will drive up the cost of health care, the American people would be much better served with a carefully tailored approach that respects the ability of patients, professionals, and State regulators to make their own decisions about what is best practice in their States and within their communities.

The Patients' Bill of Rights Plus does just that. It makes sure that HMOs are accountable, without scaring employers away from even offering insurance to their employees. It gives patients rights without encouraging inflationary rises, and empowers health care providers to provide the care their patients need but without Washington having to look over everyone's shoulder. It is the right answer, and it is the right time.

Mr. President, I thank the leadership, Senator FRIST, and Senator COLLINS, and those who have worked closely on the task force to make sure we do provide the rights to patients in an affordable way that will not drive up costs and drive people out of the system. That should be our goal.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have 2½ minutes left. I will use those minutes.

I want to point out for the benefit of the membership, we have almost concluded our 50 minutes of debate. The debate has included a number of different amendments. All are very important because they all relate to the doctor-patient relationship. That is the heart of our entire bill. The heart of our bill is to make sure that medical professionals are able to practice the best medicine and make the best recommendations and that the insurance companies will comply with those recommendations. The heart of our bill is maintaining the relationship between the doctor and his or her patient. That is the heart of our bill. We still have not had any real criticism, observations, or comments on those issues.

We had some debate in the HELP Committee when these matters were raised. I note the proponents of those particular amendments—those who were on the committee and those who were not—were on the floor ready to respond to questions. Nonetheless, we have heard debate on the overall legislation. We still have not heard a response to what I think has been a powerful presentation in favor of these measures. Again, I will mention very quickly what this amendment is about.

This amendment is critical to preserving the relationship between medical professionals and patients, as well as providing fair information to consumers. Today, medical professionals are too often gagged, harassed, and financially penalized if they advocate for their patients.

I am reminded in my own State of Massachusetts of Barry Adams who was fired for simply reporting quality of care problems to his superiors. This happened just 3 months after he received a glowing evaluation that said he was an excellent role model, conducted himself in a professional manner, was an advocate for patients, and channeled his concerns appropriately.

Yet after he spoke up about his concerns, the facility mounted a campaign to oust him. The month he was fired, a woman died from a morphine overdose given by an unsupervised junior nurse. This was the very type of incident Barry reported previously, the very type of incident that Barry reported in the complaint that led to his firing. The facility also retaliated against two of his colleagues who reported unsafe patient conditions.

Barry fought back, and more than a year after he was fired, a judge ruled that Barry's termination was unlawful. The judge ordered the hospital to reinstate Barry, pay all back wages and expunge his record. He won. But the point is, he never should have been fired in the first place. This amendment prevents that from happening.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, if patients cannot count on their doctor, quality medical care is impossible. If doctors cannot do their best for their patients without fear of retaliation, quality medical practice is impossible, too.

This amendment protects the relationship between the doctors and their patients. The Republican bill protects only the insurance companies. Part of the doctor/patient relationship is being able to go to the medical professional of your choice, not the HMO's choice.

This amendment establishes a point-of-service option that guarantees that choice. The Republican bill offers no meaningful guarantee.

Without the type of information the ombudsman program provides, too

many consumers will simply be unable to exercise the rights this bill proposes to grant. As our friend and colleague, Senator REED, pointed out, giving consumers information so they will have their rights protected under their HMO is so important. This amendment provides basic, commonsense protections for health professionals and patients, and I know of no valid reason that it should be opposed.

Mr. President, I reserve the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENZI. Mr. President, I rise in opposition to the amendment.

I have sat here and listened to the arguments from the other side. There is part of this amendment the Democrats didn't even talk about. The problem is that this part of the amendment will make things worse, and not just for doctors and nurses. It will put patients at risk by allowing providers to release the intimate details of a patient's treatment without having to worry about being accurate or even truthful.

Here is how. Under the Democrat amendment, any provider could disclose any information about a patient at any time for any reason. This fact is so important that I want to say it again: under the Democrat amendment, any provider could disclose any information about a patient at any time for any reason. And as bad and unbelievable as that is, that's not even the worst of it. This amendment allows a provider to do the worst of all things—not only to give out information about a patient, but even lie about it—and not be held accountable. How can that be possible, you ask? Isn't that against the law? Not if this amendment passes, it's not. If this amendment passes, that possibility is a reality, and your private health records will be held hostage by a provider who can make an unchecked decision to disclose them without asking your permission and who can't be penalized for doing so.

But that is not all. There is no requirement in the Democrat amendment that when a provider exposes your confidential records, that the provider make disclosures only within his area of expertise. So if an anesthesiologist wants to reveal something about the way your ear exam was performed, the Democrat amendment says that is okay. There is nothing saying that the person disclosing your information has to know anything about either the procedure or your case before revealing everything about it—in fact, he doesn't even have to witness the treatment or ever have met you—and there's nothing saying he will be held accountable if he's mistaken or just flat out wrong. Adding insult to injury, the Democrat amendment doesn't even say that the disclosure has to relate to safety and health. All the amendment says is that the disclosure must be based on squishy terms that aren't even defined. For example, the amendment says that the disclosure must be based on information, and I'm quoting here, that the provider ''reasonably believes * * * to be true.'' It is unbelievable to think that this flies under the Democrat amendment. It is unbelievable that the amendment would allow a patient's health information, records, and private treatment details to be jeopardized and publicized without his consent, based on something that a total stranger ''reasonably believes to be true'' and is not even related to the patient's own safety. Exposing patients to such a high degree of risk without tying disclosures to patient safety, expertise or even accuracy is not only unacceptable, it's just plain wrong.

What the Democrat amendment completely ignores is that procedures specifically related to the health care industry are in place for reporting problems with patient safety and health right now. The amendment also completely ignores and steam rolls all the state law in this area. I find it fascinating that the other side has said over and over and over again in this debate that their bill will not shift decisionmaking from the state capitals to Washington bureaucrats, and then they propose an amendment like this.

I want to talk about what this does to state law, and then talk about the procedures that are in place now.

On the first day of this debate, I heard no less than four Senators on the other side of the aisle characterize our ''states rights'' argument as being ''tired'' and ''old.'' Well, while I might take issue with it being ''tired,'' I certainly agree that it is ''old.'' In fact, it's as old as the Constitution. And if you are tired of hearing about it, think about this: How many times have you been to Wyoming? What do you know about the folks there? I can tell you that it's true they need access to good health care, and I can also tell you that folks there don't want the Federal government to step in and trump what the Wyoming Legislature has done to protect them. They don't want one standard that applies to everyone regardless of who they are, where they're from, and how they live. And if those on the other side of the aisle think that the people I represent in Wyoming are exactly like New Yorkers or Californians, then I suggest you head back to Cheyenne with me this weekend and see if you change your mind.

One size fits all doesn't fit when we are talking about giving providers ways to report patient safety problems and protecting them when they make disclosures. Over 25 states have their own language prohibiting employers from retaliating against providers who disclose information relating to patient safety within a recognized framework. That's over 25 states with different laws and different reporting procedures; 25 states that offer different rights and responsibilities. I cannot underscore the importance of this enough. To a Democrat caucus that has repeatedly said that their bill will not shift the decisionmaking from the state capitals to Washington bureaucrats, I challenge you to tell me how such a statement jives with an amendment such as this one that fully wipes out state law. Not only that, I challenge you to tell me how this flawed amendment is better than the law that exists on the state books. More on this in a minute.

Bottom line, this amendment allows providers to file complaints disclosing confidential patient information without permission. These complaints don't need to relate to safety and health. The provider does not need to know anything about who or what they are disclosing—whether it be the specific patient treatment or the patient himself. And finally—and most ridiculously—the provider doesn't need to be accurate because he can't be penalized for inaccurate statements, misleading information or even downright lies about the patient or other health care providers. How in heaven's name could any state law anywhere be worse, or more destructive, than this? Indeed, having no law whatsoever would be vastly better.

But you do not have to take my word for it. Just take a look at some of the State laws. In California, for example, providers cannot disclose information that violates the confidentiality of the physician-patient privilege. An important provision. Is it anywhere to be found in the democrat amendment? No. The amendment ignores it entirely. What about a Rhode Island law that eliminates any protection for providers who participate or cause the problem being reported, or who provide false information? That one is pretty important, too. Also nowhere to be found in the Democrat amendment.

The body of state law that it would destroy is incredibly vital whether we're talking about ERISA plans or not, because the courts have definitively held that where quality of care is concerned, state law trumps ERISA. As the Supreme Court has held, ''the historic powers of the State include the regulation of matters of health and safety.'' Another seminal third circuit case has held in citing the Supreme Court that, while the quality control of health care benefits might indirectly affect the sorts of benefits an ERISA plan can afford, they have traditionally been left to the states, and there is no indication in ERISA that Congress chose to displace general health care regulation by the states. It's clear: the courts have deferred to the states when

it comes to quality of care. I think that the democrats should take a lesson from this.

I have heard it said, however, that we need not worry about the overhaul of state law that occurs under the Democrat approach to health care because their bill will merely set a ''floor'' upon which States can build. Such a statement is questionable given an amendment such as this that is so flawed that it actually protects those who publicize confidential patient information and lie about it without giving the patient or other accused providers an opportunity to object. As a former state legislator, I say respectfully, ''thanks, but no thanks.'' The only floor this sets for the States is the one they will stomp on when they take one look at this bill.

So who should investigate claims of wrongdoing and retaliation? I have mentioned that lots of other procedures are in place that allow for reporting and are specific to the health care industry. One of the biggest and most far-reaching of these is the reporting mechanism in place at the Joint Commission on Accreditation of Healthcare Organizations. The Joint Commission covers over 80 percent of the approximately 6,200 hospitals in this country that receive Medicare payments. These charts I have next to me are blow-ups of information taken directly off of the Joint Commission's website and show not only how reports and concerns about patient care can be disclosed, but also what followup occurs in response.

Here is how the process works. If a provider wants to report an alleged problem, that provider has several choices under the Joint Commission. He can e-mail a complaint, fax a complaint, mail a complaint, or call the Joint Commission directly using their toll free number. And there are a couple of points I want to make about why this process is so much better, more related to the health care industry, and has much stronger teeth than this amendment. First, using the Joint Commissions' toll free number, reporting concerns can be immediate and confidential. Not only that, communications with the Joint Commission can be made in English or in Spanish. Second—and this one's really important, too—all complaints must relate to quality of care issues and patient safety unlike the democrat amendment which can relate to anything. Third—and perhaps most important of all—where serious concerns have been raised about patient safety, the Joint Commission will, and I emphasize ''will'' conduct an unannounced, on site investigation. Period. And with the Joint Commission, there will never be any concern over who's investigating problems. The Joint Commission's standards are recognized as representing a contemporary national consensus on quality patient care, and these standards are continuously reviewed to reflect changing health care practices. This is a real solution that combines a proactive reporting method to make sure that patient quality is not compromised, with an appropriate and strong followup with mandatory, unannounced, on site inspections by an organization that knows the health care industry as well as anyone.

In addition to all the State laws setting up reporting procedures and protections for providers, and in addition to the practices in place such as the Joint Commission, there are other controls. Hospitals that receive Medicare payments and that are not accredited by the Joint Commission are certified by the states. All these hospitals are required to provide patients with a document that explains their rights including a phone number where they can call a state agency to make a complaint about quality of care issues. These rights must also be posted. Yet another control is that patients—and even providers—can anonymously complain to the Medicare Program's Peer Review Organization on quality of care matters. Providers may also complain to HCFA's regional offices, state survey agencies and professional licensing boards.

I have heard the stories about providers who have disclosed information and then were retaliated against. What I don't know is why the state laws, the Joint Commission's reporting process, state reporting processes, Medicare reporting processes, HCFA's reporting processes, and the professional licensing board—among other protections—are not working. I have in my hand a copy of the HELP Committee's report on the Patients' Bill of Rights and all of the amendments introduced to the bill. You may remember that an amendment similar to the democrat amendment introduced here today was introduced during the markup of this bill. I happened to remember that amendment, too, and so I picked up a copy of the committee report and began to leaf through the minority comments to find their explanation of the amendment. I was looking for some reason—other than pure politics—about why an amendment like this is needed, about what isn't working in the system that must be fixed, and about why current laws, practices and procedures aren't enough. This is what the committee report is for, right? So I looked, and I looked. Out of the report's main body of 108 pages, 99 pages were written by the majority to explain and to support our bill. Only nine pages were written by the minority—nine. So out of nine pages, you would not think it would take too long to find some information—any information—about one of the minority's major amendments. I did not think so either, but I was wrong. I did finally find the minority's reference to the amendment, though. It was three sentences long. Three sentences out of nine pages on a major amendment. Let me read them to you: ''Doctors and other providers must be able to give every patient their best possible advice, without fear of retaliation or financial penalties.'' So far, so good. ''Out plan bans abusive insurance industry practices that undermine the integrity of the doctor-patient relationship. The committee legislation does not.'' So I kept reading. I scanned the page. What abusive industry insurance practices? I wanted to know. Why do providers fear retaliation? Why are current law, current practices, and current procedures not working? Nothing. Wouldn't you think that if the majority was able to spend its time writing 99 pages supporting its position, the minority might have been able to spend just a little more time adding even one paragraph to its nine pages on this? Not even one paragraph on an amendment that the democrats say is so vital. It just doesn't make any sense.

I have heard time and again that Republicans are weeping ''crocodile tears'' about our bill. In fact, out of those mere nine pages in the minority's committee report, an entire sentence was wasted making this statement. But it seems to me that when you lay down amendments and don't share information about why we should trump state law in support of an amendment that protects providers who disclose misleading and confidential patient information unrelated to the patient's safety, then I think it is the democrats who are the ones crying crocodile tears when people like me are baffled by their empty allegations and outlandish solutions.

Mr. President, I yield the floor.

Mr. KENNEDY. I yield back any time I have on the amendment.

Mr. FRIST. I yield back the remainder of our time on this amendment.

AMENDMENT NO. 1252 TO AMENDMENT NO. 1251

(Purpose: Enhancing and augmenting the internal review and external appeal process, covering individuals in approved cancer clinical trials, improving point-of-service coverage, protecting individuals when a plan's coverage is terminated, and prohibiting certain group health plans from discriminating against providers on the basis of license or certification)

Mr. FRIST. 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 Tennessee [Mr. FRIST], for Mr. ASHCROFT, for himself, Mr. KYL, Mr. MACK, Mr. FRIST, Mr. SESSIONS, Ms. COLLINS, Mr. CRAPO, Mr. ABRAHAM, Mr. JEFFORDS, Mr. ENZI, Mr. DEWINE, Mr. GRASSLEY, Mr. HATCH, and Mr. HELMS, proposes an amendment numbered 1252 to amendment No. 1251.

Mr. FRIST. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. FRIST. Mr. President, very quickly, because we have a lot of ground to cover over the next 100 minutes, the amendment that has been sent to the desk involves basically five components. I will be relying on a number of my colleagues coming to the floor, all of whom have worked for weeks and months and, in some cases, well over a year on these amendments.

The first of these components is on external appeals. As we continue to address the issues before us, it is very important to have the American people recognize we are going to continue to improve this bill as we go through.

A second component is the clinical trial issue, an issue Senator MACK and I have worked very aggressively on over the last year with a number of our colleagues on both sides of the aisle, an issue that had been addressed initially earlier in the week that, as we said before, we are going to come back to and lay out what we think is the most reasonable way to achieve a very important goal, and that is to increase access to important clinical trials.

A third component a number of Senators, again Senator COLLINS and Senator GRASSLEY, will be speaking to is on provider nondiscrimination, and we will be looking at some protections that are similar to those in Medicare and Medicaid.

A fourth component of this amendment—again a very important one because it involves choice, and again we are working to improve this bill as we go through with the amendments—is on point of service where we expand choice, which again is a basic underlying principle of the Republican efforts in this bill.

The fifth component that will be addressed is continuity of care, again a very important issue, the whole issue of extending the transition period for patients.

We have a lot to cover over the next 100 minutes. To me it is very pleasing, having participated so much on each of these issues, that upon passage of this amendment with its five components, we will do a great deal to improve the quality of care of individual patients. That is where our focus must be.

We are going to begin with the issue of clinical trials, again picking up on the discussion earlier in the week. I yield 12 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

PRIVILEGE OF THE FLOOR

Mr. MACK. Mr. President, I ask unanimous consent that Dr. Larry Kerr, a health fellow for the Judiciary Committee, be granted the privilege of the floor for the remainder of the debate on the Patients' Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. I thank the Chair.

Mr. President, I am pleased to be joined by Senator FRIST, Senator JEFFORDS, and Senator COLLINS, and others, as we offer this amendment to provide cancer patients with coverage of health insurance benefits when they participate in approved clinical trials.

Many health plans will not pay for the cost of routine patient care if patients want to participate in a clinical trial. As a result, beneficiaries with cancer are denied access to these trials of promising new therapies because these therapies are deemed ''experimental'' by most health plans and, therefore, not qualified for coverage. This means many cancer patients have two choices when they have exhausted all traditional therapies: either pay the cost of participating in a clinical trial themselves or go without additional treatment.

For all but the most wealthy patients, it is cost prohibitive to take part in a clinical trial. This amendment will help ensure that a patient's decision about whether or not to participate in a clinical trial is based upon science and not cost.

Clinical trials are one of the most effective ways of determining which treatments are beneficial. Yet cancer researchers have told me they have had difficulty enrolling the required number of patients to participate in the clinical trials they are conducting. Scientists have identified noncoverage by private insurers, as well as Medicare, as one of the primary reasons why patients do not participate in clinical trials.

For example, approximately 2 percent of cancer patients are participating in clinical trials. This amendment will help scientists recruit cancer patients who wish to participate in clinical trials by breaking down the financial barriers which may preclude most patients from participating.

Clinical trials are one of the most effective techniques for assessing the effectiveness of a scientific and medical intervention. Many of my Senate colleagues have joined with me in a bipartisan effort to double biomedical research funding through the National Institutes of Health. Last year, Congress appropriated $15.6 billion for NIH. This represented a $2 billion increase, the largest increase in NIH history. At a time when American researchers are making such tremendous progress in scientific areas such as cancer genetics and biology, it is essential that this knowledge be translated into new therapies through well-designed clinical trials. This amendment is a natural extension of the historic effort to double funding for medical research in our country.

When my brother, Michael, was diagnosed with cancer, there were only three basic forms of treatment—surgery, radiation, and chemotherapy. Today, scientists are revolutionizing the treatment of cancer by developing many new weapons to kill cancer, including gene therapy and immunotherapy.

On a personal note again, every time I get into these discussions, and every time I see the new efforts that are being pursued, and the successes that have been developed, I cannot help but think if Michael's melanoma had been discovered or if he had found the disease much later in his life, when these new procedures—gene therapy and immunotherapy were available—and if he had been able to participate in a clinical trial, which he attempted to do throughout his treatment many years ago, his life may have been saved.

This amendment will help scientists continue the unprecedented progress being made to find new methods of treatment.

Coverage of cancer clinical trials is a bipartisan issue. Earlier this year, for example, Senator ROCKEFELLER and I introduced legislation to provide for Medicare coverage of cancer clinical trials. I am pleased to say that 36 additional Senators, from both sides of the aisle, have cosponsored this legislation. I look forward to working with my colleagues to pass this important legislation during the 106th Congress.

The reason Senator ROCKEFELLER and I targeted our legislation to cancer is the same reason we have targeted this amendment to cancer today—there is a legitimate debate about what the true cost may be. Senator ROCKEFELLER and I believe the cost will be insignificant. And we have the studies to prove that.

However, there are legitimate concerns with respect to cost which have been raised. Both the amendment we offer today and the Rockefeller-Mack legislation, call for a study and report to Congress in 2005 on the cost implications of covering cancer clinical trials.

I support comprehensive coverage of clinical trials. But, at this time, we need more information before we go further. This amendment will help provide the information we need to make a better informed decision.

During markup of S. 326, the Senate Committee on Health, Education, Labor, and Pensions considered an amendment offered by my friend and colleague, Senator DODD, to provide clinical trial coverage.

Since then, my colleagues and I have more thoroughly studied this amendment. We have examined what barriers exist that impede enrollment in clinical trials. We looked into the cost implications. We considered the best way to define the term ''routine patient costs.''

Let me first highlight the many similarities in our amendment and the amendment which Senator DODD offered during committee consideration.

Our amendment requires plans to provide coverage of routine patient costs. I will get back to that term in a few minutes.

Our amendments ensures that health plans are not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of a clinical trial. This includes tests or measurements conducted primarily for the purpose of a clinical trial.

Our amendment permits plans to require clinical trial participants to use in-network providers, if they are available. If coverage is provided by a nonparticipating provider, payment would be at the same rate the plan would pay for comparable services to a participating provider.

Our amendment is limited to those health plans over which Congress has sole and exclusive jurisdiction.

Our amendment is limited to only the highest-quality clinical trials. These include trials approved and funded by the National Institutes of Health, the Department of Veterans Affairs, and the Department of Defense. Only those trials which have undergone the rigors of peer-review will be considered.

Our legislation differs with Senator DODD's proposal in three ways.

The first difference is how to best define the term ''routine patient cost.'' In researching this issue, we have found that there is not a generally accepted definition of the term, ''routine patient cost'' associated with participation in a clinical trial. The Balanced Budget Act required the Institute of Medicine to conduct a study on the issue of cancer clinical trial coverage, including the definition of routine patient costs. This study is due in September, and it will likely help us to better define this highly technical term. There are other experts who have opinions on how to define the term ''routine patient cost.'' We believe it is best to leave this task to patients, employers, health plans and those with true expertise in the field of clinical trials.

It is essential to remember that protocols for clinical trials vary widely, and routine patient costs for clinical trials also vary. Scientific researchers have indicated that developing one standard for determining routine patient costs will be a daunting task. I don't believe Congress is best qualified to make this important scientific determination.

Therefore, our amendment provides for a negotiated rulemaking process to establish a time-limited committee charged with developing standards relating to the coverage of routine patient costs for patients participating in clinical trials. This way, organizations representing cancer patients, health care practitioners, hospitals, employers, manufacturers of drugs and medical devices, medical economists and others will be involved in the process of defining routine patient costs with respect to clinical trials.

By May, this committee is required to develop standards for routine patient costs for individuals who are participating in those trials. If the committee is unable to reach a consensus, then the Secretary must develop these standards and publish a rule by June 30, in the year 2000. In either case, coverage for these benefits would begin for plans beginning on, or after, January 1, 2001.

We believe that a negotiated rulemaking process is the best way for organizations representing all who are affected to collectively determine what costs should be considered in ''routine patient costs.'' These decisions will have a major effect of the cost of covering clinical trials.

I will just underscore that again. These decisions will have a major effect on the cost of covering clinical trials.

Under the Democratic bill, these organizations can only submit a comment to the Secretary, who has broad authority to determine what constitutes routine patient costs. However, those comments could be rejected out-of-hand by the Secretary.

By contrast, the negotiated rulemaking process ensures that all who have an interest in the outcome have a seat at the negotiating table to make the decision. We believe it is essential that cancer patients have an opportunity to be involved in establishing standards for routine patient costs, and a negotiated rulemaking procedure affords them that opportunity.

Second, as I mentioned earlier, our amendment differs from the Dodd amendment in that it is limited to cancer clinical trials. There are more clinical trials involving cancer than perhaps any other disease. This targeted approach will not only provide a needed benefit to a large patient population, but it will also provide significant information for the study and report called for in this amendment.

Finally, our amendment includes a study and report to Congress on the costs to health plans and any impact on health insurance premiums. Senator DODD's amendment did not include this study and report, which I believe is extremely important. Congress can then use this important information to determine if they wish to expand coverage for patients with other diseases.

Like most of my colleagues, I am very concerned about the ever-increasing costs of health insurance. According to the Congressional Budget Office, our amendment will result in an increase in health insurance premiums of less than one-tenth of one percent. The Dodd proposal would cost five times that amount.

I have met with thousands of cancer patients throughout Florida and the rest of the United States, patients desperately wanting to participate in clinical trials when traditional therapies are no longer beneficial.

Let me conclude my comments here today by relating an experience which puts a human face on why this issue is so important.

As my colleagues may know, I frequently visit the National Institutes of Health to meet with scientific reserchers so I may gain a better understanding of the many advances which are taking place to detect and treat cancer and other diseases.

Over the years, I have been fortunate to get to know Dr. Steven Rosenberg, a world-renowned scientist and oncologist who is an expert in the field of melanoma research and treatment. I first met Dr. Rosenberg after reading his book, ''The Transformed Cell.''

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MACK. I ask for 2 additional minutes.

Mr. FRIST. I yield an additional 2 minutes.

Mr. MACK. Last year, I was meeting with Dr. Rosenberg to learn about a clinical trial he is conducting on a state-of-the art melanoma vaccine. During our conversation, Dr. Rosenberg mentioned that one of my constituents was at NCI participating in that clinical trial. I asked if I might meet him. Before we went to his hospital room at NCI, Dr. Rosenberg showed me photographs which had previously been taken. This patient had purple, bulbous melanoma lesions several inches in diameter down the side of his body.

Dr. Rosenberg introduced me to my constituent, and we engaged in casual conversation.

At one point I asked him how he was doing. To show me how he was doing, this brave man took off his hospital gown and showed me that these lesions of huge size on both his arm and his side were totally gone. That is why I think it is so important that we have this amendment included in the legislation, so that other cancer patients will have the same opportunity.

To conclude, what is this amendment really about? Most importantly, it is about giving patients fighting cancer the hope that an experimental therapy being tested in a well-designed clinical trial might save their lives. In addition to providing hope, it paves the way for new therapies that will, one day, not only provide hope, but a cure. It is about allowing cancer patients to make what may be the final major health care decision of their lives—whether to participate in a clinical trial.

Mr. President, I've met with many patients who were participating in clinical trials. To me, these patients are, in many ways, like America's astronauts. Later this month, we will

celebrate the 30th anniversary of man's landing on the Moon. Like the astronauts of Apollo, clinical trial participants are pioneers. They are heroes, who are helping to push science and medicine into new frontiers. We must provide hope to these brave Americans.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the facts are that the Republican majority have offered a number of feel-good amendments. Everyone should understand that these amendments, even if they pass, will only cover 40-plus million Americans. Our amendment covers over 160 million Americans. Even though the provisions they have stuck in this amendment are weakened compared to the Democratic provisions dealing with external appeals, provider nondiscrimination, points of service, continuity of care, it is just the same as the amendment we offered for 50 minutes. Advocates of that amendment came from the minority side and presented their arguments to the Senate, to each other. The majority was not here. They did not offer a single word in opposition to the amendment that was offered by the minority.

This can best be summed up not by a Senator, not by some paid advertisement on television. I think the best way to sum this up is by a New York Times statement by Bob Herbert today entitled, ''Money versus Reform.''

Donna Marie McIlwaine was 22 when she died on Feb. 8, 1997. She is buried in the Chili Rural Cemetery in upstate Scottsdale, N.Y.

The managed-care reform legislation that has been the focus of a furious debate in the Senate was essentially an effort to make it easier to save the lives of patients like Ms. McIlwaine.

The Republican Party, flooded with money from the managed-care industry, gives lip service to the idea of protecting patients, but then does the bidding of the companies that are the source of all that cash.

It's a tremendous scandal. No one can seriously argue that lives are not being lost.

Ms. McIlwaine went to the doctor several times in the week before she died, complaining of pains in her chest and shortness of breath. According to her family, she was diagnosed with an upper respiratory infection and ''panic attacks.''

In fact, she was suffering from pneumonia and a blood clot in her left lung. Her mother, Mary Munnings, told me yesterday that her daughter had been screaming from excruciating pain before finally lapsing into unconsciousness and dying at home on a Saturday night.

There was no need for her to die. Ms. Munnings said that when she contacted the office of her daughter's primary-care physician the following Monday, she learned that Ms. McIlwaine had not been sent for the laboratory tests that would have properly diagnosed her condition. She said that when she asked why not, she was told that ''they couldn't justify'' the tests to her health maintenance organization.

So we have Donna Marie McIlwaine dead at age 22.

Most of the country understands that an unconscionable obsession with the bottom line has resulted in widespread abuses in the managed care industry. Simply stated, there is big money to be made by denying care. It is now widely known that there are faceless bureaucrats making critical diagnostic and treatment decisions, that some doctors are being retaliated against for dispensing honest advice, that women have had an especially hard time getting the care they need, and that patients have died because they were unable to gain admittance to emergency rooms.

Mr. President, that is what this debate has been about. I quote further:

The so-called patients' bill of rights, sponsored by Democratic Senators Tom Daschle and Edward Kennedy, was an attempt to curb these and other abuses. The managed-care industry wanted no part of the legislation, which meant the Republicans wanted no part of it. The Democrats had to virtually shut down the Senate before the Republican majority would even agree to bring this matter to the floor for a debate.

The Republican whip, Don Nickles of Oklahoma, could hardly have been clearer about his party's desire to avoid the issue. ''I don't want our members to go through a lot of votes that can be misconstrued for political purposes,'' he said.

The Democrats succeeded in forcing debate on the bill, but they haven't gotten the patient protections they sought. What occurred on the floor of the Senate this week was a G.O.P.-sponsored charade in which one Republican senator after another talked about protecting the health of patients while voting to protect the profits of this industry.

It was a breathtaking exercise in hypocrisy. It was as if George Wallace had spoken earnestly about the need to admit black students to a public school in Alabama while standing in the doorway to block their entrance.

Some face-saving measures were passed by the G.O.P. majority, but the essence of managed-care reform was defeated. In the end, it didn't matter that Mary Munnings had needlessly lost her daughter, or that a parade of managed-care victims had traveled to Washington to detail their horror stories, or that organizations representing doctors, patients and their families had lined up en masse in support of reform.

All that mattered was the obsession with the profits of the insurance companies and the H.M.O.'s.

Eventually substantial improvements will be made in the delivery of effective and affordable health care to Americans. It will take years but it will happen. And then the country will look back and wonder (as we have with Social Security, Medicare and the like) why anyone was ever opposed.

Mr. President, that is what this debate is all about. It is a debate about protecting the insurance industry or protecting American patients. I am sad to report, money is going to win. Money is going to prevail over American patients who need help. It is as simple as that.

It is whether or not a doctor can make a decision for a patient or a bureaucrat is going to make a decision for a patient. It is a question of whether we are going to be driven by profits or patients. Let us hope some day patients will prevail.

I yield 3 minutes to the Senator from Maryland.

Ms. MIKULSKI. I thank the Democratic whip for yielding me this time.

Mr. President, I am troubled about the pending amendment because one of its components my colleagues might not be aware of is that it strips the Democratic provision to provide continuity of care.

This is pretty serious because what continuity of care means. What does continuity of care mean? Under our proposal, continuity of care means just because your company changes HMOs, you should not have to change your doctor, or if your doctor is put out of the network, you shouldn't have to leave your doctor.

I hope we can make sure that we keep continuity of care in. If we lose it, we are going to have our own amendment. Senator Bob KERREY and I are going to offer our own amendment on continuity of care. I will tell you why we feel so strongly about it.

We think the most important thing in getting well is the doctor-patient relationship. You need to have a doctor who knows you, and you need to keep your doctor who has prescribed a course of treatment and who knows you as a person, not as a lab test, not as a chart. We do not believe doctors are interchangeable. We believe you should be able to keep your own doctor. Let me tell you what the Democratic provision does. Under the Democratic proposal, if your company changes HMOs, you get to keep your physician through at least a 90-day transition period.

So if you are a diabetic or if you are engaged in a particular course of treatment, you get to keep your doctor.

Then we have three provisions that make sure you keep your doctor when you are facing significant medical circumstances. What would be a significant medical circumstance? It means, for instance, when you are pregnant. We think that when you are having your baby and you have an OB/GYN and a course of treatment, you should be able to keep that same doctor all the way through your pregnancy and through your postpartum recovery.

Why is that important? Suppose you are a diabetic, or suppose you have kidney problems, or suppose you have a whole variety of other medically indicated symptoms that require very special monitoring; you can't just change your doctor. We certainly don't want to change doctors in late-term pregnancies. We have talked a lot on this floor about late-term pregnancies. Well, let's make sure you get to keep the same doctor during late-term pregnancies.

Let's take another issue. If you are terminally ill, under the Republican school of thought you would lose your physician—if you are terminally ill and your company changes providers. We think if you are dying of cancer, if you are in the last stages of any illness, or

if your child is in the last stages of illness, you shouldn't have to change your doctor. We truly believe that when a little boy or girl is dying of leukemia and the family is facing the heartbreak of that, they should at least be able to keep the same doctor through the course of treatment.

The other exception we provide is if you are in an institution or a facility. So if you are in a mental facility and you are getting well, you are working hard to get well, let's keep the doctor while you are keeping up the fight to get well. If you are also recovering from a stroke and you are in a rehab center, we say you should be able to keep your doctor and the same set of providers throughout that course of treatment.

We are being bashed on this floor about how we are for lawyers. Well, I am not for or against lawyers, but I am for doctors. I am really for the doctors and the other appropriate health care providers. I think that if you are pregnant, or terminally ill, or if you are in an institution trying to get better, you ought to be able to keep your doctors, and maybe we would not have to turn to the lawyers.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, we are currently debating an amendment that we have introduced on several topics. One is external appeals, strengthening that external appeals process.

No. 2, and one that I have been intimately involved with, is expansion of cancer clinical trials, to make those trials more available to the American people. We have a very important issue on provider discrimination and continuity of care. Senators COLLINS and ENZI will be responding later to the comments that were just made, which I thought were very positive in terms of what is necessary and what the American people expect in terms of continuity of care.

We want to address the fifth issue at this juncture, and that is the point of service. I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Tennessee, Dr. BILL FRIST, for his leadership and effort in this bill to craft a responsible and effective piece of legislation that will increase protections substantially for consumers' medical care and do so in a way that enhances the quality of that care. Dr. FRIST is an extraordinary physician. He has given his life to medicine. He was the first person to do a lung transplant in the State of Tennessee—not an inconsiderable event. The thought of that is beyond my comprehension. And he has certainly provided great leadership here.

One of the concerns I have heard a lot about from my doctors and dentists in the State of Alabama is that closed plans prevent patients from having any opportunity to go outside that plan to seek another physician, if that is whom they choose. As a Republican, and as an American, I believe in achieving freedom as much as we possibly can and giving people choices. So we have sought to listen to those physicians and dentists, to try to understand what they are saying and try to provide that kind of option for Americans.

I am glad Dr. FRIST and the leadership on this side have concurred that we can take a major step forward, that we can say that every American in one of these self-insured plans—not regulated by the State—can have the option to choose a plan that allows them to go outside that plan if they want to pay the extra expense to go to a doctor who may charge more. They would pay the difference for that extra privilege. I think that is good policy. It promotes freedom, and in this day of computers and high technology, it is not impossible to maintain the different accounting procedures that may be necessary to handle a different offering in that regard.

So I am excited about this step. We already have a provision in our bill that is similar to this amendment, but it doesn't provide a guarantee it in the way this one would. After talking to physicians, dentists, and small business groups, we have decided to maintain an exemption from this provision for businesses with 50-employee or less. Small businesses may be unduly burdened administratively as it may be more difficult and time-consuming for them to process claims. Furthermore, we have discovered that fewer than 4 percent of people covered under our bill are employed by these small businesses.

So, Mr. President, I am delighted to see this occur. I believe it will have broad-based support. The cost is negligible —almost none—because if the person chooses the point of service option, they would pay the additional cost for it.

I want to mention something and clarify an issue. The National Association of Insurance Commissioners testified on our bill and has written the Senate, a letter in March of this year, in which they state unequivocally that:

> It is our belief that States should and will continue efforts to develop creative, flexible market-sensitive protections for health consumers in fully-insured plans, and Congress should focus attention on those consumers who have no protections in self-funded ERISA plans. The States have already adopted statutory and regulatory protections for consumers and fully-insured plans and have tailored these protections to meet their State's consumer health care marketplace. Many States are supplementing their existing protections during the current legislative session [right now], based upon particular circumstances within their States. We do not want States to be preempted by congressional or administrative actions.

What we are primarily concerned with regarding this piece of legislation is Federal ERISA plans, which States cannot regulate. That is why we are here. We are going to leave the other plans to the States who are already regulating them.

I see my time has expired. I will again express my delight that we are able now to say that the individuals who come in will be able to receive point-of-service option.

Mr. KENNEDY. Mr. President, I inquire on my time and will yield the Senator 2 minutes. This change will, of course, only be for the self-funded program, and of course there are no changes in excluding any employer that has less than 50 employees. That hasn't been changed, has it?

Mr. SESSIONS. That is correct. But we know, for example, in Alabama, only 4 percent of the self-insured plans would fall under that group because most of the self-insured plans are for the larger businesses. We have also found that, in Alabama, for example, 75 to 80 percent of the state-regulated plans already offer point-of-service choice now. So it is not as critical as it might appear.

We don't want to see the trend go the other way. It could turn the other way. Physicians are afraid that HMOs will build up walls and block out physicians and choice in the future. So they want this protection. I think it is legitimate, and I think the Senator favors that.

Mr. KENNEDY. If I could continue, I yield myself another minute. Is the Senator saying that of all the self-funded programs, only 4 percent have fewer than 50 employees?

Mr. SESSIONS. Yes. Actually, 4 percent less than 100.

Mr. KENNEDY. Four percent less than a hundred. So, effectively, this won't apply, I imagine, to any of the mom-and-pop small businesses; they won't have those kinds of protections, will they, in Alabama?

Mr. SESSIONS. Only four percent under our bill will not be guaranteed that protection, but many are already providing it. Furthermore, 75 to 80 percent of plans regulated by the state of Alabama plans do offer it.

Mr. KENNEDY. What percentage of Alabama, just for my own information, works in plants with less than 100 employees?

Mr. SESSIONS. Most of those plants don't have self-insured, and they are already subject to State regulations.

Mr. KENNEDY. So they wouldn't be affected by the Republican program in any event.

Mr. SESSIONS. In the State of Alabama, and in most States, I think, the smaller companies use traditional plans that are subject to State regulations, I think our primary focus in this

body has been to deal with those plans that are not regulated.

Mr. KENNEDY. I thank the Senator.

Mr. SESSIONS. I thank the Senator.

Mr. KENNEDY. I yield the Senator from New York 3 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank the Senator for yielding.

We are coming to the close of this debate. The amendment the Senator from North Carolina and I offered on appeal has been replaced by a much weaker version. We allow an independent review process. We allow that, if your HMO should say to you, you can't have this medicine, you can't have this procedure, you can't see this specialist, you would get an independent review as to whether that was right or wrong.

Under the proposal that was passed by the other side, very simply, that review will not exist except by somebody appointed by the HMO itself—not independent and not real. But, in general, in this debate, and what has happened again is what has happened this week, which is simple, the insurance companies won and American families lost. As a result of what we have done today, the vast majority of American families will not get access to emergency rooms, access to specialists, the right to appeal an unfair decision, the right to sue, and the right to have an OB/GYN physician be their primary care physician.

If we could sum up this debate, it is in two charts. It is in three little numbers. First, under the Democratic plan, 161 million people are affected. Under the Republican plan, 48 million people are affected—161 million or 48 million.

What do the American people want? My guess is they want as many people covered as possible.

As for cost, it is $2 a month more. As the Senator from Massachusetts has said repeatedly, that is not more than the cost of a Big Mac a month. We could cover all of these people, and we could have emergency room access, we could have access to a specialist, and a right to appeal an unfair decision.

I ask the American people to remember this day as a day when the Senate turned its back on them and their wishes; as a day when the special interests, particularly the insurance companies, prevailed over common sense and wisdom; as a day when this Senate chose to have only 48 million people covered, not 161 million; and a day when this Senate said you can't get emergency room coverage, you can't get access to a specialist, and you can't get the right to appeal an unfair decision by the HMO because it cost $2 more a month per worker.

It is a sad day for the American people. It is a day when this body chooses to follow the whims of the insurance industry rather than the desires of the American people.

Oh, yes. There are some placeboes. In fact, the bill we are passing today is a placebo. But by definition a placebo is only affected when there is nothing wrong with the patient. If you are well and you are never going to get sick, you love the Republican plan. But if you have had to go through the agony and ordeal of having an HMO reject medicines, doctors, and procedures that are desperately needed by you or a loved one, you will rue this day.

I say to my colleagues: Wake up. Our health care system is ill. A placebo won't work. This bill is a placebo. Managed care needs real medicine to become well again, and this placebo will not do the job.

It seems very clear to me that this will not be the last time we take up the Patients' Bill of Rights. The reason this won't be the last time we will take up this bill is because the families of America will find out in the next year that the HMO beast has not been tamed, that the good that HMOs have brought in terms of reducing costs is being outweighed by the bad in terms of cookie-cutter decisions made by accountants and not by doctors.

We will be back. We will argue this issue again and we will prevail because the American people want real medicine—not a placebo prescribed by the insurance industry.

Thank you, Mr. President.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield up to 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I guess, despite the rules of the Senate, we all have our own rules that we apply to ourselves about what we say.

One of the problems is that if one side of the debate insists on getting up and saying things that are verifiably false, we end up with a shouting match going back and forth.

Our bill guarantees access to emergency care. Our bill guarantees that any woman at any point at any time can get access to an OB/GYN physician. Our bill deals with people under the Federal jurisdiction because the States have already done a very good job in dealing with the people under their jurisdiction which they cannot reach without Federal action.

We have talked at great length. Our colleagues keep saying this bill cost $2 a month. The problem is that the Congressional Budget Office, the nonpartisan budgeting arm of the Congress, says this bill will cost $72.5 billion, this bill will take insurance away from 1.9 million Americans, and this bill will end up driving up costs for Americans who are able to keep their insurance.

Obviously, anyone who follows the debate around here realizes that Democrats aren't very much worried about cost. But why are we so worried?

No. 1, we are worried about 1.9 million people losing their insurance. We believe we can fix what is wrong with HMOs, and do it without driving up medical costs so much that people lose their health insurance.

But I would like to make two final points which I think are critical to this entire debate. If you came from outer space this morning and you listened to our Democratic colleagues, you would think they are opponents of HMOs. But let me read for you from congressional debate on February 10, 1978. I quote:

> I authored the first program of support for HMOs ever passed in the Senate. The Carter administration has made the promulgation of HMOs one of its major goals. Clearly HMOs have done their job in proving themselves a highly desirable mechanism for medical care delivery.

That is Senator TED KENNEDY. That is not PHIL GRAMM.

Our Democrat colleagues are the fathers and the mothers of HMOs. Yet today they have decided to vilify an institution they created. Rather than fixing the problems that exist, they have decided, for political reasons, it would be basically a good idea to destroy HMOs.

Why are we concerned about destroying the private health care system? Why are we so concerned about cost? The reason we are so concerned about cost, the last time we had double-digit health care inflation, the Democrats and President Clinton sent a health care bill to Congress, the Clinton health care bill, that would have had the Government take over and run the health care system, a bill that would have required every American to buy their health care through a Federal health care collective.

Today, our Democrat colleagues are very concerned about ''medical necessity.'' We have heard them talk about it all day long. When we open the Clinton health care bill, which they supported, on page 86, it mentioned ''medical necessity'' under exclusions. Let me read their solution to the problem of medical necessity when they wanted the Government to take over and run the health care system.

Their bill says, on page 86, line 10, under ''Exclusions'':

> Medical necessity. The comprehensive benefit package does not include any item or service that the National Health Board may determine is not medically necessary.

Today, our dear Democrat colleagues are all concerned about ''medical necessity,'' but when they wanted the Government to take over and run the health care system they defined medical necessity as whatever the National Health Board determined it to be, and the National Health Board was the Federal Government.

Today, our colleagues have gone on and on about medical access and point

of service. When the inflation rate on health care was above double digit and they proposed having the Government take over the health care system, do you know what their point of service option was? If you didn't join the Government plan, you got fined $5,000. The choice they provided in their point-of-service option is if the doctor who had to work for the Federal Government provided care he felt you needed but their Government health board felt you didn't need, he got fined $50,000 for doing that. If he provided a service they didn't allow and you paid privately for it, the physician could go to prison for 15 years.

Now, the same people who proposed all these things and came within a heartbeat of forcing Americans into this totalitarian system because they wanted to deal with inflation and access, today they are proposing legislation that would drive the inflation rate up by 6.1 percent and would, by Congressional Budget Office numbers, force 1.9 million people to lose their health insurance.

Why are we so concerned about starting runaway medical inflation again? Part of it is because we care about the people who lose insurance. Part of it is because we care about the $72.5 billion in costs for people who get to keep their insurance. But a lot of it is because we remember what Bill Clinton and the Democrats wanted to do the last time we had runaway medical inflation.

I am sorry, but I have a very hard time listening to my Democrat colleagues talk about medical necessity when only a few years ago they proposed to let Government define what medical necessity was, and if their board didn't say it was necessary, you didn't get it. I have a very hard time listening to them talk about a point-of-service option when virtually every one of them supported and cosponsored a bill that would have put a physician in prison for 15 years for providing a service that their Government board said was not needed.

In listening to our colleagues, it's easy to forget their support of legislation for the last 25 years that created HMOs. One forgets they love HMOs so much that they tried in 1994 to force every American into an HMO run by the Government. And one forgets that they were so concerned about patients rights they let the National Health Board determine what was medically necessary with no review whatever, and they put a doctor in prison for 15 years if he didn't comply with their rules.

There is a certain disconnect between what they are saying today and what they have proposed in the past.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I yield myself 8 minutes, and I ask to be notified at the conclusion of 8 minutes, and at the conclusion of my time, I yield 6 minutes to the Senator from Maine.

Mr. REID. Mr. President, I respectfully suggest we have been going back and forth and we have had Members waiting for well over an hour. It is not appropriate to yield to successive people. It should be our time.

Mr. ASHCROFT. How much time does the Senator desire?

Mr. REID. I yield 3 minutes to the Senator from Oregon, who has been here for about 3 hours.

Mr. ASHCROFT. I am very sorry. I didn't intend to deprive him of that opportunity. When I came in, I failed to observe him in the Chamber. I am happy to have him go ahead.

Mr. REID. I know the Senator from Oregon has been here a long time, but the Senator from Connecticut left a hearing and came to speak on the clinical trials.

Would the Senator allow the Senator from Connecticut to speak next?

Mr. WYDEN. Yes.

Mr. REID. The Senator is yielded for 5 minutes.

Mr. DODD. I appreciate the courtesy of the Senator from Oregon. I apologize for not being here during the presentation of the amendment dealing with clinical trials by my friend and colleague from Florida, Senator MACK. He made numerous references to the amendment I offered yesterday, and I want to address those concerns.

While I have deep appreciation for the motivations behind the amendment offered by our colleague from Tennessee, Senator FRIST—and I will speak specifically on the issue of the clinical trials—the amendment offered by Senator MACK, if you look at it in the totality, says no to 9 out of 10 people in this country. How does that work, 9 out of 10?

The clinical trials are limited to cancer therapies only; only for cancer. We all agree we ought to have clinical trials for cancer. No one disagrees with that. In a way, it is very cruel to say we can have experimental testing for cancer patients, but we cannot for people with AIDS, Parkinson's disease, diabetes, and heart and lung disease. A long list of patients are excluded.

Today, if you are watching this debate and you have cancer and this amendment is adopted, you are OK, but God help you if you fall outside the cancer area and you need the clinical trials, or you want to get involved in that because it could save your life, save your wife's life, or your child's life. You would like to get in the clinical trials. If you adopt this amendment, you cannot.

The argument is, we need to study the issue more. If we need to study clinical trials, why make an exception for cancer? If we don't need to study the clinical trials for cancer, it seems to me we don't need to study them when it comes to other life-threatening, devastating diseases where the only option can be the clinical trial.

As I said to my colleagues yesterday, this is the only option we offer in our amendment. It has to be clinical trials approved by NIH or the Department of Defense or by the Veterans Administration. There must be no other alternative available, and it only picks up routine costs. The cost of drugs and medical devices is not included.

I don't understand how we say to someone with mental illness, osteoporosis, cystic fibrosis, multiple sclerosis, stroke, blindness, arthritis, Lou Gehrig's disease, and more areas where clinical trials can make a difference for people. By adopting this amendment, we are excluding the option of people to utilize what may be the only avenue available to them to save their lives or the lives of their family.

Obviously, we acquire necessary information that allows a product or a device to become available to the public at large, saving future generations.

So I urge my colleagues, with all due respect, while it is hard to argue with this limited amendment, we will have a broader amendment that covers all of these areas which are so critically important to people.

Mr. KENNEDY. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. KENNEDY. The Senator pointed out for those who might be watching that if they had cancer, this amendment, if agreed to, would at least assure them of coverage. Of course, two-thirds of those individuals will not be in the plans that would be covered by this proposal. So two-thirds of those who have cancer, on the face of it, would not be protected. Contrast this with the amendment the Senator from Connecticut offered, which would have applied to all private health plans and would have included all diseases.

The PRESIDING OFFICER (Mr. FITZGERALD). The time of the Senator has expired.

Mr. KENNEDY. I yield 1 additional minute.

Mr. DODD. I deeply appreciate the Senator from Massachusetts raising that point. He is absolutely correct. It does cover the cancer patient, provided you are part of that small minority that gets coverage. But if you are part of the 113 million and have cancer, you are out. It is an important point to make. If you are part of the 48 million, you are out there completely. You are just gone. I think this is a tragedy.

Every single cancer group in this country does not support this amendment. No cancer group at all endorses this amendment because they understand it is a great deprivation and liability to their efforts. They understand how important it is to cover these other illnesses as well. These

groups, by the way, also have supported unanimously the amendment we offered, which would have covered clinical trials for all patients.

The PRESIDING OFFICER. The additional minute of the Senator has expired.

Mr. DODD. I ask unanimous consent for half a minute.

Mr. KENNEDY. Yes.

Mr. DODD. On this issue, on the clinical trials, to deny people across the board the ability to access clinical trials is one of the great shortcomings of the Republican proposal here. This will do a lot of damage to an awful lot of people, unnecessarily. The application of clinical trials is the only course available to people to save their lives and to save future lives. By excluding AIDS and the other diseases I have mentioned from the clinical trial approach, not to mention 113 million people who are excluded, we do a great disservice, at the end of this century, to people who expect more of this body.

I urge the rejection of this amendment.

Several Senators addressed the Chair.

Mr. REID. I yield 3 minutes to the Senator from Oregon.

Mr. WYDEN. Mr. President, well over 2 hours ago I offered the first-degree amendment that deals with an issue that ought to be totally nonpartisan, and that is protecting the relationship between health care professionals and their patients. The distinguished Senator from Texas is on the floor. I think he illustrated what the debate has now become. He wanted to talk about the Clinton health care plan of 1994. What my colleagues and I are here to talk about is giving patients and their families a voice in 1999.

In over 2 hours of discussion on the floor of the Senate, there has not been one argument—not one argument—advanced against our provision involving gag clauses; not one argument advanced against our provision protecting the providers from retaliation; not one argument advanced as it relates to this matter of making sure there are not financial incentives to keep the patients in the dark.

In 2 hours on the floor of the Senate, not one single argument was made against those positions. I think it is because the Senate understands that the free flow of information between patients and health care providers is at the heart of what we want for our health care system. It is also what this country is all about. It is what the first amendment is all about.

I know this has been a very hard debate to follow. We have had discussions about HCFA. We have had discussions about the Clinton health care plan of 1994. We have heard discussions about costs, about making sure that patients get all the information from their health care providers, and that providers are free from retaliation when they do give out that information, that is not going to cost a good health care plan a penny. Maybe if you are offering poor quality care it may end up costing you a little bit of money but giving people information, protecting their first amendment rights, is not going to cost a penny.

I am very hopeful our colleagues, when we get back to it, will support the first-degree amendment that was before the Senate a little over 2 hours ago, and recognize that, in the space of that time, not one single argument—not one—has been advanced against the idea that there ought to be a free flow of information. We ought to protect the relationship between health professionals and their patients.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield myself 6 minutes. I ask to be informed at the conclusion of the 6 minutes.

By agreement, I believe Senator COLLINS was to have 6 minutes at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I thank the Republican Members for their effort on assembling a very good plan. It is a plan designed to protect the interests of individuals who receive their health care through HMOs. It is designed so that, if the HMO denies a particular kind of treatment as not being necessary, there is an appeals process, and the appeals process is first to the HMO, asking them to correct a faulty decision. But if the HMO does not respond constructively, there is an appeal to an independent appellate authority, an independent appeals officer.

I wanted to make sure the Republican bill's effort to have this appeals process, which gives people the chance to make sure they are treated fairly, has the right enforcement to it. The right enforcement, in my judgment, is to send people to treatment, not to send people to trial. It would be possible to have a big legal arrangement where the person does not get treatment, they die, and the relatives then go to court. Instead of getting treatment, you get a trial and you may get a lot of money, but you have a dead relative. I think it is important to understand this is a health care effort we are waging.

So I wanted to do some things to strengthen the enforcement provisions in the Republican proposal which relate to the external review. That is the final appeal to a person outside the HMO, a qualified individual. This is what I think we must do.

First of all, we must make sure that the HMO acts promptly. While the Republican bill provides there should be certain designations within 5 days, there is a place where the HMO has to provide the reviewer, or the appeal authority, with the documents of the case. We put in a time limit on that. We put in a stiff penalty for failure to meet that time limit. It simply is saying we will not allow an HMO to drag its feet in order to avoid the review by an independent authority. So I wanted to make sure we had that.

Second, I want to make sure the person whose case is being reviewed has the right to present evidence to the appeal authority. I think this is implicit in the Republican bill, but I want it to be explicitly stated that when a person files a review petition, they have the right to say this is the reason you should set aside your judgment; this is the reason you should make a determination that the treatment is appropriate in my case—not only the person but the doctor who made the original decision. And that is important as well, making sure they are involved.

Then I want to make sure the person conducting the review of a physician's work would be a qualified physician or would be a person who was qualified to be the same kind of specialist the treating physician was so we would not have some bureaucrat or some individual who was interested in or more well trained, perhaps, in business making judgments about things that were medical. That is provided for in this particular matter. So it makes it clear we want to have the physician doing the kind of assessment in the appellate process.

However, I wanted also to make sure we had HMOs willing to carry through on the decision of the appeals process. I thought to myself, what if the patient lost the appeal in the HMO, made the appeal to the external authority—and this can be done very rapidly because the timeframes are tight in this instance, and should be, and we always include even expedited timeframes for medical exigencies—what if the appeal goes to the external appeal authority and then the HMO refuses to provide the treatment in spite of the determination by the external authority?

One option in that situation, I suppose, would be to say you go to court. But if you are sick and you call an ambulance, you expect the ambulance driver to take you to the hospital, not to the courtroom. What we need for people is not to be provided with a trial; we need people to be provided with treatment.

What we have done in this amendment is simply this: If you had this opportunity for an expeditious appeal that has gone through the HMO and the external authority, the external appeal officer is to write in any appellate decision a date by which treatment is to be commenced. If treatment is not commenced as of that date, the system converts to a fee-for-service system so the patient has the right to

get whatever service is needed at the expense of the provider which failed to provide it in accordance with the directive of the appellate officer.

Furthermore, it provides a penalty, an immediate $10,000 payment to the patient—not to the Government, not to the Department of Labor, not to an administrating bureaucracy—to the patient for having been dislocated and for having arranged for other things.

The business of the HMO is to arrange for medical services, and this is a plan which simply says we are going to deliver to people medical services. We are not going to deliver them somewhere else. We do not want you to end up with a good lawsuit; we want you to end up with good health care. And if the HMO does not provide the health care in accordance with the appeal, then it is time we turn loose the patient who paid the premium, and that patient has the right to access the care of his or her choice to get it done, and the responsibility of payment for that falls upon the noncomplying health care provider in the HMO. That makes sense. Instead of getting a good lawsuit because you did not get health treatment and you got sick, you get good treatment. It seems to me that should be the objective to have. That is basically what we have done.

We have made sure there are time lines.

The PRESIDING OFFICER. The Senator has used his 6 minutes.

Mr. ASHCROFT. Mr. President, that is kind of you, and I yield myself an extra 30 seconds. We made sure there are enforceable time lines. We have made sure physicians will be the appeals officers on the work of physicians. We have made sure the responsibility to deliver the process to the appellate appeals officers, both internal and external, is expedited. And we have made sure, in the event of noncompliance, the patient gets treatment. We convert the system to fee for service, and you can access treatment on your own.

It is with that in mind that I am pleased to conclude my remarks and yield to the Senator from Florida 5 minutes for his remarks.

Mr. MACK. Mr. President, I am not sure I need 5 minutes. I could not help but listen very closely to my colleagues on the other side of the aisle with respect to the issue of clinical trials and the idea of targeting clinical trials to cancer.

One could draw the conclusion from what they had to say either they never heard of the idea of targeting clinical trials to cancer or there was some confusion. I remind my colleagues on the other side of the aisle who have supported a clinical trial expansion of the Medicare program that is limited to only cancer —let me say that again. The clinical trial legislation that Senator ROCKEFELLER and I introduced earlier this year is limited to cancer only; just as this amendment is limited to cancer: Senator FEINSTEIN, Senator SARBANES, Senator JOHNSON, Senator BINGAMAN, Senator KERRY, Senator LEAHY, Senator KERREY, Senator SCHUMER, Senator AKAKA, Senator MURRAY, Senator BREAUX, Senator MIKULSKI, Senator CONRAD, Senator WELLSTONE, Senator MOYNIHAN, Senator INOUYE, Senator GRAHAM, Senator HARKIN, Senator KENNEDY, Senator BOXER, Senator DURBIN, Senator ROBB, Senator BIDEN, Senator DODD, and Senator HOLLINGS.

I submit that one of the reasons we have this not only in this amendment but also in the Medicare approach is because there is truly a concern about what the true cost of clinical trials is. As I said in my earlier comment, Senator ROCKEFELLER and I happen to believe the cost is quite small. In fact, there are arguments out there that Medicare is already picking up the cost of those clinical trials. We have limited it to cancer because we, in fact, believe we can develop information that will allow us to expand it.

Mr. DODD. Will my colleague yield?

Mr. MACK. If the Senator would wait. What I have found, as I have listened to this debate now for 4 days, is the term ''compartmentalization'' comes back into my mind: The ability on the other side of the aisle to think of one procedure, one amendment, one concept at a time, as if it has no influence or no effect on the cost of health care and what it might do to those individuals who could lose their health care coverage because of increased costs. It is very reasonable to ask the question: What does it cost; how do you define certain aspects of the clinical trial that is going to take place?

I will be glad to yield.

Mr. DODD. I thank my colleague for yielding. I suppose the best evidence I can offer is, in fact, a significant number of HMOs today are offering full clinical trials. What we are talking about are the few who are not. My amendment is not designed to deal with every HMO. Most of them today provide clinical trials on a wide array of issues. We are, by our amendment, saying: Shouldn't those few HMOs that are not doing this do what the others are doing?

Sloan-Kettering and M.D. Anderson cancer research centers did independent studies on costs. I think they are world-class institutions. Their conclusion was the clinical trial was less, lower cost——

The PRESIDING OFFICER. The 5 minutes allotted to the Senator from Florida has expired.

Mr. DODD. I ask the Senator have an additional 1 minute.

Mr. MACK. Can I inquire who is going to use that minute?

Mr. DODD. Two minutes.

Mr. KENNEDY. I yield 2 minutes, Mr. President.

Mr. DODD. I thank my colleague. Mr. President, let me know when I have a minute and give the Senator from Florida a minute to respond to what I am saying.

The CBO estimates 12 cents per patient per month. That is their estimate. Sloan-Kettering and M.D. Anderson say it is lower than standard cost, less than the cost that would be otherwise. We limit, by the way, how the clinical trials are approached so that you have to have no other available option. It has to be life-threatening. It is only NIH, Department of Defense, and Veterans Affairs.

We have narrowed it and also said, as important as cancer is—and I am a cosponsor of the bill of the Senator from Florida, but I hope my cosponsoring of clinical trials for cancer is not interpreted to mean that I do not think there ought to be clinical trials for diabetes or AIDS or mental illness or heart and lung disease or multiple sclerosis osteoporosis—all these other areas in which it can make a difference. I applaud my colleague for his bill. That was to deal with cancer, but we do not exclude these other options which most are doing today. Most are, but this is for the few that do not.

Mr. FRIST. Mr. President, I yield myself 4 minutes. I know we have a number of other speakers on the floor. After our discussion two nights ago, I looked at the two studies the Senator from Connecticut used. This is one of the problems. There is not good data on what are routine costs. I went through this the other night. I cannot be any clearer.

I have personally read the studies, as many as I could find. The two presentations you made in the data on how much money it saves is not peer review. It has not been published, to the best of my knowledge. Both are presentations made on May 7, 1999, at the National Coalition for Cancer Research. The data probably is good, but I cannot go back and see what the methodology is. Let me say that is the problem, that there are only three prospective, randomized clinical trials I could find and we were able to find in the committee. There may be more trials out there. But three clinical trials, not the ones you are talking about, that, again, show the cost, with some variation, might be zero—I am not sure what the lowest is—but up to 10 percent.

Mr. DODD. Both Sloan-Kettering and M.D. Anderson, did they say it is lower cost? Am I accurate?

Mr. FRIST. You are exactly right. I do not question the data. But it is unpublished data with no explanation given for methodology on either one. The cost of clinical research in the M.D. Anderson study or the Sloan-Kettering study—no details were given about methodology. So, yes, you say it is cheaper, but I have no idea how they determined that, whether they are accurate or not.

To the best of my knowledge, that has not been peer-reviewed. All that does not matter very much, except when you go back to an earlier question of why we focus on just cancer. I was not on the floor, but I had heard the argument, why not other diseases, such as Alzheimer's and cardiovascular disease, and others? I think that is legitimate.

Let me tell you my rationale for starting with something that is focused. The NIH has about 6,000—maybe it is 5,000; maybe 7,000—clinical trials out there, about 6,000 and 2,000—1 out of 3—are in cancer. The others are scattered among different disease processes.

So we said, since we do not know what the routine costs are —the other day I talked about the difficulty of defining ''incremental costs,'' using the example of medical devices. There are no studies—prospective, randomized clinical trials—to know what the incremental costs are for devices.

So what we are arguing is, instead of opening that door broadly, to start with a foundation of information about which we know. The clinical studies on routine costs all apply to cancer, which happens to be about one out of three trials that are out there today.

That is the base we are going to start with as we get into this subsidy—a good subsidy—that is in our private health care system which is passed on by increased premiums, or some way you are taxing people out in the private sector who are listening to this right now. We are going to tax you to pay for these trials.

We simply say, let's do it in a systematic way, starting with the body of knowledge we know about, which happens to be in cancer, and then letting it expand, potentially, over time based on our findings.

One last thing, in our amendment, as was pointed out, we also have a study, a very important study, that will expand so we will not have three studies. You will not be presenting data that has not been published yet, which I think is part of our amendment.

I will yield to the Senator from Florida, and then we will come back.

Mr. DODD. Just to make a couple quick points.

Mr. FRIST. I yield 1 minute to the Senator from Florida.

Mr. MACK. I believe the Senator from Florida has been graciously given 1 minute by Senator KENNEDY.

Mr. DODD. If my colleague will yield at this time?

Mr. FRIST. I yield and reserve my time.

Mr. KENNEDY. Mr. President, I think the Senator from Florida has 1 minute. Then I would be glad to yield another minute and a half to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. First of all, the impression created that HMOs or most HMOs cover all clinical trials is inaccurate.

There is a second component to this thing. ERISA plans versus the plans that we have control over may be confusing the issue as well.

In addition, though, I think it is important to focus. Again, this discussion has come down to a discussion about cost. I happen to agree with the Senator from Connecticut about the data that we have from those two health organizations. But I think he knows as well that there are those out there who make claims that the cost of the clinical trials would be substantially higher than that—from OMB, CBO, the administration.

So the point is that there is a legitimate debate about the cost of clinical trials. I am saying I think, before we go to the full extent of comprehensive coverage, we ought to fully understand what we are getting ourselves involved in.

With that, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me just say, the Congressional Budget Office estimates that 90 percent of HMOs provide broad-based clinical trials. They did the study on the 12-cent per month cost; and 90 percent do. Our amendment deals with a handful who are not.

Ironically, the adoption of this amendment may encourage some of these HMOs that are today providing clinical trials across the board to reduce actually the number they provide. That is No. 1.

No. 2, I say to my friend and colleague from Tennessee, these HMOs, the 90 percent that are providing broad-based clinical trials, have obviously done an economic study or they would not do it. They are not mandated under current law to do it. So the vast majority providing clinical trials beyond just cancer have, obviously, made the financial calculation that this is something they can afford to do. So in addition to Sloan-Kettering, M.D. Anderson, and the Congressional Budget Office—the costs are relatively low. They are providing the benefit.

What we were saying in the amendment that was defeated yesterday is you ought to be for those 10 percent or 12 percent that are not providing the clinical trials in these other areas. You ought to do so. That is the distinction, and there is ample data.

The PRESIDING OFFICER. The time has expired.

Mr. FRIST. I ask Senator KENNEDY, does he have somebody from his side?

Mr. REID. Mr. President, I yield Senators HARKIN and BINGAMAN 1 minute each.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, earlier today Senator BINGAMAN and I offered an amendment to provide nondiscrimination, so the plans could not discriminate against providers on the basis of their license or certification.

Now I see the Republicans have offered that amendment. I read through it. It is almost word for word the same as ours. Gee, here is an amendment I could vote for on the Republican side, until I read the fine print. What is the fine print? The fine print is this: Senator BINGAMAN, in our amendment, covers 161 million people; the Republicans' amendment covers only 48 million people.

It is sort of like this. A doctor prescribes an antibiotic for you to take every day for 7 days. The Republicans come in and say you can only take it for 2 days. It is probably better than nothing, but it is not going to cure the illness.

The Republican amendment on provider nondiscrimination is not going to cure the discrimination against chiropractors, against optometrists, against nurses and nurse practitioners, and physicians assistants. That is why I cannot support it.

The PRESIDING OFFICER. The 1 minute has expired.

The Senator from New Mexico has 1 minute.

Mr. BINGAMAN. Mr. President, I thank the manager of the bill.

Let me add one other thing. We need to ask, who are the 48 million people who are covered under the Republican plan and under this amendment they have offered on nondiscrimination against providers? They are people who work for large employers primarily who are self-insured. The employers have their own insurance programs.

Unfortunately, in my State, there are very few of those large employers. You have to have over 100 employees, essentially, before it makes any sense to be self-insured.

In New Mexico, people work for small employers, by and large. Even those who work for larger employers generally are not working for self-insured employers. Essentially, the folks I am representing in the Senate are not going to be covered by the amendment as it is offered. I think this is a serious defect.

There is one other thing I want to say in relation to Senator DODD's point. The American Cancer Society does not support an amendment or provision that does not apply to all insured individuals, that requires a commission to determine routine patient costs, and delays access to clinical trials until the year 2001. The American Cancer Society maintains that all patients with a serious and life-threatening illness should have assured access and reimbursement for clinical trials.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I yield the Senator from Maine 5 minutes.

Ms. COLLINS. Thank you, Mr. President.

This amendment includes two provisions that are intended to strengthen the Patients' Bill of Rights that was reported by the Senate HELP Committee. We do not have much time, but I would like to take a moment to describe two of the provisions that are of particular concern and interest to me.

First, our amendment includes provider nondiscrimination language. During the HELP Committee markup, as the Senator from New Mexico will recall, I pledged I would attempt to come up with language on the floor because we shared many of the same concerns, reflecting, I think, the populations of our State. So we have done just that.

The exclusion of a class of providers solely on the basis of their license or certification unfairly restricts patients' access to qualified professionals who are licensed and certified by the various 50 States. This is a very important issue in rural areas because there may not be a sufficient supply of physicians to provide the care that the health plan has promised. In these areas, if, for example, a plan discriminates against optometrists, the result may be that patients have to travel long distances in order to get eye care or, conversely, they have to pay out of their own pockets for services that are supposed to be covered benefits.

Maine, for example, has optometrists in virtually every community in the State, but we have very few ophthalmologists, and they are located primarily in southern Maine, primarily in our larger cities.

In 1982, 17 years ago, to respond to this problem, Maine specifically passed legislation requiring State-regulated health plans to have nondiscrimination language with regard to optometrists. The Republican amendment tracks similar protections that are provided for Medicare and Medicaid beneficiaries in the Balanced Budget Act of 1997.

Our amendment would prohibit federally regulated group health plans from arbitrarily excluding providers, based solely on their licensure or certification, from providing services for benefits that are covered by the plan.

Let me be clear about what this amendment does not do. It does not require the plans to cover new services just because the State may license a health care professional in that area. For example, there are some States which license aromatherapists. Just because aromatherapists may be licensed by a State doesn't mean the health plan has to cover those kinds of services. Moreover, nothing in our amendment would require the health plan to reimburse physicians and nonphysicians at the same rate.

The amendment also makes clear—and this is really critical—that this provision is a nondiscrimination provision. But it is not a willing provider requirement. It does not require health plans to take all comers. It simply says that a managed care plan cannot exclude a health care professional's entry into that plan solely on the basis of licensure or certification. Senator GRASSLEY, Senator HATCH, Senator JEFFORDS, and Senator ENZI have all worked with me on drafting this provision.

The second provision, which is of particular concern to me, improves upon the continuity of care provisions in the HELP Committee bill. Our amendment would affect the legislation in two different ways.

First, it recognizes that it would be unconscionable to require a patient who is terminally ill to change health care providers in the final months of life just because the health plan either stopped contracting with that particular provider or the employer providing the health plan switched plans, thus causing a change in the providers under contract. Our proposal would extend the transition period for patients who are terminally ill from 90 days until the end of life. This proposal is one that I know is of concern to Senator MIKULSKI, and it is something on which I completely agree with her.

Second, it would require a comprehensive study—I don't believe this is part of the Democratic proposal—into the appropriate thresholds, costs, and quality implications of moving away from the current narrow definition in Medicare of who is considered terminally ill and toward a definition that better identifies those with serious and complex illnesses. This study was suggested by the group, Americans for Better Care of the Dying. Senator JAY ROCKEFELLER and I have worked with this group in proposing our end-of-life care legislation.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Ms. COLLINS. I ask unanimous consent for 1 additional minute from the underlying bill.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. I yield 1 additional minute from the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. This study, as I said, was suggested by the group, Americans for Better Care of the Dying. It is intended to help us shift the paradigm in this country of how we view serious illness. Medicare currently defines terminally ill people as those having no more than 6 months to live. It is often very difficult to predict with any certainty how long exactly a seriously ill person is likely to live. This study will help us to provide better care for that broader category of patients who are terminally ill and have the need for more coordinated care but who may well live longer than a 6-month period.

I thank Senator ENZI and Senator GRASSLEY for their work and joining with me in improving the continuity of care provisions of the bill.

I yield the floor and reserve the remainder of our time.

Mr. ABRAHAM. Mr. President, I rise to address provisions included in this amendment on behalf of Senators ASHCROFT, KYL, and myself. These provisions concern external review of denial of coverage. In my view, they will improve the underlying Republican proposal in several important respects.

Mr. President, I believe the Republican proposal takes the steps necessary to ensure that every American has access to high quality medical care. In my view, the overriding goal of this legislation is to empower patients and their physicians. By putting medical considerations first, we will protect patients against arbitrary actions by health care bureaucrats. Republicans have put in place an external review procedure which will guarantee a patient's right to appeal adverse decisions by providers and to receive the care he or she deserves.

The purpose of an external review is to ensure that an unbiased, medical opinion can be offered when coverage has been denied on the basis of medical necessity and appropriateness or because a treatment is considered experimental. The changes contained in this amendment will guarantee an unbiased, timely and appropriate decision and I believe they will help ensure that the external review process works effectively. In particular, I would like to focus on three changes which resolve issues that were brought to my attention by the Michigan State Medical Society:

First, we clarify that appeals which are considered emergencies be made with the expediency necessary for the emergency, but in no case should the emergency decision take longer than 72 hours.

This clarifying language ensures that decisions are made in an expedient fashion, especially in case of emergencies.

Second, the amendment language clarifies that the independent, external reviewer shall be a physician in the same specialty area dictated by the case in question. This only makes sense, Mr. President, and I appreciate the sponsors willingness to clarify the language in this regard.

Third, in the Patients' Bill of Rights Plus, the independent external reviewer must take into consideration several factors in making his or her final decision. Some of those factors include: Any evidence-based decision making or clinical practice guidelines

used by the group health plan or health insurance issuer; timely evidence or information submitted by the plan, issuer, patient or patient's physician; the patient's medical record; and expert consensus and medical literature.

This amendment clarifies that expert consensus includes both generally accepted medical practice and recognized best practice.

Senators KYL and ASHCROFT have also included other provisions to tighten the external appeal process which I support. I note my full support for these provisions and ask my colleagues to support them as well.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the majority has about 2 minutes remaining on the amendment. The minority has about 15 minutes—about 12 minutes, I am sorry. So with the permission of the manager of the bill, I yield 3 minutes——

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. REID. I yield 3 minutes to the Senator from Minnesota, Mr. WELLSTONE; 3 minutes to the Senator from Nebraska, Mr. BOB KERREY; and 3 minutes to the Senator from North Carolina, Mr. EDWARDS.

Mr. KERREY. Would the Senator mind if the Senator from Nebraska went first?

Mr. REID. If the Senator will withhold.

Mr. JEFFORDS. Does the Senator intend to go one after the other?

Mr. REID. Yes, since the majority has 2 minutes remaining.

Mr. JEFFORDS. I want to accommodate the Senator from Wyoming—we only have a couple of minutes left—if he could speak now.

Go ahead.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I see the Senator from Maine heading for the door. With great respect for her, I want her to hear this observation. She talked about continuity of care and said that she and Senator GRASSLEY and Senator ENZI had worked on language in this amendment that provided continuity of care for people with terminal illness. I call her attention to pages 49 and 50 of this bill. It does not do that. It says specifically, under terminal illness, it is subject to paragraph 1, which says the general rule is just for up to 90 days. The only exception under continuity of care with this bill is for pregnancy, which was in the original bill.

Ms. COLLINS. Will the Senator yield for a clarification on that?

Mr. KERREY. I only have 3 minutes. I am sorry.

I call the Senator's attention to continuity of care. Look at the language of the bill because on page 49 it describes this transitional period.

This is something that is very important to me. I received health care in 1969 after I was injured in Vietnam. I have a very passionate concern for people now who are in managed care.

I must say, the problem we are experiencing with managed care is not self-funded ERISA plans. That is what the Republican proposal is going to do. It is going to solve almost a nonexistent problem that may, in fact, as a consequence of setting the bar low, encourage people who are in HMOs and who are in the marketplace providing those plans to say: I see the bar is low; we are going down to that lower standard. That is a major concern I have with this proposal. It does not cover the plans that are the biggest problem.

I call your attention to pages 49 and 50. Under the continuity of care provisions, the only continuity of care that would be provided would be women who are pregnant. They could go beyond 90 days under this provision, but those who were terminal would not. Terminal illness is subject to paragraph 1, according to the language of the bill itself, which does not provide for an extension.

Our proposal would go beyond those three general categories, not just terminal illness, not just institutionalized people, not just women who are pregnant—all three reasonable—and certainly not just self-funded ERISA plans, which are hardly receiving any complaints at all.

That is the odd thing about this debate. We are going to take care of a problem that doesn't exist under the guise of—I have heard people come down saying: We are going to address a problem with HMOs. Well, you would address the problem of HMOs if you changed your bill.

This bill doesn't take care of HMOs. It takes care of self-funded ERISA plans. Go to your mailbox and see if you have any complaints about self-funded ERISA plans. You won't find any complaints about that. The complaints are about HMOs.

We have watched the market move more and more into business decisions when it comes to health care. And I am for the market. I like what the market can do. When we regulate the market, we say——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KERREY. I will come back to this later, Mr. President. This bill does not provide continuity of care except for pregnancy. Those with other health problems would not be covered under this proposal.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I came to the floor earlier today and said I have a proposition for my colleagues. It is this: Let's give people freedom of choice. If people have paid extra premiums and their employer should shift insurance company plan or managed care plan, and they want to be able to take their children to the same family doctor they have been going to for 10 years, they ought to be able to do so.

I waited for the response.

Now I notice my colleagues on the other side of the aisle come out here with an amendment and they say this deals with the problem. First of all, they give freedom of choice to 48 million Americans, one-third of those who would be eligible. Only 48 million people in self-insured plans are covered. Another 115 million people aren't covered.

Two-thirds of the families in our country that need some protection and need freedom of choice aren't covered. Then I look at this bill and I notice that even among the 48 million people, if you were in a plan where you are working for an employer with fewer than 50 employees, you would not be covered. Subtract that number of Americans. Now we are well below 48 million people, well below one-third of the citizens in this country.

Finally—and I don't even know what this means, but we need to look at the fine print—they have an exception in terms of points of service or freedom of choice:

> It shall not apply with respect to a group health plan other than a fully insured group health plan if care relating to point of service coverage would not be available and accessible to the participant with reasonable promptness.

I have absolutely no idea what that means. Obviously, consumers and families would be going to a doctor who would be prompt in giving them or their children the care they need, unless this is some kind of an open-ended escape clause.

I am telling you, the more the people look at the fine print and the detail of what the Republicans are offering on the floor of the Senate, the more they will see a consistent pattern: Offer as little as possible, covering as few people as possible, with as little protection as possible, so you don't offend the insurance industry.

That is what it is all about. We should be representing the people in our States. We should be advocates for people in our States. We should be advocates for families, advocates for children. We don't need to be advocates for the insurance companies. They already have plenty of clout.

I yield the floor.

Mr. REID. Mr. President, I will yield our final 3 minutes to the Senator from North Carolina.

I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, let me address the external appeals part of this amendment. Yesterday afternoon, we had a debate, at which time I brought to the attention of my colleagues on the other side the fact that, essentially, we had no enforcement mechanism for any of the provisions passed because there was no meaningful external review, the reason being insurance companies got to write the language on what is medically necessary, and the only thing that was appealable was what is medically necessary.

That being the case—that the insurance company totally controlled whether there could be an appeal at all—not having a meaningful appeal is similar to having a law without a police force or a court system. There is no way to enforce it. The law is meaningless. All of these provisions we pass are meaningless unless they are enforceable.

This amendment attempts—and I applaud my colleagues for making this effort. I think it is the result of a discussion we had yesterday. It attempts to address that problem, but it still has an enormous problem in it. There are two parts of an appeal process. The first is, do you get to appeal? The second is, if there is an appeal, what can be considered?

What they have offered by way of different language today, for the first time in the course of this week, is some change in what can be considered if there is an appeal. They don't change, in any way, what is appealable. Once again, the only thing appealable is medical necessity. You can't appeal whether you have access to a specialist. You can't appeal whether you were reasonably prudent in going to the emergency room. All that long list of things which are contained in the various provisions that have been considered are not appealable. The only thing appealable is medical necessity. The insurance company writes what medical necessity means. They can write it any way they want.

So the problem is, while they have attempted to address the second part of the appeals process—and I applaud them for that —they have not addressed in any way the first part, which means the insurance company lawyers can write the contracts in a way that essentially makes appeals impossible by simply drafting very narrow language of what medical necessity means. If they do that, then nobody gets their foot in the door.

What we have done basically is we have taken a door that was completely closed and put a very tiny crack in it. That is all that has happened. Instead of what we ought to be doing, which is to have a simple, plain provision—and I don't know why my colleagues won't agree with this; maybe they will if we talk about it—a plain provision which says any right provided in any part of these amendments and bills that have been passed is appealable.

Why not make them all appealable? That way, we have an enforcement mechanism. We have a police force, a court system, and we have a way to make the rights that we are attempting to create meaningful because if we don't do that, essentially what happens is we pass laws that are totally unenforceable. The result is the insurance company totally controls what occurs. What we have today is a situation where HMOs and insurance companies are totally in control. That is what we are about this week. We are about changing that.

I do applaud my colleagues for making some effort to address that issue. But what has happened is they only address the second part, which is what can be considered. They still, I might add, allow the party considering the appeal, which is chosen by the insurance company through another entity, to consider what the HMOs' own plans and procedures are. So the bottom line is this, Mr. President—

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. EDWARDS. The bottom line is this: What we have is a provision that does not cure the problem. There is a simple cure, and if we are doing this in good faith, I ask my colleagues to join me in that cure, which is a simple provision which says that any right created in these amendments, in these patient protections we are attempting to debate and pass on the floor, is appealable. It is that simple, that straightforward. If we want to enforce these laws against the insurance companies, that is what we ought to be doing. It is simple and straightforward and it will work.

I thank the Chair.

Mr. JEFFORDS. Mr. President, I yield 5 minutes off the bill to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in support of the amendment. I want to particularly congratulate the Senator from Maine for her care and concern over the 2 years she has been involved in drafting this bill. I want to particularly express my pleasure at the improvement to the continuity of care provision she put into this bill. From our base bill, we further extend our continuity of care for terminally ill patients through the end of life.

While the language in our committee bill followed the recommendations of the President's Quality Commission and the National Committee on Quality Assurance, both of which recommended ninety days for transition for all chronically ill patients, we feel very strongly that terminally ill patients and their families deserve to remain with their providers.

Extremely important is the other piece of the continuity of care provision. It would require the Agency for Health Care Policy Research, the Medicare Payment Advisory Commission and the Institute of Medicine to conduct a multi-pronged study into the appropriate thresholds, cost and quality implications of moving away from the current narrow definition of ''terminally ill'' towards identifying those with ''serious and complex'' illness.

This study was suggested by the groups who advocate for patients suffering with terminal illness. Unfortunately, many patients are not captured by current efforts to address the coordination and care needs of those who have several years, rather than several months, to live. This is because ''terminally ill'' is a narrowly construed concept. These patients may be better captured as ''serious and complex.'' This study is designed to help shape those parameters and seeks to improve the care for all patients with terminal illnesses.

Again, I commend the Senator from Maine's leadership on this important matter.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, we are at the conclusion of another part of this debate. There is an amendment that includes a variety of different provisions trying to upgrade the Republican proposal and make it more acceptable and responsive to the points that have been raised during the course of the debate. Most importantly, the points have been raised by doctors, nurses and patients all over this country. Still, they fall short.

These amendments are another testament to the priority the Republicans place on protecting profits instead of patients. Every time we point out the severe defects and loopholes in their plan, they say: Oh, no, we will improve it. Then the so-called improvements come, and they are virtually meaningless. It is botched cosmetic surgery; all the wrinkles still show. You can put lipstick on a pig, but it is still a pig. And you can call something a patients' bill of rights, but it is still a patients' bill of wrongs.

Every single one of these amendments leaves a profit-protection proposal, a sham proposal, a triumph of disinformation. We have voted on 10 of the amendments that have been offered by the other side, and we will have this amendment—10 amendments. There isn't a single amendment that has the support of a patients' organization or a medical organization—not one. I think that is a fair indication as to what those amendments are really about.

On the contrary, each and every one of the positions we have taken had the strong support of the medical profession. Each and every amendments we

have offered—each and every one of them—had the strong support of the medical profession. I think that speaks volumes about who is really interested in protecting the patients and not the profits of the HMO.

Let's look at these proposals individually. The so-called independent appeals provision leaves every fundamental flaw in the original bill uncorrected. The HMO still chooses and pays the review organization. The HMOs own definition of ''medical necessity,'' no matter how unfair, still controls the whole process. That has been pointed out by our colleague, the Senator from California, Mrs. FEINSTEIN. That particular loophole remains in the bill.

The clinical trials proposal applies only to cancer patients and only to those in self-funded plans. Two-thirds of Americans are left out. Two-thirds of cancer patients are left out.

All of the cancer organizations have rejected this proposal. We have printed their positions in the RECORD. They all reject this particular proposal.

If you or your loved one has heart disease or Alzheimer's, cystic fibrosis or multiple sclerosis, a spinal cord injury or diabetes or AIDS, you are out of luck under the Republican plan. And if you are a farmer or small business employee who belongs to an HMO and you develop cancer, you are out of luck.

The continuity of care provision has not changed a bit. If you have a terminal illness and are fortunate enough to live more than 3 months, they can cut you off; you have to change doctors. If you have a long, ongoing illness—even cancer or life-threatening heart disease—you have no transition at all. And if you are one of the 113 million people not in a self-funded plan, you are not protected at all.

Let's go back to the basics. Again, after 4 days and 10 amendments, they have not presented a single proposal supported by any group of doctors, nurses, or patients—not one, zero.

Their bill is supported by the insurance companies that profit from abuse. Our bill is supported by 200 groups; doctors, nurses, and patients who want to end these abuses.

The Senate should stand with the health professionals and the patients, not with the powerful special interests.

We will have another opportunity in a few moments to stand again with the patients. Let's hope the Senate will.

I reserve the balance of the time.

Mr. JEFFORDS. Mr. President, I yield the Senator from Maine 2 minutes off the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I recently discussed the continuity provisions which are included in the amendment before us. This is one of the rare areas of agreement on both sides of the aisle. We both agree that if someone is terminally ill, and if there is a change in health care providers, the terminally ill patient should be able to stay with that provider until the end of his or her life.

Our amendment clearly says that the care shall extend for the remainder of the individual's life for such care. There is, however, a technical mistake which could create some ambiguity in that provision.

I ask unanimous consent, since the yeas and nays have been ordered, that I send a modification to the desk to correct that technical amendment. I hope my colleagues will agree to that.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Ms. COLLINS. Mr. President, since there has been an objection, which I think is very unfortunate, the technical correction will be included in the final Republican package that will be offered.

As I said, I think the intent is very clear. The majority of the language is very clear. But there is an ambiguity in one section which will be cleared up in the final language.

Also, at this time I request the yeas and nays on the underlying Collins amendment which was set aside.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient.

The yeas and nays were ordered.

Mr. KENNEDY. I yield to the Senator from California 1 minute off the bill.

Mrs. BOXER. Mr. President, by popular demand, I have my scorecard back. It was 8 to nothing. And then I gave two points to the liability, one, because that is crucial. Unfortunately, we lost that—the patients did. The HMOs won. They still will be able to get away with hurting people and not paying any price whatsoever.

So we are 10 to nothing.

We are about to have two votes. The Collins amendment is opposed by the obstetricians and gynecologists who have sent out a letter saying it is nothing; it is a cruel nothing. I have their exact words at everybody's desk.

I hope we will vote that down. It doesn't do anything about the specialists. It doesn't do anything about OB/GYNs. It doesn't do anything about emergency rooms. Senator GRAMM pointed that out. They are still going to be charged.

Again, we have a sham proposal. I hope it will be 10 to 2 after the next two votes. But I am afraid it is going to be 12 to zero.

I yield the floor.

Mr. KENNEDY. We yield back any time remaining on our amendment.

Mr. FRIST. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Two minutes.

Mr. FRIST. Mr. President, shortly we will be voting on two amendments. The first vote will be an amendment which was carried over from this morning on long-term care, deductibility, access to emergency room services, access to specialists, and access to OB/GYN services, after which we will be voting on the amendment that we have been talking about over the last 100 minutes, which is an amendment we have introduced on external appeals with a Republican amendment that provides a specific timeframe for expedited external review, No. 1.

No. 2, on coverage of clinical trials, our amendment provides coverage of routine patient costs associated with participation in an approved trial in the field of cancer.

No. 3, provider nondiscrimination, where our amendment offered protections similar to those provided in Medicare and Medicaid, and the balanced budget amendment of 1997.

No. 4, a point-of-service aspect, where we extended the point-of-service option to beneficiaries beyond what was in the underlying bill.

No. 5, continuity of care, which has been discussed by Senator COLLINS.

I very much believe these amendments will strengthen the underlying bill.

I urge their approval because I think they go right to the heart of what the American people want, and that is to keep the focus on the patient, on the individual, to ensure quality and to ensure access.

I yield the remainder of our time.

POINT-OF-SERVICE OPTION AND ANTI-DISCRIMINATION AMENDMENT

Mr. GRASSLEY. Mr. President, I am pleased to support this amendment with my colleagues, Senator COLLINS, Senator SESSIONS, and others. This amendment will offer freedom of choice to millions of Americans and will ensure they have access to a wide range of providers.

Our amendment would provide individuals with the option of choosing a point-of-service plan when no such option exits. I support this because I want to give people choice and the ability to go out of network if they need to. They may have to pay more for this freedom, but they should at least have this protection if they want it.

I have been a long-standing supporter of the point-of-service option. This provision was part of my Medicare patients' bill of rights in 1997. I also supported a similar amendment offered by Senator HELMS on the Senate floor several years ago.

I believe people should have this option when they are willing to pay for it. Point-of-service provides people with the security of insurance coverage to see providers outside the plan if they need to. Many people are will to pay for this extra security. But for people who don't want to pay for this, they won't have to. They can choose another plan that better suits their needs.

In addition, this amendment ensures that managed care plans do not discriminate against any class of providers, such as chiropractors or optometrists. This is important to patients because it ensures they have access to certain providers or services they prefer who may be left out of the network. Classes of providers, who are not medical doctors, are sometimes excluded from participating in managed care plans to restrict patients' access to their services. Our amendment would ensure this does not happen by prohibiting plans from discriminating against any class of providers who are licensed to practice in their state.

This amendment is about choice, freedom, and security. It is about allowing patients to choose a plan or provider that best meets their health care needs. I hope my colleagues on both sides of the aisle will vote in favor of these very important patient protections.

The PRESIDING OFFICER (Mr. THOMAS). The question is on agreeing to amendment No. 1243, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—54

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
Crapo	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Voinovich
Fitzgerald	McCain	Warner

NAYS—46

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

The amendment (No. 1243), as amended, was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1252

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1252. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—54

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
Crapo	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Voinovich
Fitzgerald	McCain	Warner

NAYS—46

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

The amendment (No. 1252) was agreed to.

Mr. NICKLES. Mr. President, for the information of our colleagues, we are coming to closure on this bill. I think the procedure is that now the Democrats, if we continue our alternation, have a second-degree amendment which will be offered to the underlying amendment, and we will consider that. We will vote on it. Then it is our expectation that we will have the passage of the substitute amendment, to be offered by Senator LOTT on behalf of us, that will be wrapping up some of the changes we made to S. 326 in the consideration of this bill.

We will offer that immediately following disposition of the Democrat amendment, and that will be the final vote of the evening. At least that is our expectation. For Members' information, we will be voting on the next amendment no later than 6:50, hopefully before 6:50. Then it is our intention to vote on final passage no later than an hour or 2 hours after that. That would be closer to 9.

It is our hope that we can shave off some time and have final passage much closer to 8 than 9. Members can plan accordingly. Please plan on two more votes, one on the Democrat amendment, which will be offered momentarily, and then basically the final passage or the Republican wraparound amendment—we might call it that—or a substitute. It would incorporate all the changes we have made on the floor to S. 326.

I yield the floor.

Mr. KENNEDY. Mr. President, may we have order. This is a very important amendment, and the Senators are entitled to be heard. We are enormously grateful for the attention that has been given to the debate generally, but this is in many respects one of the most important amendments. The Senators should have a chance to have the attention of the membership.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senate will be in order.

AMENDMENT NO. 1253 TO AMENDMENT NO. 1251

(Purpose: To provide for a transitional period for certain patients)

Mr. KERREY. Mr. President, I send an amendment to the desk on behalf of myself, Senator MIKULSKI, and Senators SCHUMER, GRAHAM, KENNEDY, MURRAY, DASCHLE, DURBIN, ROCKEFELLER, and TORRICELLI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. REID. Mr. President, the Senator from Nebraska is yielded 7 minutes.

Mr. JEFFORDS. Mr. President, I ask that we suspend temporarily for a motion.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. KENNEDY. If the Senator will yield temporarily, as I understand, the Senator is going to make a motion to reconsider and lay on the table.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote on the amendment just passed.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself, Ms. MIKULSKI, Mr. SCHUMER, Mr. GRAHAM, Mr. KENNEDY, Mrs. MURRAY, Mr. DASCHLE, Mr. DURBIN, Mr. ROCKEFELLER, and Mr. TORRICELLI, proposes an amendment numbered 1253 to amendment No. 1251.

Mr. KERREY. 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. KENNEDY. Did we yield 7 minutes to the Senator?

Mr. KERREY. That is correct.

Mr. President, this proposed change in the law would provide protection for every single American who has health insurance in this country—not just those that are in self-funded ERISA

plans, as the Republican alternative would do. That is the most important distinction. I have been asked, well, if our amendment fails, will I vote for the Republican alternative? My answer is no. I believe that would be a step backward because it will say to the marketplace that you can fall to the lowest possible standard, which is what the Republican proposal does.

Every step of the way, we have seen a sort of grudging retreat from our challenge to change the law and intervene in the marketplace. There is cost to this, Mr. President; I acknowledge that cost. But as with all regulation, we have to measure the cost versus the benefit. That is what we intend to do with this amendment—talk about the benefit to people who will be able to get continuity of care, and not just if they are pregnant, which the Republicans included in their earlier alternative, but to take care of people with terminal illness, for example. I understand it that there will be a modification to the Republican bill on this point. But you have to be declared terminal.

What if you have cancer and you believe you are going to survive treatment? What if you have diabetes or some other complicated medical condition, and you established, over the years, a relationship with your physician who watched for changes in your physical condition, looked at your symptoms and determined the kind of treatment and response to those symptoms, and suddenly you are told your doctor was either removed from the managed care group, which happens, or your doctor changes venue and moves to some other locality and you are told by your managed care organization that you have to pick a different doctor. Your relationship with this physician is over.

This amendment puts the law on the side of those individuals and says you can continue care with that doctor for 90 days for most conditions, and for three conditions this time can be extended. It is reasonable.

Is there cost? Yes. Measure the cost against the benefit of having the law on your side when it comes time that you are told that your doctor now is different and you have had a relationship with that doctor. The doctor has diagnosed your cancer and told you here is the treatment, or has been your doctor treating your diabetes or your cardiovascular disease, or your doctor has told you what the treatment is going to be, and suddenly you have a new doctor. You have to pick somebody new. That is what this amendment does. It puts the law on the side of every single American, not just those in self-funded ERISA plans, as the Republican version would do. This takes care of everyone.

I have real passion on this subject because on the 14th of March, 1969, I was a healthy human being with the U.S. Navy SEAL team, and I thought I could accomplish everything on my own. I didn't think I needed any law to support me or take care of my needs. Then I was injured. In an instant, I went from being able to take care of myself on my own to not being able to do anything at all, including going to the bathroom, without asking somebody else for help. So they sent me to the Philadelphia Naval Hospital, and I recovered there.

Well, in 1989, when I came to the Senate, I was fortunate enough to be able to be a member of the Appropriations Committee, and we were marking up a bill—a law that this body considered. It occurred to me we were appropriating money for military hospitals—including the one that I had gone to in 1969. Well, in 1969, I didn't understand the relationship between that law and me. That hospital was not there because of Sears & Roebuck.

I love the marketplace. I come from the business sector and I love what the market can do. But the market has limitations. My life was saved by a hospital that was authorized by this Congress. The appropriations were authorized by this Congress not because I made a financial contribution, not because I was able to come and influence anybody in this Congress—there wasn't a politician in America in 1969 I liked, let alone been willing to make a contribution to. Yet Congress passed, and the President signed, a law which saved my life—not the marketplace but a law.

Was there cost? You're darn right there was cost. What was the benefit to the rest of America? I hope the benefit was being able to say we live in a country where we want our Congress to pass laws to take care of our own. We want to take care of each other. It isn't just about me. I am healthy today, and the independence I have and the health I have came as a consequence of that law. That law gave me independence.

Roughly 10 days ago, we all celebrated the Fourth of July. That is Independence Day. This Nation has an over 200-year tradition of making independence meaningful by fighting against illiteracy, fighting against intolerance, and fighting against illness. If you are sick or disabled and you don't have health insurance and reliable health care, you are not likely to feel independent. It is likely to be meaningless to you.

So what this amendment does is to say if you have a relationship with a doctor, and the doctor is treating you, and the market determines that the doctor no longer can treat you, you will have a right, under the law, to continue to have the care of that physician for 90 days. If it is one of the three exceptional conditions, this right can be extended.

As I say, there is cost. I don't disregard the cost at all. I have heard many Senators come down and talk about how this is going to increase the cost of our insurance. I am willing to pay it. Why? Because Americans were willing to pay the bills for me. That is why we are a great country. We don't just take care of ourselves; we take care of each other. We recognize, as great as the marketplace is, as wonderful as free enterprise is in creating jobs and generating wealth, there are limits. If all we care about is the bottom line and generating profit for our businesses, we will forget the need to put the law on the side of human beings when, through no fault of their own, the bottom drops out of their lives.

So I hope and pray that the Republicans will give this amendment consideration. It is the last amendment we will consider before we shut this thing down permanently. At least for the rest of this week, we are not going to have a chance to change the law and put it on the side of Americans out there who desperately need it.

I understand there are costs to it. If I talk to people in Nebraska and they ask why we do this, I will not only use myself as an example, I will use hundreds of others who had the law on their side. Medicare beneficiaries have had the law on their side, and they are better off as a consequence.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, we are in the closing hours of this debate now. I want to thank the distinguished Senator from Massachusetts for his steadfast advocacy not only this week, but his whole life has been devoted to making sure that people have access to health care, and to believing that in the United States of America there is an opportunity structure where we give help to those people who try to practice self-help—we have done that in education and in our legal framework—and also to be sure that if you have something happen to you in terms of your physical, emotional, or mental well-being, you should have access to health care in the greatest country in the world.

I thank Senator KERREY for offering this amendment. I think it is an outstanding amendment and I am pleased to be a cosponsor. I lend my voice to this amendment that the Senator has offered, and I hope that at least once this week we can pass an amendment 100–0, and that we put the profits of an insurance company aside, put the politics of party aside, and that we take a moment to think what is in the best interest of the American people.

I hope that on this amendment we can come together. Senator KERREY's amendment is one that I offered in the committee. It was defeated along party

lines. But I understand committees. That is the way it goes. But I don't understand how we are doing this on the floor of the Senate because, first of all, we are advocating continuity of care. What does that mean?

It means just because your boss changes insurance companies, you don't have to change your doctor. It also means if your physician is pushed out of a network, you are not pushed aside from seeing that physician.

Why is this important? It is important because doctors are not interchangeable. The hallmark of getting well and staying well is the relationship between a doctor and a patient. We have known this throughout history. This is nothing new. This goes back to Hippocrates and the earliest basis of medicine. Your doctor knows you as a person—not as a chart or a lab test. Your doctor knows you, your history, your family's history. Your doctor knows what is best for you and how to act in the most prudent way in regard to what is medically necessary or medically appropriate or medically indicated.

Why is this important?

There are those who will say this will cost too much. I say, if we don't have it, it will be penny-wise and pound-foolish.

If you are dumped from seeing the doctor you currently have and you have to start all over again, that doctor is going to have to take a complete physical. The doctor is going to have to take complete tests and in many instances start all over with you. Diabetes is treatable and diabetes is manageable, but if you are a diabetic and go to a new doctor, that doctor has to know you and your history and your family history, and start again with complicated tests and complicated evaluations. That is penny-wise and pound-foolish. You should stick with your own doctor, or at least come up with a transition plan.

What about the terminally ill?

This amendment Senator KERREY has offered says if you are terminally ill, or your family member, or your child, is terminally ill, you get to keep your doctor. What happens if your child has a terminal illness? You are struggling with this illness. Imagine being a father wanting to be at the bedside of a child who is terminally ill. Instead he is in the other room calling an insurance company finding out if his son's doctor is in his new plan's network because the company he works for has changed HMOs. So he is up there not talking to the doctor about his son, or not even talking to his son, but trying to figure this out.

I think that is cruel. I think it is cruel and unusual punishment.

What happens if you are recovering from a stroke and you are in a rehabilitation hospital?

Under the Kerrey-Mikulski amendment, you will get to keep your doctor during that rehabilitation, so you can return and not be having to try to find out who your physician is going to be.

What happens if you have been admitted to a mental hospital for an acute psychiatric episode and you have chronic schizophrenia, but you also have a physician who has been treating you, who knows you, and in those 90 days you have to change doctors just when you are trying to get your mental health back again?

This is what we are talking about—continuity of care, so for those undergoing an active course of treatment and for all Americans who have insurance you would get at least 90 days to come up with a transition plan.

But in three categories—if you are terminally ill; also if you are within an institution or facility; or if you are pregnant—you get to keep your doctor for a longer period.

We think this is what should happen. This isn't just BARBARA MIKULSKI making this up.

I will submit a letter from the Consortium of Citizens with Disabilities. These are people who strongly support the Kerrey-Mikulski amendment.

This is what they say:

> Protecting continuity of care is not some wonky technicality. It will have a real impact on the quality of care for many people with disabilities and anyone who is undergoing active treatment. Consider for a moment what could happen to a child with cerebral palsy if their parent's employer changed health plans and there was no opportunity to adequately plan a transition to new plan and new providers. It can be assumed this child would be receiving ongoing physical therapy.

This could be potentially expensive and exhausting for the family. There may be a variety of other reasons for this.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSORTIUM FOR CITIZENS WITH DISABILITIES,
Washington, DC, July 12, 1999.

Re CCD strongly supports the Kerrey/Mikulski amendment on continuity of care.

Hon. J. ROBERT KERREY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERREY: We are writing as Co-Chairs of the Health Task Force of the Consortium for Citizens with Disabilities (CCD) to express our strong support for the amendment you intend to offer with Senator Mikulski during the upcoming debate on the Patient's Bill of Rights. Your amendment will ensure that continuity of care is protected when health plan contracts are terminated. This is a critical issue to people with disabilities. CCD is a Washington-based coalition of nearly 100 national organizations representing the more than 54 million children and adults living with disabilities and their families in the United States.

For people with disabilities, planning a transition from one health plan to another requires great care and much coordination. If an employer switches health plans or if enrollees experience a change in health plans for any reason, persons with disabilities need to be guaranteed that they will have adequate time to manage the transition to new providers. For persons undergoing active treatment for serious conditions, patients should be permitted to continue being treated by their existing provider until the serious condition has been positively resolved or for at least ninety days.

Protecting continuity of care is not some wonky technicality. It will have a real impact on the quality of care for many people with disabilities and anyone who is undergoing active treatment. Consider for a moment what could happen to a child with cerebral palsy if their parent's employer changed health plans and there was no opportunity to adequately plan a transition to a new plan and new providers. It can be assumed this child would be receiving on-going physical therapy, they would potentially be taking extensive prescription medications, they would have an on-going need for various types of durable medical equipment such as a wheel chair or other devices that help them to function. They may also be receiving personal assistance services. If a transition to another plan is necessary, should the care of the child be abruptly terminated without any planning to manage the transition to a new plan and new providers?

What is most perverse about such a situation is that if care is interrupted, this child could develop an acute health problem that requires a hospitalization. Is this in the best interest of that child or the health plan? This type of scenario is not limited to this example.

Anyone who is receiving on-going care needs an opportunity to plan and manage a transition to a new health plan, and if necessary a new provider. We are frustrated that such a straightforward issue is not adequately addressed in the Republican Leadership proposal.

There are many complex issues that will be raised as the Senate debates the enactment of a Patient's Bill of Rights. Continuity of care is not one of them. Your amendment provides a straightforward solution to a simple problem. Under current law and the Republican Leadership proposal, health plan enrollees could be stranded and life-prolonging health care could be abruptly interrupted through no fault of their own.

The CCD Health Task Force is grateful for your leadership on this critical issue and we look forward to working with you and your staff to ensure that this amendment is adopted.

Sincerely,

JEFFREY CROWLEY,
National Association of People with AIDS.
BOB GRISS,
Center on Disability and Health.
KATHY MCGINLEY,
The Arc of the United States.
SHELLEY MCLANE,
National Association of Protection and Advocacy Systems.

Ms. MIKULSKI. Mr. President, we have letters from parents. We have letters from advocacy groups that say in the United States of America when you get health care it shouldn't have term limits on it.

I yield the floor.

Mr. REID. The Senator from New York is allocated 4 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Nevada for yielding.

It has been a long week. I know there will be many who will say that this week was not as productive as it might be. I agree with that completely.

But this is one good point that has emerged. We have debated, as we asked, the Patients' Bill of Rights. It is now an issue that is before the American people. They know there will be a time when they don't have to put up with HMOs that are dictating policy.

The American people know that in the doctor-patient relationship there does not have to be a third person in the room all the time—an actuary, an accountant with no medical experience. They know it is possible for this Senate and this Congress to pass a law that might say that if your doctor says you need a medication, and says you need a procedure, and says you need an operation, and your HMO denies it, you have the right —you could, if this Senate had the courage—to an independent appeal.

Unfortunately, amendment after amendment that would have protected the average American was rolled back. Unfortunately, we are in a situation where the insurance industry has all too often dictated what has happened on this floor. Instead of stepping up to the plate and voting for the protections for which our constituents are literally clamoring, this Senate buckled to the insurance industry and passed a bunch of amendments that are aimed at looking good and doing nothing. The look-good, do-nothing amendments will not prevail because next week, and the week after, as Americans visit their doctors and their HMOs deny them service, deny them things they need, they will know.

This entire debate can be summed up in three numbers. Who is covered under the Democratic plan? One hundred and sixty-one million people. We lost on that amendment. The Republican plan, which covers 48 million people, prevailed.

What are we saying to the 113 million who will not get coverage? The main argument against the legislation is that it would cost too much. The cost is $2 a month. How many Americans wouldn't pay $2 a month to have their doctor determine what medicine, what operation, what specialist they need?

I think the only Americans who would not vote to have that $2 a month in exchange for what they need medically are in this Senate, and in a few of the HMOs.

My colleagues, my friends, this is not the Senate at its greatest hour. This is a time when we, once again, succumb to the special interests and deny what the American people want.

But we will be back. The American people will demand we come back. They will demand the pendulum swing back to the middle so actuaries don't make policy, but doctors do.

We shall return. We shall, not tonight but in the future, prevail.

Mr. BOND. Mr. President, I yield myself 10 minutes.

As we near the end of this debate, I want to share a few thoughts generally on the proposals we are discussing. Quite frankly, we just had an opportunity to see the amendment which has been offered. Our crack Senators are reading it over to study the measure. They will shortly have comments to offer on that.

I want to talk about some areas that I think have become very obvious as we have moved forward in this debate. The first thing we ought to emphasize is that both sides are going to deal with the managed care problems and concerns. We have heard from patients in our States. I have heard a lot of rhetoric and a lot of name-calling about what the various bills do. The simple fact of the matter is, the people of Missouri, the folks who talk to me, the people who are concerned about health care—the small businesses are particularly sensitive—have some things they don't want to do.

The first rule of medicine is to do no harm. They want to make sure we don't make it worse. I believe the amendments we have adopted and the direction in which we are going will make the situation better. We are going to assure patients in a managed care plan, if they are turned down for coverage, they can go to a physician for an external appeal, and thanks to the very wisely crafted provision of the amendment offered by my colleagues—Senator ASHCROFT, Senator KYL, and Senator ABRAHAM—if the managed care organization doesn't provide them with that coverage of services that the external appeal said they are entitled to, they will be able to go out and get it someplace else and bill the HMO.

What we are saying is, we don't want to give people a lawsuit, a cause of action or, even worse, give their widow or their orphans a cause of action. We want to give them health care. We want to give them a treatment. We want to give them a treatment, not a trial. We want them to make sure they can get health care. That is the important point. That is what the provisions we have adopted do.

One of the things we don't want and one of the things our colleagues on the other side of the aisle seem to want is another bureaucratic nightmare. Do we really want to turn the regulation of our health care system over to the Federal Government, to the bureaucrats at the Health Care Financing Administration? I say not. We have had a lot of experience with HCFA, and it has not been good.

The Republican bill is based on the premise that States can do a good job monitoring what is going on in the world of managed care, they can do a good job of deciding what is the appropriate legislative response. Some may do better, some may not do as well. But the nice thing about the laboratory of States is that we can see which States are doing the best job and we can change the law.

During my time and service in State government, we worked on assuring better regulation. The States will move forward. My State has passed a Patients' Bill of Rights. Most States have. They are looking to see how it works. The States that make it work the best are going to be followed by others.

The Democratic bill, the Democratic approach, is based on the premise that States can't handle managed care regulation and that Federal bureaucrats are better equipped to do it. The Democratic bill will overturn a host of State laws and replace them with the interpretations of the Federal Government employee. These are the same bureaucrats who produced one nightmare after another in trying to impose their regulatory monstrosities from Washington. Now they want the entire health care system turned over to them.

We have already had examples of HCFA's failures related to the issue of consumer protection, the very topic that the Democrats want to turn over to HCFA lock, stock, and barrel. Back in 1996, we entrusted HCFA with more responsibility when Congress passed the Kassebaum-Kennedy health care bill designed to make sure health care was portable. How well did HCFA handle this responsibility? According to the General Accounting Office, HCFA admits they pursued a Band-Aid, minimalist approach for protecting consumers.

The GAO has another finding that HCFA ''lacks the appropriate experience or expertise to regulate private health insurance.'' These are the people to whom we want to turn over regulatory responsibility for the entire health care system? When they are entrusted with the entire responsibility, when they are incompetent or mess up, the whole country suffers.

One of the things I have done as chairman of the Small Business Committee is to try to ensure that Federal agencies live up to the requirements of the law passed in this body and the other body unanimously to reduce red-tape, to make sure that Federal agencies take into account how their activities and their regulatory actions would impact small business. We found there were several agencies that weren't doing a very good job. The regulatory process was clogged up.

I initiated the ''Plumber's Friend Award'' to unclog the regulatory pipes in these agencies. Needless to say, HCFA and the Department of Health

and Human Services were one of the first. We give these awards to Federal Departments which blocked the flow of public participation because they failed to reduce unreasonable and burdensome regulations affecting small business. HCFA and HHS qualified for the award by repeatedly disregarding Federal laws designed to make it easier for small businesses to deal with the massive amounts of regulation and paperwork required by Federal bureaucrats.

That is an example of the nightmare HCFA is creating. We saw the nightmares. They were going to impose surety bond requirements on home health care agencies, many of them small businesses in my State. HCFA decided they were going to require the small business home health care agencies to purchase surety bonds that would cover up the Federal Government's mistakes. In other words, they had to provide insurance so if the Federal Government made a mistake, the surety bond would be responsible. A home health care operator told me with tears in her eyes she couldn't raise the money to buy a surety bond.

Then they imposed cuts on the home health care agencies that have been putting them out of business left and right. Under the Balanced Budget Act, they were supposed to save $16 billion a year over 5 years. They cut back on the amount of reimbursement so much that they would wind up saving $48 billion a year. They were imposing a system of reimbursement that penalized the good providers, that penalized the providers who were providing the most intensive care in the home. They were penalizing the providers in the most difficult areas—precisely the kind of service we want to keep.

HCFA has had a bad track record. Ask anybody who has had to deal with HCFA, and they will say, whatever the problem is, HCFA is not the answer.

There are some who think that maybe our colleagues really want to get back to the era of another health care proposal that came from the White House. Known as Clinton Care, the 1993 health care plan was going to be a Federal takeover of health insurance. The wisdom of the Federal Government was going to run health care.

Senator GRAMM has done a good job this week talking about some of the possible horror stories that could and would have happened if we passed the Clinton health care bill. Fortunately, we didn't. Some of my colleagues are running around saying they personally helped kill the Clinton health care bill. That sucker wasn't killed by any Republican. It died of its own weight. The Democratic majority leader didn't even bring it up because once they looked at it, they said, this thing isn't going to work. It was dead on arrival.

Let me state some of the likely results had we adopted the President's proposal to socialize medicine. Expensive mandates on the Nation's employers would have cost jobs, insurance premiums that would likely skyrocket. It would create 50 new Federal bureaucracies, a new trillion-dollar Federal entitlement. These were the items we would have received.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOND. Mr. President, I ask for another 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. The bottom line is we would have had 1,200 pages of mandates, rules, requirements, and penalties. It died. But let me remind my colleagues what the President said just a couple of years ago, in September 1997. Talking about his failed effort to impose this failed health care bureaucracy on the American people, he said:

> If what I tried before won't work, maybe we can do it another way. That is what we tried to do, a step at a time until we have finished.

That is what I am afraid of. That is what we were trying to do, to get to the point where we had socialized health coverage in the United States.

Costs are clearly a problem. Costs are going to be a lot more than $2 million, or one Big Mac, $2 a month or one Big Mac a month, as some of my colleagues on the other side have said. If you have a $2,600-a-year family health insurance program and you have a 5-percent raise, it is a whole lot more than $2 a month. It is about $180 a year, something similar to that. It is a lot more. And when costs go up, people lose their health insurance.

We need to fix some of the problems. We need to do it without driving people out of the system. We already have 40 million uninsured people in America. I can tell you one thing that is clear: small businesses are very much concerned about ensuring they do not get priced out of the ability to compete by their health insurance costs.

There is an excellent article in the Wall Street Journal on Thursday, April 15. I ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, April 15, 1999]

TAKING CARE: SMALL EMPLOYERS OFFER HEALTH BENEFITS TO LURE WORKERS IN KANSAS CITY

(By Lucette Lagnado)

KANSAS CITY, MO.—When Stephanie Pierce took over as director of the Broadway Child Enrichment Center in December, she faced a hiring crunch.

The small, church-based day-care center was enrolling more children than ever, and Ms. Pierce needed to keep the staff she had and bring on more. It was no small challenge in Kansas City's strong economy, where newspapers are flush with help-wanted ads and workers can brush off day-care work, with its low pay and high pressure.

So, Ms. Pierce made a move her hourly workers could never have imagined: She scrutinized her budget, swallowed hard and decided to offer medical benefits to employees.

That put the day-care center out of sync with small employers in many U.S. cities. But not in Kansas City.

Nationwide, the problem of people living without any health insurance is growing. It is estimated that they total more than 40 million, and their numbers are increasing as welfare recipients who had Medicaid leave the rolls for jobs that don't offer health benefits. In addition, fewer small businesses are offering medical benefits to workers, says a study by the Henry J. Kaiser Foundation. It puts the share at 54 percent last year, compared with 59 percent in 1996.

But Kansas City is moving the opposite way, thanks not only to its tight labor market—a 2.8 percent unemployment rate, vs. 4.2 percent nationally—but also to a Chamber of Commerce initiative and to competition for workers from an industry that does offer medical benefits: riverboat casinos.

As small employees such as the daycare center offer this coverage for the first time, some interesting things are happening. The employees are facing the pain of rising health costs, just like their big brethren. But they are also learning something else that large companies know: In some ways, offering health benefits saves money. As for workers, they are finding that coverage can be a psychic as well as physical benefit.

The first change Ms. Pierce noticed at her day-care center went pretty directly to the bottom line. Sick days declined. In February, overtime costs for her 14-member staff totaled $120, down from a monthly average $420 last year.

It seems that before, sick workers who were uninsured would commonly stay home to try to nurse themselves back to health, or would get stuck for hours in a hospital emergency room or free clinic. Now, they can get timely medical attention from private physicians in their health plan and often return to work sooner.

That means Ms. Pierce no longer has to pay as many other workers to pull overtime, at higher pay. ''It's better to pay an employee to be there at work than to be sick. It helps your cash flow,'' Ms. Pierce says. Having a staff that has health benefits is ''a whole new world,'' she says.

For the staff, the changes are greater still. Before she got insurance, employee Towanna Smith says, being ill meant ''terrible'' waits at a hospital emergency room, not to mention other indignities she perceived. She and a friend were in a car accident last year. ''My friend had insurance and I didn't, and I noticed that the doctor treated her differently. He went over her thoroughly,'' says Ms. Smith, who is 26 years old.

Last month, Ms. Smith, now in a health plan, went to a doctor for a swollen arm that has nagged her since the accident. ''I brought out my insurance card, and I got special treatment,'' she says, smiling, ''I said, 'Thank you, Jesus.'' ''

She might also thank the riverboat casinos. About four years ago, out-of-town gambling companies arrived in an already-tight labor market here and began hiring thousands of people locally, leaving in place companywide policies that called for full-time workers to get medical coverage. ''The boats put people in a tizzy,'' says Scott Samuels, an adviser to hotels and restaurants. ''People were flowing to the casinos to work, and I know that employers in the hospitality field,

out of sheer need, had to offer greater benefits and incentives to employees.''

Quick to react was Peter Levi, president of the local Chamber of Commerce. To help local employers compete, he teamed up with an insurer, Blue Cross Blue Shield of Kansas City, to devise a healthcoverage plan that a mom-and-pop business could afford. Blue Cross capped premium increases at about 9% a year.

In three years, more than 3,000 businesses here have begun offering the plan. Blue Cross officials expect the number to increase 15% this year.

Some other insurers, noting this success, also began offering small-employer health-benefits plans. HealthNet, a health plan partly owned by the eight-hospital St. Luke's-Shawnee Mission Health System, last summer unveiled a program for tiny businesses and has signed up 200 of them, covering 4,000 employees and dependents, including the Broadway Child Enrichment Center.

Frances Cox, who has operated a 77-room Best Western Hotel for more than a decade, began offering medical benefits for the first time in 1997. She chose Kaiser Permanente, the big health-maintenance organization, and agreed to pay 100% of the premiums, prompted by the need to compete with the casinos for reliable workers. ''It is the cost of doing business,'' she sighs. ''You have to stay competitive.''

Only seven or eight of her 20 employees took the coverage. That surprised her, but she learned that some were covered through their spouses, while others had Medicaid, the federal-state program for low-income people, which they preferred to an HMO requiring copayments.

As a recruitment tool, the benefits do the trick for Ms. Cox. She has attracted people like her new 29-year-old head of housekeeping, Lewis Nicholson.

Mr. Nicholson had worked at a fast-food outlet for 14 years without getting benefits, and he held a second job cleaning office buildings by night, just to get medical coverage. A year ago, he decided to take advantage of Kansas City's booming job market. ''In looking for a job, I looked to see what type of benefits'' were offered, he says. Result: no more fast food, just one full-time job at the Best Western, where Ms. Cox says he is already one of her most valued employees.

Ms. Cox makes sure she gets her money's worth from Kaiser Permanente. If a sick worker has trouble getting a quick doctor's appointment, ''I will call and say, 'This is Fran Cox and I am director of operations. Can't you see this person?'' she says. ''When they develop a better relationship with their doctor, that gets them back to work faster.''

She adds that as after employees ''become exposed to insurance, they begin to appreciate what the benefits are. They know that they can go to a single doctor and receive excellent care. They are being educated.''

So is she—in costs. The first year, 1997, the HMO coverage cost her $110 a month per employee. That rose to $120 in 1998, and then, for 1999, Kaiser Permanente jolted her with a boost to $157 a month per covered worker. Though Kaiser eventually agreed to shave this by $5 in return, she says, for boosting workers' copayments, ''a jump like this pretty much scares the jeepers out of me,'' Ms. Cox says, and makes her wonder ''how long can we continue'' to offer free medical coverage. One option she is considering is requiring employees to pay part of the premium.

Some employers find they can't offer health benefits even if they want to. Patti Glass ran the nonprofit Jewish Family and Children Services, assisting the frail elderly. She was paying $6.50 an hour—and hemorrhaging workers. Ms. Glass looked into health plans but found them prohibitively expensive for her mostly middle-aged workers. Even a basic plan would add $1.35 to her hourly wage costs, she figured, and she would still have to offer a pay increase to be competitive.

''Adding the cost of health benefits was going to make the service unavailable. It was going to make the cost astronomical,'' she says. The upshot: Ms. Glass chose simply to raise wages 30%, to $8.50 an hour, and forgo a health plan.

As an alternative, some employers merely give workers an opportunity to get in on group insurance, but contribute nothing toward paying the premiums. There are also bare-bones plans that do little more than give employers the right to say that they offer a medical plan.

Still, even a number of fast-food outlets here now offer some sort of medical coverage to certain hourly workers. David Lindstrom, a former Kansas City Chiefs lineman, owns three Burger King franchises, including one in suburban Johnson County, an area of million-dollar mansions, feverish construction and an unemployment rate of about 2%. For his ''key approved'' employees—full-time workers who can open and close restaurants—he offers Blue Cross medical coverage and pays much of the monthly premiums.

To him, offering benefits ''was a competitive decision we needed to make, and we think that long-term it will reap rewards for us. Already, it has allowed us to retain employees.''

People like Kathy Wilson. A nine-year employee, Ms. Wilson arrives at 4 a.m. to get ready for the day, and soon becomes a whirling-dervish of activity, rushing from station to station. ''I cook the eggs, I cook the sausages, I heat up the Cini-Minis,'' she says. Then the customers arrive, and she really gets busy.

FInding medical coverage became a top priority for Ms. Wilson, who is 29, a few years ago after she had a baby. Paying for everything out of pocket was a huge strain. It wasn't long afterward that Mr. Lindstrom began offering insurance, and she jumped at it. Out of her pay of $8.75 an hour, Ms. Wilson contributes $25 every month for medical coverage, plus a discretionary $85 to cover her son.

Though her employer pays half, some fast-food operators have chosen no-frills health plans that require workers to pay 100% of the premiums, for very basic coverage. Several McDonald's and Godfather's Pizza outlets here have signed up with Star Human Resources Inc., a Phoenix company that sells plain-vanilla health plans known as Starbridge. One of them costs only $5.95 a week, usually paid by the workers themselves, and provides a narrow array of benefits with strict limits.

Marilyn and Thomas Dobski, owners of a dozen McDonald's outlets, offer Starbridge, and about 40% of full-time hourly employees take it. Shift managers, who typically earn about $7 an hour, can enjoy a fancier, $50-a-month Starbridge plan subsidized by the Dobskis.

Mike Rogers, a Star salesman in Phoenix, explains that his company provides a limited plan for working population that ''most insurers don't want to mess with.'' He is quick to concede it isn't comprehensive: ''If they have a catastrophe, our little plan won't be adequate.'' But Mrs. Dobski, defending it, says the plan offers workers ''much more than nothing.''

The uninsured in Kansas City still total between 9% and 12% of the population. But that is far below the nationwide average, 18%, or New York's 28%. The number of uninsured patients showing up in St.-Luke's Shawnee Mission emergency rooms for free care has at last leveled off, says Richard Hastings, chairman.

Kansas City's experience intrigues E. Richard Brown, a professor at the University of California at Los Angeles who studies health policy. He warns that the medical benefits popping up could disappear fast if the local ecomony weakened and competition for workers eased up. But another student of these issues is more hopeful. William Grinker, president of Seedco, a nonprofit New York organization, says, ''Historically, once you have benefits, it is much harder to take them away.''

These days, benefits are a new goal—beyond just a job—at Kansas City's Women's Employment Network, which helps low-income, often poorly educated Kansas City women find work. ''We actually coach the women so they don't simply settle,'' says Leigh Klein, the network's executive director. In January, the network placed 25 women. The average wage was $7.87 an hour and 18 of the jobs came with benefits of some sort, more than half of them medical.

The importance of benefits is something the center drums into its clients. It is a crucial lesson, because if they are giving up welfare to take a job, they will also lose Medicaid after about three years.

Charlotte Jones, a spirited 20-year-old attending one recent session, has learned will. ''I worked at lots of fast-food places—Texas Tom and White Castle,'' that didn't offer medical benefits, she says. As her classmates nod, she adds: ''If I had a job that paid even $7 an hour, but it had benefits, I would snatch it up.''

It is nap time at the Broadway Child Enrichment Center. Ms. Pierce, the director, lowers herself onto a red plastic toddler's chair to explain how she picked a benefits plan. Keeping costs down was the overarching priority. She reviewed $120-a-month HMOs, plus a HealthNet Preferred Provider plan for $137 a month.

''I gave the staff a spreadsheet and let them help me with the decision,'' she recalls. Wary of HMOs, they chose HealthNet, whose coverage includes doctor's visits (with a $15 co-payment) and maternity care and hospitalization.

The director, for one, couldn't be happier. Before the employeers got coverage, Ms. Pierce says, ''these girls would spend two to four days at home being sick. Now, they don't have to—they call, get an appointment, get a medication and return to work.''

Mr. BOND. It talks about small businesses in Kansas City, MO, getting health insurance coverage. But the costs are still the problem, and there are examples of people who are trying to provide health care coverage, but when the costs continue to go up, then they have to drop it. They are fighting over $5 a month. Some of the people who wanted to provide health care for their employees figured they could not afford $1.35 an hour in addition which, on a 2000-hour-a-year job, would come out to around $2,700. They aren't able to afford the increased cost of insurance.

If we drive the costs of health insurance up, we are going to find people who cannot afford it. We are going to find employers who drop it. Particularly, if we give the employee the right to sue their health care plan or their employer, as my friends on the other side wish to do, they are not going to provide it.

We need to make health care better, more affordable, more accessible. We do not need to drive people out of the health care system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 9 minutes.

We are drawing to a close on this debate. While I am pleased that our colleagues have addressed an issue related to genetic discrimination in their bill, I am very concerned about the way in which this has been approached and I regret that we have not had sufficient time to focus on this issue. I was a cosponsor of Senator SNOWE's original bill in the 105th Congress, which contained strong penalties and disclosure prohibitions. Unfortunately, the Republican bill will not stop genetic discrimination, because it lacks three key provisions.

First, the Republican bill does not prohibit discrimination by employers. If we only address health insurance, we could actually increase employment discrimination. Second, the Republican bill does not prohibit health insurers from sharing the information with each other and with employers. Finally, the Republican bill lacks teeth. The only penalty in the Republican bill for genetic discrimination is a fine of $100 a day. Do we really think that $100 a day will deter the health insurance industry from practicing genetic discrimination?

That is why Senator DASCHLE, Senator HARKIN, Senator DODD and I introduced legislation earlier this month to truly prevent genetic discrimination. Our bill prohibits disclosure of genetic information to employers, prohibits employment discrimination, and contains strong penalties.

The bottom line is that people are afraid, and that prohibiting health insurance discrimination is not enough. We have letters from patient groups, women's groups, medical groups, and labor groups, asking us to stop employment discrimination, place some limits on disclosure of predictive genetic information, and back up these prohibitions with strong penalties. I look forward to passing a meaningful genetic discrimination bill after this debate.

As to our debate this week on the Patients' Bill of Rights, I think it is fair to look at the reaction in communities across the country. I would like to share this with our colleagues.

Here is the St. Louis Post-Dispatch editorial, July 14 of this year:

The Republicans keep asking the wrong question about health care. Instead of asking how to keep the quality of health care high, their primary concern seems to be how to keep the cost of health care down. They are paying too little heed to the symptoms of an ailing health care system, which are hard to miss. There is a drumbeat of HMO horror stories.

Sure, people want inexpensive health care. But it is increasingly apparent that neither doctors nor nurses nor patients are willing to have appropriate medical care dictated by HMO bureaucrats with their eyes on the bottom lines.

Dayton, OH:

The Republican's bill is largely a statement of goals. The Democrats' bill provides better support for patients and medical-care providers. . . .

The Atlanta Journal and Constitution, July 15:

It's called the Patients' Bill of Rights but by the time the U.S. Senate gets done with it a better title will be ''The HMO Protection Act.''

On amendment after amendment this week, Senate Republicans have had their way, creating a bill that seeks to limit the rights of HMO patients, not protect them. . . .

Relying on the mercies of the marketplace and the HMOs to meet America's health care needs has not worked and will not work. Patients need protections. That's what Congress ought to provide.

New York Times, July 15:

What occurred on the floor of the Senate this week was a GOP-sponsored charade in which one Republican Senator after another talked about protecting the health of patients while voting to protect the profits of industry.

It was a breathtaking exercise in hypocrisy. . . .

All that mattered was the obsession with the profits of the insurance companies and the HMOs.

Newsday, July 15:

Medical insurance? Try malpractice by GOP.

The Fort Worth Star-Telegram, July 13, a column by Molly Ivins:

We are watching a classic political shell game: There's the Patients' Bill of Rights that actually gives the patients some rights and there's the Patients' Bill of Rights that doesn't. . . .

The reason we know this is pure hooey is because the very bill they are opposing has already been in effect in Texas for over two years and none of the heinous consequences they predict has occurred here.

If the Republicans and the insurance industry have their way, the old shell game will run right through the Senate and we'll get something called a bill of rights that has no remedies in it.

The Seattle Post Intelligencer, July 8:

The health insurance industry is back again with a misleading campaign opposing a patients' bill of rights.

Just as the industry did successfully in 1994 with its Harry and Louise ads that misled the public about President Clinton's health care reform—falsely claiming that people would lose their right to choose their own doctor—the new campaign is designed to convince us that a patients' bill of rights will cause many people to lose their health insurance.

Like the Harry and Louise ads, the campaign relies on fear rather than fact. . . .

Consumers need avenues of redress when dealing with health care providers. . . . [T]he ability to sue their health care provider and portability of their health care should they change jobs or move to another area[,] those are all fundamental rights to which consumers are entitled. No one should be fooled by this later effort to distort the issue of health care.

The Charleston West Virginia Gazette, July 14:

Democrats have a proposal called the Patients' Bill of Rights. Republicans have called theirs the Patients' Bill of Rights-Plus Act. If truth-in-advertising laws applied to Congress, the GOP would have to call its bill the Patients' Bill of Rights-Minus Act. . . .

Some cost-saving measures may be necessary to keep health care spending under control, but when HMOs sacrifice patient health for profits, they must be held accountable. Democrats want that. Republicans apparently don't.

The News and Observer, Raleigh, NC:

The GOP is up against it, because this bill of rights, [referring to the Democrats'] is hardly a revolution: It would ensure that people could choose their doctors and their specialists, would allow them to go to the closest emergency room instead of one specified by an HMO, would enable them to keep a doctor who has begun treating them even if that doctor were dropped by the HMO. Republicans rail against regulation of this type, but they fail to see the American people are ready for it.

These are just a few examples of editorials being written all across the country this week. Why do they all get it and no one gets it in here except Democrats and the two or three of our Republican friends who have supported the Patients' Bill of Rights? Why is the debate so different all across the country than it is, apparently, here in the Senate? Why is it that we have all the nurses supporting us? Why is it that we have all the doctors supporting us? Why is it that we have all the health professionals and all the patients groups supporting us? And why is it that newspapers and editorials all over the Nation, north, south, east, and west get it?

We wonder whether this is really an issue. We are asked: is this really an issue out there? I can tell you, just from the cases I have had in my own office, that this is an issue. I received a call this morning from Kathy Mills, a registered Republican who called my office from Tulsa, OK. She said her husband was literally ''killed by an HMO'' last July, and she has been trying to find someone to listen to her story. She has given up her efforts to contact her own State Senators because they have not responded to her numerous calls.

On July 16 last year—1 year ago tomorrow—Mrs. Mills' husband, who had a history of severe congestive heart failure, was seen by an internist at

their new HMO for severe chest pain. Without taking a thorough patient history and despite a positive EKG, the doctor sent Mr. Mills home. As Mrs. Mills was later told by doctors at the HMO, their policy is to refer patients to a cardiologist only after waiting 10 days, unless the patient is ''having a heart attack on the table.'' Mr. Mills was released to go back to his job, working outside in 100-degree weather.

Mr. Mills died later that day of a massive heart attack.

The HMO doctors have been forthcoming, and after extensive inquiry Mrs. Mills feels certain it is HMO policy that is at fault for her husband's death. Unfortunately, her attorney has informed her she does not have the right to sue the HMO.

Mrs. Mills just this morning offered to fly to Washington with what little money she has left to tell her story to the Members of the Senate. Her conviction is that in the future injustices like the unnecessary death of her husband will be prevented, or at the least that when they occur the Americans victimized will have some means to redress the wrong.

People ask whether this is still going on. This is yesterday. Here is a story about Jacob. Jacob is 4 years old and lives in a midwestern State. Jacob's mom has asked that we not use his last name or the name of the HMO because she is afraid of what the HMO will do.

Jacob was diagnosed with a rare form of cancer. The course of treatment recommended by Jacob's doctor was called monoclonal antibody treatment, and it is only available at Memorial Sloan-Kettering Hospital in New York. Jacob could participate in a clinical trial at Memorial Sloan-Kettering that would involve complex surgery, transplant, radiation, and chemotherapy treatment.

When Jacob's parents inquired into the clinical trial, their physician told them it was not experimental. Their physician told them that monoclonal antibody treatment is the standard of care for Jacob's type of cancer, and has been standard treatment in use since 1987. Even though this recommended course of action is the standard treatment, because Jacob's treatment could only be obtained through a clinical trial, his HMO denied him this needed therapy. After many months of fighting the HMO from both inside and outside the system, the company approved the first stage of Jacob's treatment.

However, the story does not end there. Jacob's only hope for a cure is to complete the entire course of treatment which comes in four stages. Jacob's family continues to live in fear of their HMO because he has not completed the treatment yet and, in the words of his HMO, ''This determination to provide coverage . . . may be terminated at any time, even if the condition or treatment remains unchanged.''

Jacob and his family are currently receiving treatment, but they live in fear.

I can give you the story that I received last Friday, a very powerful case involving a small boy and how he was denied needed surgery by one of the major HMOs in this country.

This is happening every day, every hour. People all across the country understand it. Certainly the parents of these children understand it. Mrs. Mills understands what is happening. I doubt there is a Senator's office that hasn't received similar calls in the last few days.

We have had a series of votes in the last 4 days, and each of these votes has been decided in the interest of the insurance industry. They have prevailed over patients' interests, but only by a narrow margin. That is only temporary.

Mr. President, I yield myself 2 minutes on the bill. We may have lost the battle for the minds of Republican Senators, but we are winning the battle in the minds of the public.

Once the debate is over and the votes are counted, the action will move to the House of Representatives. I believe we will do better in the House because of the groundwork we have laid in the Senate. We intend to keep the pressure on. There is still a good chance that a strong Patients' Bill of Rights can be enacted into law by this Congress this year. A switch of only two or three votes would have given us victory after victory on each of these specific issues.

If there is an attempt to bury this issue in the Senate-House conference, the consent agreement makes clear that we can raise it again and again in the Senate this year. Every day, every week, every month we delay, more patients suffer.

This is a Pyrrhic victory for the Republicans. If they keep taking marching orders from HMOs, they will keep losing public support. The American people will not be fooled by hollow Republican promises and cosmetic Republican alternatives. Patients deserve real protections, and not just some patients, but all patients.

You should not have to gamble on your health. You should not have to play a game of Republican roulette to get the health care you need and deserve. This issue is not going away. Too many people have had too many bad experiences with abuses by HMOs and managed care health plans. They know the horror stories firsthand. Everyone knows these abuses are wrong, and, frankly, we have only just begun to fight.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I yield to the Senator from New Mexico such time as he may consume.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the chairman. Mr. President, I ask unanimous consent that I be permitted to speak for 30 seconds as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1379 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI. Mr. President, I wish I had brought a prop with me. It would have been the front page of the New Mexico papers in 1997, because in 1997 across New Mexico there were front-page stories and headlines. Guess what they said: ''New Mexico Passes Patients' Bill of Rights.''

Six months later, in July of 1998, there could have been a comparable headline across New Mexico, my State, the State in which the Democrats want to cover every single person who has health insurance. There could have been another headline saying: ''Patients' Bill of Rights Now Effective in New Mexico.''

Maybe if I had brought that newspaper with me, some people from that side of the aisle would understand. They do not trust the States and even if the States already have protection through a bill of rights, they still want to take over nationally.

Forty-two States have protections for some or all of the very same things that are in the Democratic bill that the editors across America, at least to the extent identified by the distinguished Senator from Massachusetts, seem to be supporting. They do not even say in our State we already have the protection, except they imply it in Texas by saying: How can it get to be so expensive when we already have it?

I ask the question: If they already have it, why do we need to pass one? Our premise is that 42 States already have many of the protections being suggested here. Some of them are moving in the direction of covering more than is being proposed here. Why do we insist that they would be better enforced in Washington, DC? I submit to anybody who understands the bureaucracy in Washington, do you really want every State's protection under a bill of rights to be dependent on HCFA? HCFA cannot handle in any diligent manner, with any reasonable conclusion, the work we have given them on Medicaid and Medicare and benefits and figuring out who can pay what. And now they want to give HCFA, from every State in the Union, huge numbers of the very people the other side of the aisle is crying for but who are already protected.

I do not know if we will ever get anybody, outside of those who hear what I am saying, to write that and check it out. It does no good to say the Democrat plan covers 161 million Americans. The question is, Why do we cover 161 million Americans?

I will introduce as part of my remarks the entire list of patient protections and mandates that are already in New Mexico's law. It reads like a litany of the issues we have been debating: Emergency room, OB/GYN, and how you get protection under it.

Everybody in New Mexico, on all the issues we have been discussing, is already covered, except whom? Except those the Republican bill covers as we introduced it and have debated it, for it goes out into the land and says there are some people the Texas Bill of Rights does not cover because they cannot; it is not legal for them to cover them. Some people in New Mexico are not covered. I wish I could tell you how many, but nobody knows how many. Some have insurance, and we cannot cover them with New Mexico's rights. So we are covering them here. So it is a bill of rights for those who are uncovered in America.

I do not know how we will ever make the point, but let me just say, if you do not need coverage under a bill of rights because you already have it, then how does anyone get by with coming to the floor and saying: We're covering it anyway, and the other side of the aisle isn't covering it and they don't care? How do you get away with that?

Mr. GRAMM. Say it 200 times.

Mr. DOMENICI. I think you just keep saying it, like they have been saying it. It can be nothing else. In fact, there are many States with broader bill of rights' protections today than the Democrat bill, if it were passed. So why do they need it?

Mrs. BOXER. Would the Senator yield for a question?

Mr. DOMENICI. I want to finish. It is the first time I have had to speak. I looked over and you spoke at least 10 times, and you did beautifully.

Mrs. BOXER. Not quite.

Mr. DOMENICI. I would like to finish and then answer any questions when I finish.

Mrs. BOXER. Good.

Mr. DOMENICI. So I decided the best thing I could do is come here to the floor and see if I could express, in as simple language as I could, why the Congress needs to pass a Patients' Bill of Rights. I think I have tried my very best today to say we probably need one for those who are not covered or cannot be covered in our States because, by operation of law, the States do not cover them and cannot cover them.

Actually, I wish we could say that 200 times. Maybe we ought to. Every time somebody stands up, we ought to say: We're covering those who are uncovered in America. Now let's go on to the rest of the debate, and then put up a sign and say: We're covering 48 million—put it up there—because they are the only ones who either do not have this protection or cannot have it. These people are not covered because the law says you cannot cover them, the States simply do not have the authority to provide these rights to these people, vis-a-vis, the health insurance they have.

Having said that, I believe that answers most the questions that have arisen in this debate. But, then I understand there remains—I see this as only four issues—another very interesting issue. Because at this stage of the evolution in the United States of America of settling disputes one goes to court and asks a jury to do it even though plenty of criticism exists from laymen and professionals on how inefficient, how lacking in rationale the decisions are that are rendered by juries and trial lawyers bringing cases. The Democrats insist that we put that in here as the mechanism, the means, the way to settle disputes over scope of coverage, whether you have given somebody what they are entitled to under an insurance policy or not, or given them the specialists they are entitled to.

Can you imagine, we are making a major issue here out of whether the lawyers and juries and courtrooms ought to decide that? Can you imagine that we could stand up before a group of people and say, just as the millennium arrives, we have concluded that with all the knowledge we have, everything we know about arbitration, mediation, ways to avoid going to juries and courtrooms, that this was the way to resolve this issue, and if we do not do it, as our opposition says, we are denying people insurance coverage?

What we need to look at before the day is over—and what I hope those who wrote editorials will look at—is did the Republicans have in their bill a method and means of resolving these disputes which are legitimate disputes? Do we have a method of resolving them that is apt to do it expeditiously, professionally, and is it apt to be right?

I believe, with what has been added here on the floor and will be in the bill tonight, when we finally vote on it, that we can stand up and say, there is a way.

We think enough of this issue that we have made it nationwide, as I understand it. There will be no insurance policies that do not have this approach to settling the solutions across the land. That is pretty fair. Because it is sort of generically necessary for whatever set of rights you are giving to people.

So there are two issues. Frankly, for me, they are both very simple. I have explained the one on scope of coverage, and I have just explained the one on why in the world would you get lawyers and juries involved in the disputes between patients and health care systems on coverage. If doctors perform their service improperly, we still have medical malpractice. That is not being changed here. It is when you sit down and have an argument about a specialist, can you get a decision quickly.

I have heard from our side, from some very good experts—and as a matter of fact, we on the Republican side are very fortunate. We have a great doctor helping us. Frankly, when he tells us about this, I am not even sure we need a second opinion. He seems to know the answers very well, and we seem to rely on him. We are very glad to have him. He suggested, along with Senator ASHCROFT and others, that we ought to have a more straightforward, forthright, expeditious, and enforceable provision to handle the disputes between patients and their insurance coverage as to what they are entitled.

Those are two of the issues. To tell you the truth, if those two issues could be resolved, we would be well on our way to having it done.

There are some other issues that are around on the scope of what exactly we ought to mandate? They are not as important as these two. Who should we be covering? Should you let lawyers instead of doctors, lawyers instead of independent professionals, determine the scope of coverage and the entitlement of people to coverage under insurance, and the delivery of health care under new insurance approaches in the United States?

My last point, those couple of editorials my friend from Massachusetts read were written by editorialists who said we should not be concerned about cost; we should only be concerned about care. Let me tell you, one of the reasons we do not have enough coverage in the United States is because health care is expensive. While there are some who think the money just flows down from heaven and we pay for coverage, most people know somebody is paying for it—a business. In my State thousands of small businesses are paying for it.

If you think it is not important to them as to whether they maintain coverage, how much coverage they are going to pay for it, and whether their insurance costs go up 6.1 percent or not, then I guarantee you, you have not been reading the letters I am getting in my office from small businesspeople saying: You cannot give us too many mandates and you cannot have lawyers suing us because of the kind of coverage we have.

You may be surprised, but businesses do not have to provide health care. That is the law in America. It is voluntary on the part of most businesses. I am very pleased that most businesses are moving as rapidly as they can to buy insurance.

But I guarantee you, the other issue is, how much do we have to add to health care costs to get a reasonably good system for patient protection that is not now available in America? That is what we have been talking about, doing that where it is not available because of the operation of law.

We could go into three or four more issues, but I choose to give my own

summary and my own understanding of the real nature and philosophical difference between that side of the aisle, the Democrats, and this side of the aisle.

Frankly, everyone around here knows I am not a Senator who votes one way all the time. I have been known to have a big argument with my friend from Texas, and he votes one way and I vote another. I will not chalk up the results, like that scoreboard: DOMENICI—6; GRAMM—0. But in any event, we have had those disagreements.

Mr. GRAMM. It was the other way around.

Mr. DOMENICI. He will think it was the other way around.

But in any event, the point of it is, it does not normally fall on this Senator to come to the floor and brag about our side of the aisle being right. But I can tell you, on this one I am very pleased with what has happened. I never have felt more comfortable than I have with this task force of Republicans who have handled this issue.

They have been good. They have been sharp. They know the issues, and there has never been a shortage of Senators arguing on this bill. I have been very pleased that they are willing to answer questions far more than I am. They know much more than I do.

I believe the issue is as I have painted and described it today. If it turns out that by beginning to cover a bunch of people who aren't covered, we only add eight-tenths of a percent to the cost, we don't inject into the system lawyers and courtrooms and jury trials to determine disputes between a provider and patient, and we provide for resolution of disputes in an expedited manner, as is going to be done in the bill we will introduce when we wrap this thing up tonight, I think we are on the right track.

I don't believe the American people, contrary to what my good friend, Senator KENNEDY, said, are going to be fooled by this. I don't think when it is over they are going to say: Boy, we would have had much better health care if the Democrats would have won their way. I think many are going to say it would have been a lot more expensive. I think many of them will say: We would be back in Washington every week trying to get the rules out of HCFA, which can't handle what it has now, much less handling all the States in terms of the Patients' Bill of Rights and the remedies available under it.

I thank everybody who worked on our side as diligently as they have. I particularly say we are lucky in the Senate to have Dr. BILL FRIST as a Senator. He is on my Budget Committee. I had trouble. I used to say his name ''First'' instead of FRIST. It took me a while. He tried to correct me six or eight times, and I finally got it. I think we are very fortunate to have him here because when he tells us how this works, and he shares the opinion of how the medical people are looking at it and what the reality is, I end up thinking Tennessee did us a very special favor by sending him to us.

I close by saying, I hope after all this work, the proposal that the Democrats offer will get defeated and that the final Republican bill, which will be explained again in depth by others, passes. Let's go to conference and see how it all turns out.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DOMENICI. How much time do we have remaining?

The PRESIDING OFFICER. Twenty minutes.

Mr. DOMENICI. Do you have any time?

Mr. REID. I yield 2 minutes on the bill to the Senator from California.

Mrs. BOXER. Mr. President, I say to my friend, who is my chairman, how much I respect him and also how much I disagree with him.

I ask my friend a question. The Senator said—and I think he said it very clearly and straight from the heart—the Democrats are wrong, it is a philosophical difference, that we are wrong to say we need a national bill because the States are taking care of this problem.

Senator DORGAN has a chart. I want to ask the Senator if he will take a look at it. Thirty-eight States have no protection for their people when it comes to access to specialists. It goes down the list. Many States have virtually no protection on most of the issues we are debating in this Patients' Bill of Rights. The question is, How does the Senator respond to that?

He has said States are taking care of it when, just taking specialists, there are no protections for people getting specialists in 38 States, and there is a whole other list that I won't go into. I think that is an important question. I would like to hear the Senator's response to it.

Mr. DOMENICI. Sure.

Mrs. BOXER. The fact of the matter is, he says unequivocally, States are taking care of it when people in those States are writing to us and telling us: We need a Patients' Bill of Rights at the national level. We have no protection.

Mr. DOMENICI. Mr. President, I tried as best I could to say 48 States have patients' bills of rights. I did not say 42 States have every single item that the Democrats want in the Patients' Bill of Rights, but they do have the authority to put in as much as they want. So if the sovereign States, their Governors and legislatures, think your litany of things ought to be there and they are that important, they have the authority to pass it.

Mrs. BOXER. Mr. President, if I may take back my time, I ran for the Senate on a lot of issues. My friend has been elected many more times than I have to the Senate. We stand up and we say what we believe.

For example, I know the Senator is very strong on mental health protection. I have been with him on that. For me to think that I am going to sit here and say some legislature in some other State knows more than what my people tell me, I think we are here to do the people's business. When we look at this list, when we see how many things people don't have, I think it is ducking responsibility to say we should walk away from it.

By the way, the Republican bill claims to give people specialists, so the Senator himself has argued in favor of it for 48 million people.

Mr. REID addressed the Chair.

Mr. DOMENICI. I already have answered.

Mr. GRAMM. Will the Senator give me 10 minutes?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We have 31 minutes; they have 12 minutes. The minority yields 5 minutes to the Senator from Illinois, Mr. DURBIN.

Mr. DURBIN. I thank the Senator from Nevada.

Mr. President, for those who have followed the debate this week, there have been some very clear-cut issues decided on the floor of the Senate. Sadly, I must report that the Republican majority and the insurance industry have prevailed on every single effort by Democrats to provide protections to families across America when it comes to their health insurance.

Take a look at the scoreboard. On the Democratic side, we offered protection to 113 million Americans who were left high and dry by the Republican side and the insurance industry. We lost.

We offered an amendment saying that every woman in America could choose her OB/GYN as her primary care physician and could not be overruled by an insurance company. We lost.

We offered an amendment saying that emergency room care could be at the hospital closest to your home instead of that dictated by the health insurance policy. We lost.

We offered an amendment saying that doctors should make medical decisions and not the health insurance companies. We lost.

We offered an appeal process that gave families a fighting chance when the health insurance company turned them down for coverage. We lost.

We offered an amendment for access to specialists, when your doctor says that is in your best interest, in order to come out of a process healthy and well. We lost.

We offered the latest treatments, clinical trials, prescriptions that doctors recommend to save the life of

someone in the most perilous of circumstances. We lost.

I have to give credit to the insurance lobby because, through their efforts on the floor this week, they have rejected every effort we have made to provide protection for America's families when it comes to health insurance. I used to think the gun and tobacco lobbies were the big ones on the floor of the Senate. My hat is off to the insurance lobby. They have really done a job. With the Republican majority, they have defeated us time and time again on 11 different amendments, 11 different efforts to protect American families.

There may be dancing tonight, when this is all over, in the boardrooms of the health insurance companies in America, but there won't be any dancing in the family rooms for those American families who realize that tomorrow they are just as vulnerable to a decision made by a health insurance company clerk as they were yesterday. There won't be any dancing in the emergency rooms across America, as the nurses and doctors there respond to emergencies, never knowing whether or not the insurance company will reimburse them for their heroic efforts to save lives. And there won't be any dancing in the doctors' offices, as they leave the room with the patient to go to a backroom and call an insurance company and beg them for the right to make the best medical decision for an individual.

I know the Republican side has criticized us for bringing pictures of real people to the floor of the Senate. I know it scalds their conscience to see these pictures, pictures of kids such as Rob Cortes, a little 1-year-old, a little boy I met last Sunday. Every time I voted on an issue this week, I thought about this little boy and his family in the Chicago area. This little 1-year-old breathes with a ventilator, as my colleagues can see. He has spinal muscular atrophy. His mom and dad fight every day so he can live, and they fight the insurance company every day to make sure they have an opportunity and access to the miracle drugs they need to give this little boy a chance.

The Republicans tell us this is unfair. Don't bring us pictures of real people. We want to talk about statistics. We want to talk about the 1993 Clinton health care bill. Give me a break.

I say this: If doubletalk were electricity, the Senate floor would be a powerplant after the debate that we have had this week on health insurance. I think the American people know what is at stake. They realize they had a chance, with the Democratic Patients' Bill of Rights, to have some rights and some protections when it comes to their health insurance, but they have lost.

There has been a decision made by the Republican side of the aisle and the insurance companies that they are going to create and protect a privileged class in America, the health insurance companies. They won't be answerable to the law, and they will not have to provide the kind of medical protection that every family counts on in America. Time and again, as we have offered these amendments, the Republican majority has defeated them. It is true that two or three of them have crossed the aisle from time to time to join the Democrats, but never enough to make a difference.

Sadly, that is how this debate is going to end. But it isn't going to end today. This debate will continue because we are calling on American families across this Nation to join us, to let the Senators on the other side of the aisle know that there are more important things in this town than the health insurance industry. Let them realize that this is the only building in America where health insurance reform is a partisan issue, because in every house I have visited in Illinois, families have told me time and again, whether you are a Democrat, Republican, or independent, you are vulnerable to an accident or illness that can leave you at the mercy of a health insurance clerk who will overrule your doctor and make a decision that can make your life miserable. That is what this is all about.

Vice President GORE came up here today with a last-minute plea to the Members of the Senate to pass a bipartisan bill to protect families. He told the story of a doctor who was working in the emergency room and a man came in and had a cardiac arrest before him. This doctor used a defibrillator and brought the man back to life. When the hospital turned in the charges, the HMO rejected him, saying it wasn't an emergency, it was only a cardiac arrest.

Let me tell you, this issue is not cardiac arrest; it is alive and well, and we will continue to fight it.

The PRESIDING OFFICER (Mr. BENNETT). Who yields time?

Mr. JEFFORDS. Mr. President, I yield the Senator from Texas 10 minutes.

Mr. GRAMM. Mr. President, one of the frustrating things about this debate is that when facts are established, our dear colleagues on the other side of the aisle continue to use information that has no foundation in fact and which, in fact, is at variance with the facts. So what I would like to do is to go through and present the facts, not as I would like to make them up, or as our colleagues may have made them up, but the facts in terms of the findings of the Congressional Budget Office, the nonpartisan arm of Government which does estimates on the basis of which we run Government.

First of all, the CBO estimate which I have here says that the ultimate effect of the Kennedy bill would be to increase premiums for employer-sponsored health insurance by an average of 6.1 percent. That is not my number, that is the number of the Congressional Budget Office. That converts into $72.7 billion of costs that will be borne by companies that pay insurance and employees that often match that expenditure.

Senator KENNEDY has made headlines by saying we are talking about a hamburger a month. The reality is that the estimate of the Kennedy bill by Congressional Budget Office is enough money to buy every franchise of McDonald's in America. It is estimated that this cost will mean that 1.8 million Americans will lose their health insurance. That is 1.8 million people who won't have access to health care at least paid for by insurance of any kind.

Our colleagues on the Democrat side of the aisle don't seem very concerned about 1.8 million people losing their health insurance. But we are very concerned. We looked at public opinion strategies nationwide poll of small businesses which asked what they would do if the Democrat bill were adopted and you could sue not only the HMO, or the health care provider, but sue the company that bought the insurance policy. The responses indicated that 57 percent of small businesses in America say that they either would be very likely to drop health insurance coverage, that is 39 percent, or somewhat likely, 18 percent. That is 57 percent of the insurance for some 70 percent of the working people in America that would be jeopardized by this bill. Yet, over and over and over again, we hear this talk as if there are no costs involved.

Now our colleagues go on and on as if repeating something would make it true, by saying that their bill covers 161 million people and our bill covers 48 million people. The way Federal law and State law is structured, the federal government has jurisdiction over 48 million people in terms of health insurance under a Federal law called ERISA. My State has passed a comprehensive health care Bill of Rights. Maybe Senator BOXER would not support their Bill of Rights, but Senator BOXER would not be elected in Texas. I might not support the Bill of Rights in California, but I probably would not be elected in California.

The point is, who elected Senator BOXER to write health care policy for State insurance in Texas? Nobody in Texas elected her. Nor did they elect me for that purpose. If I wanted to write State insurance policy in Texas, I would have run for the Texas senate and not the U.S. Senate.

So we have this absurdity that is stated over and over again that they are covering more people than we are. We are covering the people in America who are under Federal jurisdiction.

They are preempting State law in every State in the Union, and Senators who have never been to some States in the Union are dictating to them about the jurisdiction of their legislature. Yet, somehow it is suggested that I don't care about people in Oklahoma. I care about people in Oklahoma so much that if the State has the power to write their own health care Bill of Rights—which they do in Oklahoma—I want them to write it. That is how much I care about them. But in that area where it is Federal jurisdiction, I want us to write it.

In terms of continuity of care, if there has ever been any debate in history that could be referred to as somewhat contradictory of a previous position, it is this. I want to remind my colleagues who today aren't concerned about a 6.1-percent increase in the cost of health insurance, who aren't concerned about 1.8 million people losing their health insurance, who in 1994 they were so concerned about double-digit health inflation—an inflation rate we would match if their bill passed, they were so concerned that they wrote the Clinton health care bill. And they were so concerned about medical necessity that when they wrote it, here is what their medical necessity was:

> The comprehensive benefit package does not include an item or service that the national health board may determine is not medically necessary.

Today they are jumping up and down about medical necessity. They want a doctor to choose. They want us to write in our bill that we are going to let the Federal Government define it. But when they wrote their health care bill in 1994, they said that a national board would decide.

They talk about point-of-service option. But when they wrote their health care bill, if you didn't join their health care collective, you would be fined $5,000. If your doctor prescribed a health treatment that was not approved by the Clinton administration, your doctor would be fined $50,000. And if they provided a health service that wasn't prescribed and you paid for it, your doctor could go to jail for 15 years.

Now, that is how much they cared about all these things when they were trying to put America under socialized medicine. They were trying to do it because people were losing health insurance, because costs were going up.

Yet today they are trying to pass a bill that would drive costs up and that would deny people their health insurance.

Having spent all of this time answering all of this misinformation, let me spend the rest of my time saying a few things that I feel strongly about.

No. 1, I have never been prouder of the Republican majority than I am today. I have never seen greater collective political courage than I have seen today.

It would be very easy with all of this demagoguery about insurance companies, HMOs, health, consumers, and charts showing scores of HMO's 12, consumers 0.

I remind you that our Democrat colleagues invented HMOs. TED KENNEDY in 1978 said:

> I authored the first program of support for HMOs that passed the Senate. Clearly HMOs have done their job.

What is TED KENNEDY saying today? He loved them so much that he wanted to put the whole Nation under one run by the government. But, today, he is trying to kill HMOs.

We are not trying to kill HMOs. I am not ashamed of that.

I want to give people a choice so that if they don't want to be in HMOs they can get out. We broaden their options. We give people the right to fire an HMO.

Senator KENNEDY gives people the right to sue one. We guarantee people the right to see a doctor. He guarantees the people the right to see a lawyer.

I am proud, when it has been so easy to demagogue this issue, that we have stood up for the interests of this country.

We have written a very good bill. It cleans up the things in HMOs that needed to be cleaned up. But it doesn't kill off the only mechanism we have to control costs.

We provide tax deductibility for the self-employed. That will mean millions of people will get health insurance that do not have it today.

We let people have medical savings accounts—a new, innovative way to let people choose their own doctor and control costs at the same time.

I am proud of what we have done. It is easy to demagogue, but it is hard to lead. We have led, and America is going to benefit from our leading.

Finally, let me say we have come forward with a bill that works—a bill that works for people, a bill that holds down costs, a bill that promotes equality.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I yield 5 minutes to the Senator from North Dakota, Senator BYRON DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I guess my favorite Will Rogers quote is the old one that we all know. He said, ''It ain't what he knows that bothers me. It is what he says he knows for sure that just ain't so.''

I heard a lot of discussion today about facts and about whose side is right. In fact, we just heard the two stages of denial on the central argument of the Republicans against our real Patients' Bill of Rights.

The first stage is that States provide all of this protection, so we shouldn't have to do it. And when informed the States don't do it, they say, well, that might be true, but the States could do all of it if they wanted to. That is the second stage of denial, of course.

Let me talk again about some of the people involved in this debate, if I might. This is, after all, fundamentally about patient care. It is not a debate about theory.

I want to talk about Ethan Bedrick once again. This young boy pictured here was born under very difficult circumstances. During his delivery, the umbilical cord wrapped around his neck and consequently, he was born with cerebral palsy and a condition called spastic quadriplegia. He can't get the rehabilitation services he needs to help him because his HMO says there is only a 50-percent chance of his being able to walk by age 5 and that chance is insignificant. The HMO called a 50-percent chance of being able to walk by age 5 a minimal benefit. His parents appealed and appealed. Guess who they appealed to—the same people who turned them down.

We know that in 31 States there is no right to an independent, external appeal. The Republican plan says that Ethan Bedrick and citizens in 31 States are denied coverage. Denied. That is the fact. Dispute it if you can, but those are the facts and they are stubborn.

Or what about Jimmy Adams. Jimmy Adams doesn't have hands or feet today because his folks had to pass three hospital emergency rooms before they got to the fourth hospital where the HMO would pay for his emergency care. On the hour-long trip to the further hospital, his heart stopped beating. They were able to revive him, but too much damage had already been done by the lack of circulation to his limbs. This young child lost his hands and feet due to gangrene.

Our opponents say, young Jimmy Adams can stop at any emergency room under the Republican bill. Sorry; not true. The Republican bill doesn't cover over 100 million people, and there are 12 States that have no protections with respect to emergency room care.

With respect to Jimmy Adams, or a Jimmy Adams of the future, the Republican plan says this: Denied.

What about this young fellow born with a severe deformity? Dr. Greg Ganske, our Republican colleague over in the House, does reconstructive surgery. He surveyed his colleagues, and 50 percent of them had HMOs deny reconstructive surgery for young patients with birth defects such as this.

Here is the picture Dr. Ganske used when he described the kind of circumstances these children live with.

What about an appeal for this young fellow? What about the access to the specialist services needed? The Republican plan says ''denied'' to this young child—denied. Under the Republican

plan—and in 38 States—there is no provision for access to specialists for reconstructive surgery.

Those are the stubborn facts.

Let me show you the bright morning of hope for a young child who was born with a cleft lip who has had access to the appropriate reconstructive surgery. This is the same child I just showed you.

Here is the way this child looks with reconstructive surgery. What a world of difference this makes in a young child's life.

This is called patients' rights.

Some say it doesn't matter; we don't need it. We say these rights are critical to the health of the people in our country. This is about children, men, women, families.

Would anyone in here, if this were your son or daughter or your parent, really stand up and say let the States protect his or her. Would you really vote against these basic protections, such as access to specialists, if it were your child's health on the line? You know the answer to that. Of course, you wouldn't.

We just heard a fill-in-the-blank speech from about three people. You could fill in the blank. Over and over, in debate after debate, year after year, the subject changes, but the mantra remains the same: Let the States do it.

During the debate to create Medicare we heard the same thing: We don't need Medicare; let the States do it.

On minimum wage—Let the States do it.

On protections for residents of nursing homes—Let the States do it.

On efforts to create a safer workplace or prevent child labor—Let the States do it.

That speech has been given in this Chamber for 150 years, and it is so tired, rheumatoid, and calcified that I don't want to hear it anymore.

We have had to fight for every step, for progress on such issues as creation of the Medicare program, a safe workplace, and minimum wage. Tonight we are fighting for something called a Patients' Bill of Rights. All along the way, we see people digging in their heels saying for lots of reasons that they don't want to do it.

We need to do it for these children. No longer shall we deny them the rights they deserve in our health care system.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield 5 minutes to the Senator from North Carolina, JOHN EDWARDS.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Thank you, Mr. President.

Mr. President, actually for almost 20 years before I came to the Senate, I had an opportunity to see firsthand what insurance companies do to people because of the type of work I did.

What I saw was they take people's money. They deny them coverage when they need it, and when they need them the worst, they are never there.

What I have seen on the floor of the Senate for the last week is what insurance companies do in Washington.

What they do is this: They make certain that the power in the health care industry in this country remains with them.

They have done that in a remarkably effective way. It has been extraordinary to watch what has happened over the course of the last week.

It boils down to—at least, to me as a first-time observer of this—a very simple fact. On the floor of the Senate this week, insurance companies have won and the American family has lost. The children, parents, and members of American families have lost and the insurance companies have won. This is what has happened.

No. 1, insurance companies cannot be held accountable. They absolutely cannot be held accountable. They have done everything they can do to make sure that occurs. The reason for that is very simple. I have listened to my colleagues on the other side argue with great emotion that we want to turn health care over to lawyers.

Exactly the opposite is true. This is why. What happens, in every amendment, in every single bill—including the underlying bill offered by the other side—this language appears: ''when medically necessary and appropriate under the terms and conditions of the plan.'' That language is the killer language. It is the language the insurance companies need, that they desperately want, and that they have gotten. It is the language that is going to remove any power from any patient or any family or any doctor in America as a result of what is passed on the floor.

The reason they are wrong about lawyers is because the plans control. Under what has passed during the course of this week, the plans always control. They control what benefit patients receive to begin with; they control what patients can appeal; they control what happens on appeal.

I ask the American people: Who do you believe writes these plans for the big HMO companies of America? Who do you think writes these plans? Lawyers. Their teams of lawyers write these plans.

When we leave the floor tonight, starting tomorrow, everything that is passed will be handed to the HMOs; the very first thing they will do is get in their cars and drive down to their big law firms and hand these over to the lawyers and the lawyers will go to work. What the lawyers are going to do is write health care plans that make absolutely certain the insurance companies have total control over what happens, they have control over the initial benefit, they have control over the appeals process, and that they cannot, under any circumstances, be held accountable.

Mr. REID. Will the Senator yield?

Mr. EDWARDS. Yes.

Mr. REID. It appears what the Senator has said as an experienced trial lawyer from the State of North Carolina, the lawyers will be under the control of the insurance companies?

Mr. EDWARDS. That is absolutely true. These are lawyers hired by the insurance companies.

Mr. REID. The talk of the lawyers controlling what is going to happen with the Patients' Bill of Rights is a flip-flop. The lawyers will control what goes on with health care in America as a result of what has happened here, is that right, because the patients have lost and the insurance companies have won?

Mr. EDWARDS. Absolutely.

What will happen is that the lawyers will write the plans, and under every single thing we have passed during the course of this week, the plan controls; the insurance company controls.

If anyone thinks for a minute that the lawyers who are hired by these insurance companies are not going to write the plans in a way that protects the plan and the HMOs and never protects the patient, they are living in never-never land. That is exactly what will happen.

As a result, in its simplest terms, the insurance company and their team of lawyers have won this battle. The patients have lost.

One last thing. We have heard lots of talk about cost from the other side. That is a false argument. It is a false argument for a simple reason. No. 1, what will happen under our real Patients' Bill of Rights is that we get patients to emergency rooms, to specialists, to the doctors who they really need to see as quickly as possible. That has an extraordinarily important cost effect, which is they get treated more quickly, their condition and disease is diagnosed more quickly, and as a result the long-term costs associated with that are reduced.

Our bill will reduce costs over the long haul. It will absolutely reduce costs when the long-term expenses and costs are considered.

Second, when an HMO or health insurance company acts recklessly and irresponsibly and a child, for example, is severely injured and that child incurs millions and millions of health care costs over the course of his or her lifetime, the health insurance will not be held accountable. No way are they held accountable. Those costs—the millions and millions of dollars—don't go away.

The question is, Who pays? The American people pay. The American taxpayers pay. They pay through Medicaid. That is the only way those costs will be paid. Instead of an HMO being

responsible for paying, the American taxpayer pays. The people listening to this pay.

Mr. REID. I yield 2 minutes to the Senator from California.

Mrs. BOXER. Mr. President, we are in the final inning, so it is time to bring out the scoreboard.

HMOs, 12; patients, zero. It is a shutout. On every amendment, patients have lost and the HMOs have won. Mr. President, 12–0 and counting.

The Republican bill will pass. It is a bill supported by the insurance industry. It is a bill supported by the HMOs.

This is what it leaves out: It leaves out OB/GYNs for women, the right to a specialist, the right to an emergency room, the right to a clinical trial for every fatal disease, the right for all Americans to be covered—70 percent of Americans are not covered in the Republican bill. It leaves out the right to hold HMOs accountable if they kill you, if they maim you, if they hurt you or any member of your family.

The Republican bill is a shutout. The American people are shut out from any protections. Patients are shut out. Decency and fairness are shut out. And the HMOs will continue to put their dollar signs ahead of our vital signs.

We will not give up. The innings may be over on this particular battle, but we are going to be here. We will be here for several more years and we will fight this. As Senator DORGAN said, a lot of these fights took a long time. It took a long time to get Medicare. There were fights from the other side of the aisle that it was a horrible idea to give senior citizens coverage.

I could go back in history. We will be on the right side of history because we are fighting for what is right for the patients of this country, for the people of this country. It has been a good debate. I am glad we have had it. I think it does show the difference between the parties. I think we are very open and honest about our differences. I am proud to stand on this side of the aisle on this Patients' Bill of Rights.

Mr. REID. Mr. President, I yield the final 4 minutes to the person who offered this amendment with Senator KERREY, the junior Senator from the State of Maryland, BARBARA MIKULSKI.

Ms. MIKULSKI. Mr. President, it has been interesting to me that during the two hours I have been here, in the time allocated to this amendment, no one from the other side has debated the merits of the Kerrey-Mikulski amendment.

We have heard about the health care plan, we heard about Mrs. Clinton's health plan, but no one challenged the fact that the American people should have continuity of care. Just because a business changes their insurance company, you should not have to change your doctor.

Also, we heard a great deal about the States—let the States do it. I bring to the attention of my colleagues, only 22 States have a continuity-of-care provision; 28 States do not. So, 28 States are vulnerable to the lack of a continuity-of-care provision.

Also, all 50 States have a Constitution. So why should we have one ourselves? Why should we have one? The reason we have a Federal Constitution is that we are one nation under a law that should protect all American people and we also have a Federal Constitution that we love and cherish because we have a Bill of Rights.

Imagine if we were still waiting for the 14th amendment, if we were doing it one State at a time. Imagine if we women had gotten the right to vote, if we had done it one State at a time. Do you think the railroads would have let us have the direct vote by the people of the Senate? No; I think we would still be choo-choo-ing along under the old system.

Let's talk about the cost. I think that is a fallacy in the argument. This Congress is going to debate in the next week or two a tax bill that could plunge us into a deficit. Sure, we think we have a surplus, but it is a promissory note surplus; it is not a guaranteed surplus. So while we are going to talk about cost, just wait until we start talking about that tax bill.

The other thing is, we did not hesitate to pass the national ballistic missile system. I will tell you something. My constituents in Maryland are more at risk for their lives and safety from insurance gatekeepers preventing them from having access to the medical care they need than they are of some missile striking us in Baltimore, Crisfield, Hagerstown, or all around the State, or this country.

So let's not talk about cost. And let's not invent phony arguments. Let's go back to what we are debating, the Kerrey-Mikulski amendment that says let's provide continuity of care. It is very straightforward. It would allow for a transition that, when a doctor is no longer included as a provider under a plan, or employers change plans, it would provide 90-day transitional care for any patient undergoing an active course of treatment with a doctor.

That means if you have diabetes, it means if you have high blood pressure, it means if you have glaucoma, that you can at least have a transition plan to have someone meet your needs.

Then we make three exceptions. We make them for pregnancy, we make them for terminal illness, and we make them for someone who is institutionalized.

A patient who is dying should not have to change a doctor in the last days of his or her life. If you are pregnant, I think you ought to have the doctor through post-partum care that is directly related to delivery. That's what we are fighting for today, and I hope we pass this amendment. I yield the floor.

Mr. JEFFORDS. I yield 3 minutes to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I just want to say something and get it off my chest. It is offensive to me, and almost demeaning to this Senate, for people who disagree with the work that has been done by people such as Dr. BILL FRIST, and Senator COLLINS from Maine, and Senator JEFFORDS, who worked hard on this bill, to suggest that they are bought and paid for by insurance companies and HMOs.

I haven't talked to an HMO, but I have talked to some people who are concerned about expanding costs of health care. It is Alabama businesses. We had the Business Council of Alabama in my office just a few days ago, a group of them. It is the biggest group in the State. The first thing they said was: JEFF, please don't vote for something that is going to skyrocket health care costs. We are afraid of that. We have already got an 8-percent inflation cost increase predicted for next year; 8 percent already. You vote on a bill, the Kennedy bill, with 6 percent more? Please don't do that. We can't afford to cover our employees. They are going to lose health care.

And the numbers back that up. This is what we are about.

It offends me to have it suggested that some insurance company is here—HMOs are not even here, that I have observed. They do not care what the rules are. You tell them what the coverage is, what the rules are, and they will write the policy and up the premium to pay for it. And working Americans are going to pay for it. That is what is really unfair to me.

For Senators to suggest that there is a scorecard and only truth and justice and decency and fairness occur when her amendment is voted on? We have amendments. This whole bill mandates and controls and directs HMOs on behalf of patients. Everything that is in it, that is what it does. Some just want to go further, and whatever you do is never enough. There is always another amendment to go further.

It is a sad day when we have a group of fine Americans who worked on this legislation for 2 years or more, to present a bill that is coherent, that improves and protects the rights of people who are insured to a degree that has never happened before, and have them accused of being a tool for some special interest group. It is just not so. The Members on the other side know it, and they ought not to be saying it. It is wrong for them to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I want to comment on the process. We have seen

pictures of infants with various medical challenges that I need to clear up. It keeps coming back and back again. The example of cleft palate is being used over and over. I want to demonstrate, to help educate our colleagues, because obviously it is not coming through what is in the bill, what will be in the final bill tonight.

No. 1, let's just say the baby is born with a cleft palate, which is a defect in the upper part of the mouth. The doctor recommends surgery, regardless of what is in the health plan. The HMO contract says ''cosmetic'' surgery is not covered.

So the medical claim is made. The doctor and the patient say: Yes, this thing is medically indicated. The plan has written down that cosmetic surgery is not indicated. So they say: We want to do something about it.

Today they have to throw up their hands. There is nothing they can do. That is why we need a Patients' Bill of Rights. What happens? We have an internal review built into the plan. So if there is a disagreement, the doctor and the patient disagree with the plan, there is a process, for the first time for most of these plans, for internal review. They may have other physicians who are affiliated with the plan making that decision. Let's just say they came up with an adverse decision. Basically, the second opinion inside the plan, the internal review, said: No; I am with the plan. We are still not going to cover it.

Well, is it eligible, or is it not, for external review? Remember the external review plan. You have the managed care company; you have the entity that is government regulated; State, Federal, Department of Health and Human Services regulates this entity. This entity appoints an independent doctor, a medical specialist, if necessary, to do the review: Is it eligible or is it not?

The key worlds are, ''Is there an element of medical judgment?'' There clearly is, because you have a doctor saying that cleft palate needs to be repaired. So automatically—and that is the trigger—it goes to an independent external review.

We have heard a lot of people say it is not independent. It is pretty independent if you have a managed care company, you have an entity that is government regulated here that is unbiased—the words are actually in the plan—appointing an independent reviewer, who is a doctor. Or, if it happens to be a chiropractor of concern—it can be a chiropractor, I might add, who is independent, a specialist in the field, who makes the final decision.

In the independent external review, the reviewer makes an independent medical determination made on a whole list of things that we have in there—not just what the plan considers, but best medical practice, generally accepted medical practice, the peer reviewed literature, the best practices out there, what his colleagues are doing—and then a decision is made and whatever decision is made, it is binding. It is binding on the plan.

Let's just say it is binding on the plan, so let's have ''repaired'' here. Let's say the plan says, ''We are still not going to do it. I don't care what the reviewer says.'' You are going to see in the final bill that they have to do it. If they do not do it in a timely fashion—I want everybody to read the bill—they are going to be fined.

Mr. President, I ask for an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. FRIST. I thank the Chair.

So the decision has been made by the independent reviewer, and it is binding on the plan that you do the repair, that it is medically necessary and appropriate. The plan has to do it. We are still worried. What about that plan, if it just doesn't want to do it? Basically, what we have are penalties that are built in the bill. They have to do it, they have to do it in a timely fashion, and if they do not they are fined $10,000. Not only that, if they are fined $10,000 and still don't do it, immediately you can go to somebody else and have it repaired. And who is going to pay for that? The initial plan.

To me, that is the way the process works. You have an independent reviewer. You guarantee the patient gets that repair in a timely fashion, if in that independent review it is thought to be medically necessary and appropriate, regardless of what the HMO contract says.

Internal appeals, external appeals, independent reviewer with penalties built in if that is not carried out in a timely fashion, and the guarantee that the care can get done because you can go, even have a third party do it and charge it back to the initial plan—unbiased, independent, internal, external appeals, and that is the accountability provisions that are built into this bill. I am very proud of the fact it is there. It will change the way medicine is practiced by managed care.

I yield the floor.

Mr. DORGAN. Will the Senator yield?

Mr. NICKLES. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 35 seconds.

Mr. KENNEDY. Just for a question, may I yield a minute to Senator DORGAN?

Mr. NICKLES. Yes. Sure.

Mr. DORGAN. I just wanted to observe for one moment, I listened to the presentation. That presentation works with respect to the people who are covered. But there are 120 million who are not covered. If one says those who are not covered are covered by a State, we must point out that 38 States do not have provisions that guarantee access to specialists. I want to make the point.

Mr. FRIST. Say again, covered by that?

Mr. DORGAN. There are 120 million people, roughly, not covered. And we have 38 States—if the proposition is ''but if we don't cover them in our bill, the States do,'' there are 38 States that do not cover them either.

Many of these children will simply not have access to a specialist. Those are the facts.

Mr. FRIST. May I respond on his time? This is a critical point because we have been debating scope. It is very important for the American people to understand and for our colleagues to understand that scope, and when it comes to accountability, the internal and external appeals, the independent reviewer does not just apply the 48 million people not covered by the States. It is covered by people who are both ERISA covered, federally regulated, as well as the States, and it is important my colleagues understand that because that is a huge part of our bill. In many ways, it is the heart of our bill for the appeals process, the accountability, what I just went through, both ERISA, federally regulated plans, and State plans. That is why it is so hard, in the last hours of this debate when it is so misunderstood what is in this plan. That is why I tried to go through it very clearly. It covers all 124 million people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much times remains?

The PRESIDING OFFICER. Two minutes 21 seconds.

Mr. NICKLES. Mr. President, I appreciate the clarification made by our colleague from Tennessee. My colleague from Tennessee said we have this appeal process which applies to all plans, State-regulated plans as well as federally regulated plans, and that is very important. For people to say this would not have an appeal process, it would not apply to them, they are absolutely wrong. Any employer plan in the country would, from the internal and external appeal under the bill which hopefully we will be passing shortly.

For the information of our colleagues, we are going to be voting in the next minute or two on the pending amendment, and then we will take final action on the substitute that will be offered by Senator LOTT and myself and others. We expect to be voting on that, just for the information of our colleagues, by 8:15, hopefully no later than 8:30. We are going to be wrapping this up.

I have one final comment. I urge my colleagues to vote no on the pending

amendment. The pending amendment deals with continuity of care, all of which we support, but it tells the States: We don't care what you are doing. It is another one of these examples of we know better, we can define continuity of care better from Washington, DC, than the States. That is a serious mistake.

In addition to overruling State laws, it also takes away an existing right under ERISA. It eliminates injunctive relief which would apply to everybody in the plan. It eliminates class action and injunctive relief on page 8 in the amendment. I do not know why they put it in. It is wrong. It is in the amendment. A person can go to court and say: I am entitled to the benefit under the plan, and the judge can agree, but the court can only agree for that one individual. It cannot agree for all the participants in that plan. That is a violation of current law which takes away rights in existing law. It is a serious mistake and should not be allowed. I urge my colleagues to vote no on the underlying amendment.

I yield back the remainder of our time. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1253. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—48

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Snowe
Daschle	Landrieu	Specter
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—52

Abraham	DeWine	Hutchison
Allard	Domenici	Inhofe
Ashcroft	Enzi	Jeffords
Bennett	Fitzgerald	Kyl
Bond	Frist	Lott
Brownback	Gorton	Lugar
Bunning	Gramm	Mack
Burns	Grams	McCain
Campbell	Grassley	McConnell
Cochran	Gregg	Murkowski
Collins	Hagel	Nickles
Coverdell	Hatch	Roberts
Craig	Helms	Roth
Crapo	Hutchinson	Santorum
Sessions	Stevens	Voinovich
Shelby	Thomas	Warner
Smith (NH)	Thompson	
Smith (OR)	Thurmond	

The amendment (No. 1253) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 1251

Mr. LOTT. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the pending amendment No. 1251, as amended.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, could I add a further statement to that unanimous consent request?

Mr. LOTT. Fine.

Mr. GRAHAM. I ask unanimous consent to be able to offer an amendment at this time.

Mr. LOTT. We have to object to that.

The PRESIDING OFFICER. Objection is heard.

The amendment, as amended, was agreed to.

The amendment (No. 1251), as amended, was agreed to.

AMENDMENT NO. 1254 TO AMENDMENT NO. 1232

(Purpose: Providing legislation to improve the quality of health care, protect the doctor-patient relationship, augment patient protections, hold health care plans accountable, and expand access to health care insurance throughout the country)

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself and Mr. NICKLES, proposes an amendment numbered 1254 to amendment No. 1232.

Mr. LOTT. 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.'')

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I have consulted with the Democratic leader, Senator DASCHLE, on this next unanimous consent request. I know Members will be interested in this.

I ask unanimous consent that the vote occur on passage of S. 1344, as amended, at 8:20 this evening, with the Lott substitute and amendment No. 1232 having been agreed to and notwithstanding paragraph 4 of rule XII and the consent agreement of June 29, 1999.

I further ask that the time between now and 8:20 be equally divided between the two leaders, or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, that having been agreed to, the final vote will occur at 8:20, with the time equally divided between now and then. So Senators who want to participate should be prepared to be here to be involved in the debate. Those who want to get supper at this point, now is the time to do it.

Having said that, I want to go ahead and make my statement on this substitute package at this time. Then I will yield to the assistant majority leader, Senator NICKLES, who will divide the balance of our time between Members on our side of the aisle who wish to speak on the final package.

I think we have had a really good debate on this issue. We have been on it 4 full days now, into the night on Monday, Tuesday, Wednesday, and now Thursday. There have been a number of amendments offered. Some of them have passed and some have failed. But I think it has been handled quite well on both sides of the aisle. I believe we are now ready to finish the debate and get to final action on this legislation.

I thank the floor managers for the good work they have done. Senator NICKLES and Senator JEFFORDS on our side have been ably assisted by a number of our colleagues who have spent long hours on the floor, including Senators FRIST, COLLINS, and a number of others. Senator REID has done an excellent job as the whip on the Democratic side of the aisle, working with Senator NICKLES on behalf of the leaders to make sure time has been handled properly, and working out the charts on what amendments would be offered when, which has proven not to be an easy task, but one they have done a great job on.

Of course, I have enjoyed the exchanges that involved Senator KENNEDY and sometimes Senator GRAMM. It has been interesting, and I guess we can say elucidating in some respects. I also thank the task force on our side that has worked for a year and a half on this issue to make sure we were ready to go with an alternative, or to go with a solution to the problems we found in this area. They have done excellent work. Again, this task force was chaired by Senator NICKLES. Other members were Senators ROTH, GRAMM, COLLINS, FRIST, GREGG, SANTORUM, SESSIONS, ENZI, and HAGEL.

There has been a lot of great work by those members of the task force and members of the Health Committee who spent a lot of time and participated in the debate that has gone forward. I have really learned to appreciate the statement I heard on the floor earlier, that with Dr. FRIST, you really don't

need a second opinion. He has done a great job. Sometimes it has been hard to understand for those of us who have not been in the medical profession. I appreciate that.

I think it is time we moved forward. We have done good work. Let's report out this legislation and go to conference and let's get a result.

There are certain things patients do need in America. Consumers do need some guarantees. I could go through a list of areas where there are problems, and I am going to go over the solutions we have here. I think the worst thing we can do now is to not wrap this up with a concluding favorable vote.

Now, there are some who will say the President will veto this bill. When we passed the missile defense bill, the word was: I will veto it. But we worked it out and he signed it. It was the same thing on education flexibility. The word was, you have language in here on the Individuals With Disabilities Education Act and we thought we should meet our commitment there before we spent money on a lot of other programs. In the end, we worked out the disagreements and the President signed education flexibility.

Today, for the first time in history, enrolling, signing of a bill was done by Senator THURMOND and by the Speaker, and it was sent by Internet to the White House—the Y2K liability bill. It came out of committee on a partisan vote, but some Democrats worked with all of the Republicans and we got a bill through the Senate. It took us three tries. We were told the President would veto this bill, but he is going to sign the bill.

The point is, to the President and to those of you who haven't supported the Republican position on this Patients' Bill of Rights Plus, work with us. If you want to get something done, let's make it happen. If you want an issue, you have got enough votes, you will have issues; so will we. And then what? Is America going to be better off? No. Let's get results. We have done that in the past on other issues related to health. So I challenge our Democratic friends to join us in this effort.

This is the main event. We have gone through a number of votes and we have had our debate on these amendments. But now we are dealing with a comprehensive package that the task force has developed on the Republican side of the aisle, and it will strengthen the rights of patients and improve the way HMOs work, without wrecking the American health care system.

The American people don't want the Federal Government to take over health care. They don't want that. They don't want bureaucrats making the decisions, and they don't want it being determined by a bunch of lawsuits. But they do want some action to clarify and solve some of the problems we have.

Make no mistake about it, the version of this bill that we have offered is far superior to the Democratic bill, which I believe contains a lot of bad policy. It is dangerous in many respects: dangerous because, under the guise of humanitarian concerns, it would drive into the ranks of the uninsured some 1.8 million Americans; dangerous because, under its compassionate rhetoric, it would threaten the ability of most small businesses to provide health insurance to their employees; dangerous because it would place the scalpels of litigation into the hands of the trial lawyers and virtually invite them to carve up the Nation's health care system.

I don't believe the American people want that. The system is not perfect. HMOs are not perfect, although the quality of their care, as every other consumer product, can vary tremendously from one group to another, from one region to another. In my own State of Mississippi, we only have about 5 percent of our health care that is provided by managed care organizations—5 percent.

So we have a very different view and set of concerns than do some of the other States where there is a lot more activity in this area.

If there is one thing we have learned from the downfall of the Clinton health package in 1994, it is this: The American people don't want the Government to control health care. They do want solutions, though, to some of the real problems that exist, such as portability, which we did deal with. They want us to recognize the problems where they really exist, but they don't want political grandstanding in Washington to imperil the highest quality health care in the world.

I heard it said yesterday on the floor, ''Health care in America is in real trouble.'' There are concerns about the evolution that is occurring.

But health care in America is still the best that the minds of men have conceived.

My mother is alive today because of medical procedures. She is on her third pacemaker. She is doing fine. If her knees would hold up, she would still be out looking for a date.

And the pharmaceuticals and the medicines they make are miracle drugs.

We should not kill the goose that laid the golden egg.

Can we improve it? Can we work with all those involved in the system to make it better. We can do that. That is what we are doing today.

I hate to think where we would be if the Congress, 20 or 30 years ago, had attempted to micromanage health care the way this Democratic legislation attempts to do now.

I wonder if we would, today, have the non-invasive surgery, the miracle drugs, the sophisticated diagnostics that we all take for granted.

If the Government moved in and said we are going to start dictating this and say what you can do, what you can't do, and when you can do it, we would have a loss of that entrepreneurial, dramatic innovation and spirit that we have had in health care in America today.

The Congress should not imperil the continuing transformation of American medicine. Will it be different in 10 years? You bet it will. So will life in America. It is happening so fast that it is breathtaking.

It is not our job to control or dictate that transformation.

Our job is to find ways for more Americans to have broader access to those innovations in health care.

That is precisely the point of our Republican Patients' Bill of Rights Plus. We want to give more clout to health care consumers while, equally important, making it easier for families to get insurance. They will have a choice. They decide for themselves how they are going to get this care.

All the consumer rights in the world don't matter an aspirin if you aren't able to become a consumer. That's why our Republican bill creates new opportunities for uninsured Americans to buy into the health care system.

For starters, our bill makes all Americans eligible for medical savings accounts, not just the 50,000 currently allowed in a pilot program.

Give people that option to get into a medical savings account and to make the choice as to how they will use it. And give them the reward. If they don't have to spend it, they get to keep it. What a great American idea.

We offer full deductibility for health care costs. That alone will make insurance more affordable for 16 million Americans.

That is the way to go. We should make it deductible—not just for the self-employed, although we ought to do that, but for all of them. That would solve the problem of a lot of these small business men and women who can't afford to provide the coverage for their employees. Let them deduct the cost when they choose what they want.

We provide full deductibility for self-employed persons, so these 3.3 million hard-working people, and their families will have the same tax break that big business has. At least 132,000 households will be able to afford health coverage with this provision for the first time.

At every point, our approach is to expand access to health care. That is our greatest contrast with the other package that has been offered by Senator KENNEDY and Senator DASCHLE.

It is worth repeating.

If we went with their proposal, it would result in the loss of insurance for an estimated 2 million people.

That is far too heavy a price to pay for some of the things we have argued about this week.

This bill, the substitute amendment I am offering, is the main event of the debate of health care this week.

For the 48 million Americans whose health care plans are not protected by existing State regulations—that is a critical point—it will provide these things.

I want to emphasize that. The bill we are about to vote on will provide these things:

Guaranteed access to emergency room care;

Direct access to OB/GYN without prior authorization;

Direct access to pediatrician without prior authorization;

Better continuity of care if your doctor leaves a health plan;

Guaranteed access to specialists;

Improved access to medications;

Protection of decisionmaking by doctors and patients;

And, very importantly, our bill provides a way to get a review.

Dr. FRIST talked a lot about that. If the doctor makes a recommendation, and he and the patient disagrees with what the managed care organization says, they will have a chance to have a review internally, and then one externally with expedited procedures. And, at that point, there is still the opportunity for lawsuits. If they don't comply with the result, there will be penalties for noncompliance.

Again, instead of getting a lawsuit—which may be nice when it is finally concluded for your heirs—you will get action. You will get a decision through an appeals process.

That is the way to go.

I am not critical of lawsuits because I have a problem with lawyers. I am one. I was on both sides of this issue for plaintiffs and defendants when I practiced law. I was a public defender in my home county. I understand there is a necessity and a time for lawsuits. But I don't think it should be the first resort. It should be the last resort. See if you can work it out. See if you can design an appeals process that will get you to a conclusion and that will get results, rather than a lawsuit that may be great for the deceased person's beneficiaries.

We believe patients should have a timely and cost-free appeals procedure to contest any denial of coverage. We believe patients should not suffer discrimination based on genetic testing. Our bill forbids it.

We believe government should facilitate breakthroughs in medicine and help providers gain access to them. Our bill does that, too.

What we do not do is put American health care in the hands and in the pockets of the trial lawyers.

Senator JEFFORDS has said it best: ''You can't sue your way to better health care.''

In that regard, the Democratic bill that has been before us this week reminds me of the old days of medicine. Well, we will bleed the patients. And, believe me, I think that is what would happen if we went with what they have proposed. It would be bled with Federal-level bureaucrats. They would be bled in the courts.

That is not the answer. I think that is a bad idea. There is a better way—a way that protects the rights of patients without imperiling the Nation's health care system; a way that opens the door to medical care; that gets more people covered by the insurance of their choice; a way that educates consumers so that they, rather than the government bureaucrats, can make their own informed choices.

That is the sum and substance of our Patients' Bill of Rights Plus. It is ''plus,'' because it is a bill of rights, but also it provides some tax opportunities through the medical savings accounts and the deductibility.

I thank many Senators who have worked on this issue on both sides of the aisle.

I think we all know a little more about this subject than we did, and maybe more than we ever wanted to know.

I have every expectation that it will win the Senate's approval and find favor in the House of Representatives.

I am optimistic, as I always am, that we can get a result. If we make up our minds to do that, we will.

This bill addresses the real problems many Americans face with the delivery of health care. It expands access to health insurance and makes it more affordable. It bans genetic discrimination in health care, expands research, and educates the consumers.

In short, it is the right thing to do, and this is the right time to do it.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I yield 8 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am a little bit confused over just what we accomplished in the past week.

As I understand it—I think it is pretty accurate—the Republican bill will pass. However, the President has indicated that he is going to veto this bill. And there is no question that the veto will be sustained. Then where are we? What have we accomplished in a week?

It seems to me that we have let the American people down in a situation such as has been outlined. People can say the President shouldn't veto. He is indicating he is going to do that. That is his privilege, obviously. We have been through that before.

So, therefore, it seems to me that we have to ask ourselves: Could we have done a better job? It seems to me that we could have.

I greatly regret we are not able to present the legislation which a bipartisan group of us had the privilege of working on. We believe that legislation would have accomplished something that we were not able to accomplish, as I previously outlined.

I believe we ought to cover all Americans; that is, all privately insured Americans—164 million. The legislation we will pass will not do that.

I believe we ought to have an effective and timely external review process to resolve coverage disputes. I am not sure the legislation we have before us—and that we will shortly pass and having examined it—accomplishes that.

I think we ought to be able to give patients the right to sue in Federal court for economic damages—only in the Federal court, and not in the State courts. I certainly have supported legislation to prevent the suits in the State courts.

We have dropped from our bill the controversial provisions codifying the Federal law—the professional standard of medical necessity. Instead, we added language to our external review provisions to ensure that external reviewers have a meaningful standard of review.

It is with some regret that I announce that I recognize we are not going to have a chance to present our legislation, and I think it would have been good. I think we would have avoided the problems we currently have before us and that our Nation and our citizens would be better off.

I thank the Chair.

Mrs. MURRAY. Mr. President, as we prepare for final passage of the Republican HMO legislation, I come to the Senate floor to express my disappointment and my frustration with this end product. This bill is a failure and ultimately we will all suffer the consequences of the majority's reluctance to protect patients.

I had high hopes at the beginning of the week that we could come together on some of the key areas of agreement and produce a good bipartisan bill to protect patients. I had hoped for a bill to put the health care decisions back into the hands of patients and consumers.

Our health care system is in a state of flux. It has moved from a system that served people only when they got sick and encouraged overutilization. Now we have a system where economic barriers are erected to prevent patients from accessing care. We have gone from a system of waste and over-utilization to a system where patients cannot get the care for which they paid. Decisionmaking—life and death decisionmaking—is now too often solely in the hands of insurance executives focused on profits and quarterly reports. Who is looking out for the patients?

We need to restore a balance with a system where insurance protects you when you become ill, but also helps prevent you from becoming sick in the first place. We need a system where the ultimate decision rests in the hands of patients based on the medical advice of their physicians. We need a system where people are fighting illness, not fighting the insurance company. We need a system where doctors are not spending 45 minutes on the phone with an insurance company so a sick child can be admitted to a hospital. We need a system where parents are free to stop at the first, closest emergency room and not drive to the one their insurer commands if their child has been hit by a car.

I know such a system does and can exit. One of my greatest concerns is what the failure of Patients' Bill of Rights means to managed, coordinated care. Let me tell my colleagues, I support managed care. I support a coordinated care approach that is focused on prevention and early detection of disease.

HMOs and managed care were born in my state of Washington. The original HMO law, signed by a Republican President in the early 1970's was enacted because of the new, revolutionary form of health insurance still in its infancy in Washington state. I want to be clear, health maintenance organizations are not the enemy. One of my colleagues yesterday made a statement that the Democrats saw HMOs as the bad guys. He tried to make a point that somehow supporting the Health Security Act in 1994 and the Patients' Bill of Rights was contradictory. He was wrong. Our intent is to ensure patients the right to receive the care they have paid for, not to eliminate coordinated care.

The experience in Washington state has taught me that we can have a system that reduces overutilization and unnecessary care while actually improving health care benefits. I know that good managed care structure has increased our immunization rates. I know that it has contributed to the fact that almost 70 percent of women in Washington state over the age of 55 receive mammagrams. I know that a good managed care structure has increased our average life expectancy and reduced our infant mortality. It has reduced the number of people who smoke and decreased the incidence of heart disease. We have a healthier population in Washington state, in part because we have the benefits of a coordinated care delivery system that focuses on prevention and reduces wasteful, unnecessary health care services.

Unfortunately, things are changing in Washington. Due to mergers and acquisitions we now have health care plans being run by companies in California and other states. We now have for-profit insurance companies using HMOs and more importantly, we have premiums from HMO participants going to enhance short term profits. Our once envied system has deteriorated. I am hearing more and more from patients and physicians about the obstacles they must over-come to access health care. They must push hard to get wise health care decisions, not just big economic benefits.

I honestly believe that if we fail to restore some kind of balance, managed care will become a thing of the past. People will demand changes and will dismantle managed care. We will then be back to a system where only the very wealthy have regular and consistent access to quality health care and where you only see your doctor when you are ill, not to prevent illness.

I had hoped that a uniformed standard set of protections for patients would restore some trust to managed care. That is the only way we can ensure that the ''outrage of the day'' does not become the guiding force in state legislatures. If my colleagues think that by killing our balanced and fair Patients' Bill of Rights it will end this debate, think again. You can be sure that in the next session of the legislature in each state there will be new patient protection bills ranging from access to expanded, mandated benefits. Patients will demand this.

Ultimately, these single ''outrage of the day'' bills will be the nail in the coffin for managed, coordinated care. We will see the end of a health care delivery system that encourages prevention and keeps people healthier, longer. We will see a return to a system where access is only provided to the ill.

Not only does this jeopardize health insurance, it jeopardizes biomedical research and development. Why invest in research that prevents illness or prevents hospital stays or detects cancer sooner, when no one will have access to it? Why double NIH research dollars, to prevent illness and to find cures for deadly diseases like cancer and MS, if patients are not encouraged to seek care to prevent illness or to seek regular, prevention and early detection care? Doesn't it seem to be a contradiction to encourage biomedical research when we do not have a health care delivery system that invests in wellness?

Our Patients' Bill of Rights will not result in pushing people off of insurance. Our bill is a reasonable, cost effective proposal that does enhance managed care, not diminish it. It rewards those insurance companies that do offer a good package and a good product. They will no longer have to compete with companies that do not look at their beneficiaries as people, but rather premiums. There are good insurance companies out there. I know this to be true as there are several in Washington state. While I have heard of some problems in the state, I believe it is a combination of consumer misinformation and distrust. But, unfortunately these good companies have to compete in a very price sensitive market with companies that have policies in place to limit and deny access to quality care.

I am also disappointed that most of my Republican colleagues refused to engage in an open and honest debate. They offered amendments sold as access to emergency room coverage or improvements in women's health or access to clinical trials, when in fact their underlying bill is nothing more than a simple statement only saying we support patients, but not supporting and enforcing access to care. My Republican colleagues say they want these things, and as participants in the Federal Employees Health Benefit Plan we have these benefits and protections, but they do not provide them to all insured Americans because the insurance lobby has told them to say no.

This is a short sighted strategy as parents with sick children, cancer survivors, patients with MS or Parkinsons, and women denied access to ob/gyn care will ultimately be heard. Wait until they discover that for $2 more a month they cold have gone to the ER or they could have participated in a new life saving clinical trial at the Fred Hutchinson Cancer Research Center. They could have gone to see their ob/gyn when they first found the lump on their breast or their child could have seen a pediatric oncologist following a diagnosis of cancer. What do my colleagues think will happen when families realize that for the price of a Happy Meal each month they could have saved their child? There will be outrage and it will be heard all the way to Washington, DC.

I hope that this issue is not dead. I hope somehow this is not the end of the debate and that like so many other issues we will be able to put aside partisan differences and work towards real patient protections.

Mr. LEAHY. Mr. President, we are coming to the close of a vital debate, and I do not use that word casually. The issues we are voting on in some cases have life and death consequences for the people we were elected to represent.

The individual rights spelled out in our Patients' Bill of Rights are clear, and they are specific. They are strong, and they would work. They have been painstakingly drafted and redrafted and then further refined for more than a year.

They have the support of hundreds of medical and consumer organizations whose millions of members work directly in this field. They would achieve for patients the very rights that our constituents have repeatedly signaled that they want and need and deserve in this age of managed health care.

We have offered the Patients' Bill of Rights, point by point, reform by reform. In response, senators on the Republican side of the aisle have cobbled together weak or illusory copies of these reforms, offered them in place of the real thing, and hoped that nobody outside this Chamber would notice the differences.

We have seen this happen with access to emergency case, with a woman's access to an OB/GYN and with a patient's access to specialists.

This flurry of amendments, mixing genuine rights for patients and the phantom versions from the other side, has obscurred some of these issues in a cloud of political dust. Tonight, with the final votes of this debate, that cloud will be lifted. Senators will decide whether they will stand with patients and their doctors, or with the insurance companies.

Senators will decide whether 161 million Americans can enjoy the protections of the Patients' Bill of Rights, or whether 113 million Americans will be left in the waiting room.

There are many key differences between the Patients' Bill of Rights and the fall-back plan that Republican leaders have come up with. But the most important differences are that our bill would cover everyone, our bill lets doctors make the medical decisions, and our plan holds plans accountable to take away incentives to minimize critical health care decisions that can hurt or kill people.

Just this morning, we have heard the Republicans attempt to justify why it is okay to protect HMO's from accountability for their decisions that lead to injury or death. Polls show that the public overwhelmingly supports the key elements of our Patients' Bill of Rights. Americans—the people that Democrats and Republicans alike say we are trying to protect—want the protections the Democratic plan offers.

I have heard from many Vermonters on their experiences with managed care. Each of these moving stories makes you ask: What if it was me, or someone I knew?

When I was home in Vermont last week, I picked up the Burlington Free Press and, beside a guest column he had written, was met with the friendly face of an old friend, Dr. Charles Houston. He and I go way back to my days as a prosecutor in Burlington when he was a prominent physician doing remarkable things in the Vermont medical community. He has been a beacon of good advice to me throughout my time in the Senate. He is an indispensable Vermonter.

Dr. Houston's commentary depicted the devastating and tragic experience he and his wife had with their managed care company that ultimately led to his wife's death.

My wife is a registered nurse, so I get a dose of the practical reality of these problems across the breakfast table, as well as from the accounts I get from Vermonters. It is these personal accounts, like this one from Charlie, that bring home the need for a Patients' Bill of Rights.

Mr. President, I will ask unanimous consent that Dr. Charles Houston's article be entered into the RECORD.

Mr. President, the question today is this: Will the Senate pass a bill that protects everyone—161 million Americans who get their health care through a managed care program—or just a fraction of those families, the 48 million who are in employer self-funded plans? Will we continue to hear and read stories from the people in our states who have no protections? Will we continue to hear accounts like the tragic one of Charlie Houston's wife? I hope not.

The President has indicated that he would veto a so-called Patients' Bill of Rights if all we send him is one containing the weak Republican provisions.

Maybe then we can rescue those millions of Americans the Senate today has stranded in the waiting room without a real patients' Bill of Rights.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, July 2, 1999]

MANAGED CARE NEEDS IMMEDIATE OVERHAUL

(By Dr. Charles S. Houston)

Can anything worthwhile be added to the billions of words written and spoken about health care? Why is our medical care today both better and worse than in the past? What happened?

Here's one story.

An 84-year-old nurse led an active life despite mild chronic lung disease, but after a long plane trip developed pneumonia. Finally admitted to the hospital, she was treated aggressively by an ever-changing group of specialists and nurses and went home after two weeks—but with diarrhea either from antibiotics or a hospital infection.

She was weak and undernourished but her doctors could not visit her at home, insisting she return to the hospital. When she refused, they tried to direct her care by phone. She drafted downhill and died two weeks later, a victim of efforts to reshape medicine by managed care in recent years.

First, traditional care was scrapped and most doctors forced to join systems and to abandon fee-for-service medicine. We are told this was done because: 1. care was getting too expensive; 2. too many people could not get care; and 3. technology had become so complex.

Managed care, we were told, would decrease the cost, eliminate waste, open the system to the needy, and provide highly technical care through specialists. In the capitalist mode, competition would cure all.

The goal became to provide the best possible care to everyone. Who could quarrel with this? Yet a moment's thought shows this was and will always be impossible: There aren't enough providers and other resources. But you don't need a Cadillac to go shopping; any car will do. Instead our goal should be to make appropriate care easily available to all who need and seek it. The treatment should match the problem, the cost must be affordable.

So what has managed care done? 1. The costs of care have skyrocketed even faster; and 2. specialization has led to fragmentation and medical care by committee. What little fraud had existed was replaced by the waste-filled octopus to non-medical insurance administrators who can—and do—overrule caregivers in major medical decisions. Doctors must climb walls of paperwork, distancing them from patients. It has become harder to reach or talk to your physician. Administrators and stockholders in the managed care organizations fatten on profits. Now many HMOs are failing or increasing rates prohibitively.

Two other dominating forces must be mentioned. Medical knowledge has expanded far more rapidly than has understanding of how to use it appropriately. More and more specialists with exotic devices do miracles, So, in part to protect the patient, in part for self-protection, physicians often feel compelled to consult experts, and some are reluctant to take leadership in care of an individual. Fragmentation became a worse danger than concentration of responsibility.

There's no virtue in crying wolf, and screaming catastrophe without offering a way of escape. Having been a practitioner for many years, alone and in groups, and a teacher in our medical school, I have watched and studied the destruction of traditional care with dismay. I'm confident that many patients and doctors feel as I do. Something must be done, and soon. Managed care as we know it must go. Though oversimplified, the following would be a strong start:

End or modify commercialization of health care. By regulation make hospitals, medical groups and insurers non-profit and monitor compliance.

Continue the lead role of a primary care provider as first call and facilitate appropriate consultation and resources.

Require insurers to open enrollment for all, allowing them a fair return on investment.

Since each state has different needs, develop statewide insurance plans to provide appropriate health care to all its citizens. Several years ago the Governor's Health Commission prepared such a plan but it failed. Why? Lobbyists? Economic fears? This plan deserves careful look.

Finally, a sad personal note. The patient described above was my wife of 58 years. She was truly a victim of the new medicine.

Mr. LEVIN. Mr. President, I strongly support the Patients' Bill of Rights which Democrats have offered and fought for during these four days of consideration and which the Republican majority has weakened at every turn. I cannot support the inadequate substitute which Republicans have now put before us. The Republican bill is full of loopholes in the fundamental protections for patients which we seek to provide. In fact, the substitute Republican bill provides almost no protections for nearly two-thirds of Americans with health insurance.

The Democratic bill would guarantee access to needed specialists. The Republican bill fails to guarantee patients access to needed specialists outside the HMO at no extra charge. The

Democratic bill would assure access to the closest emergency room. The Republican does not guarantee access without financial penalty and prior authorization. The Democratic bill gives women the right to choose their OB/GYN as their primary doctor, as many women wish to do and protects women from ''drive-through mastectomies''. The Republican version is not adequate. And unlike the Democratic bill, the Republicans fail to hold HMOs accountable when their decisions and practices lead to the death or injury of patients. And, the Republicans would continue to allow insurance company officials to override the medical decisions of a patient's own doctors.

Mr. President, in short, the Republican substitute for the Democratic bill is a mere shadow which does not deserve the title, ''Patients' Bill of Rights''.

The core of the Democratic effort has been to ensure that insurance administrators not overrule a health care professional's medical decisions, that HMOs can be held accountable for their actions which is a responsibility every other industry has to its consumers, and to ensure that all insured are protected. The Republicans have developed a bill that leaves more than 113 million Americans with insurance unprotected because most of the provisions in their bill for the most part are narrowly applied to only one type of insurance, self-funded employer plans, which cover only 48 million of the 161 million people with private insurance.

Our bill ensures that the special needs of children are met, including access to pediatric specialists. It provides important protections specific to women in managed care such as direct access to ob/gyn care and services and the ability to designate an ob/gyn as a primary care provider, and provides specific protections regarding hospital length-of-stay for mastectomy, by allowing the physician and patient to make decisions the length of stay in a hospital following a mastectomy or lumpectomy. The Republican bill does not prevent ''drive-through mastectomies.'' Additionally, our bill speaks to the issue of specialty care. Patients with special health conditions must have access to providers who have the expertise to treat their problems. Our amendment allows for referrals for enrollees to go out of the plan's network for specialty care, at no extra cost to the enrollee, if there is no appropriate provider available in the network. There are about 30 million Americans who have had trouble seeing specialists with their HMO plans. This includes women and children with special needs who either had critical care delayed or, worse, had that care denied. On the issue of emergency services, the Democratic amendment says that individuals must have access to emergency care, without prior authorization, in any situation that a ''prudent lay person'' would regard as an emergency.

Survey after survey reveals that the American people support these proposed protections. And, there are over 200 patient groups and health care provider organizations, workers' unions, and employee groups, that stand behind the need for these patient protections. That list includes the American Medical Association, American Heart Association, American Nurses Association, American Public Health Associations, Center for Women Policy Studies and the Child Welfare League of America. We have a stark choice before us, a strong Patients' Bill of Rights that protects patients or a weak bill aimed at protecting insurance companies.

Earlier this week, Mr. Steve Geeter, husband and father of two young children of Grass Lake, Michigan, stopped by to visit with my office. Mr. Geeter has terminal brain cancer and will be participating in an experimental clinical trial at the National Institutes of Health over the next several months. Mr. Geeter and his wife spent a considerable amount of time with my staff discussing his options and limitations under his HMO plan and the need for reforms, including access to clinical trials. I very much appreciate Mr. Geeter taking the time to share his HMO experiences with my office. They substantiate the need for the legislation before us. Several months ago, Mr. Geeter's HMO plan required that he be released from the hospital after 24 hours of intensive care following brain surgery. The plan's justification was that Mr. Geeter had passed the neurological exams and transfer to a room would cost too much. Mr. Geeter subsequently developed complications and had to be returned to the hospital emergency room. This may have been averted with just an additional 1-day hospital stay-over. The Democratic amendment would have protected patients, such as Mr. Geeter, from an insurance company official requiring that they be discharged from the hospital prematurely. Plans would no longer be able to deny promised benefits based on an interpretation of medical necessity defined by insurance companies rather than the patient's health care provider. The Democratic amendment used a professional standard of medical necessity—based on case law and standards historically used by insurance companies.

Mr. Geeter also expressed strong support for the Democratic amendment on access to clinical trials of experimental treatments, which offer patients access to cutting-edge technology and are the primary means of testing new therapies for deadly diseases. Historically, insurance plans have paid the patient care costs for clinical trials, not the costs of the experimental therapy itself. However, research institutions, particularly cancer centers, increasingly are finding that trials, which once were paid for by health insurance, must be curtailed because of lack of payment by managed care plans. Clinical trials may be the only treatment option available for patients who, like Mr. Geeter, have failed to respond to conventional therapies. Under the amendment, trials are limited to those approved and funded the National institutes of Health {NIH}; a cooperative group or center of the NIH; or, certain trials through the Department of Defense or the Veterans Administration. The Republican bill provides no hope for patients with no options other than a promising experimental treatment down the road. A study is not enough for a patient with a life-threatening disease when there are no other treatment options and there is nowhere else to turn.

In addition to having the benefit of the input of Mr. Geeter, I've communicated with others in my state. Over the past several months, I have traveled around Michigan and met with constituents various communities to get their thoughts on our efforts here in the Senate. I have had discussions with physicians, hospital administrators, nurses, seniors, city and county government representatives and health care advocates.

Ms. Myrna Holland, a resident of Ferndale, Michigan and Director of Nursing Education at Providence Hospital expressed concern that patient choice is limited when HMOs engage in restrictive practices such as ''doctor-only'' policies. These professionals include, but are not limited to, certified nurse anesthetists, nurse practitioners physical therapists, optometrists, podiatrists and chiropractors. This is particularly important for patients living in rural areas. Many rural communities have a difficult time recruiting physicians, and often non-physician providers are the only source of health care in the local area. If a managed care plan covers a particular service, but there is no one in the community to provide it, rural patients are too often forced to drive long distances, incurring expense, to get the care they need. The Democratic amendment would have prohibited HMOs from arbitrarily refusing to allow health care professionals to participate in their plans by virtue of their licensure or certification. The Republican bill would allow HMOs to continue restrictive practices, leaving consumers with an inadequate choice of health care providers or limited access to health care.

Robert Casalou, Acting Administration of Providence Hospital in Michigan, raised concerns about continuity of care. The Democratic amendment assured continuity of care. When health plans terminate providers without cause or when employers switch

health plans for their employees, quality of care for patients currently undergoing treatment can be severely threatened. For example, a patient who is undergoing a course of chemotherapy should not have to change physicians abruptly in the middle of treatment, and a woman who is pregnant should not have to change doctors before she gives birth. The Democratic amendment allowed for a transition to lessen those problems. When a doctor no longer is included as a provider under a plan, or an employee changes plans, our amendment provided for at least 90 days of transitional care for any patients undergoing an active course of treatment with that doctor. The amendment also provided special protections for pregnancy, terminal illness, and institutionalization.

Additionally, Mr. Casalou, and others, expressed support for holding HMOs accountable for their actions. Today, 123 million Americans who receive insurance coverage through a private employer cannot seek redress for injuries caused by their insurer. All they can claim is the cost of the benefit denied or delayed. Even if an HMO has been directly involved in dictating, denying or delaying care for a patient, it can use a loophole in the Employee Retirement Income Security Act (ERISA) to avoid any responsibility for the consequences of its actions. ERISA was designed to protect employees from losing pension benefits due to fraud, mismanagement and employer bankruptcies during the 1960s, but the law has had the effect of allowing an HMO to deny or delay care with no effective remedy for patients. The Democratic amendment would have closed this loophole, ensuring that HMOs can be held accountable for their actions. It did not establish a right to sue. It simply says Federal law will no longer block what the States deem to be appropriate remedies for patients and families who are harmed. The only time an employer can be held responsible is when the employer is involved directly in a specific case and makes a decision that leads to injury or death.

Donald Anderson, who I spoke with in Detroit, is a quadriplegic who is in a wheelchair who changed jobs and also changed health care providers. Donald's new provider would not cover a rolling commode wheelchair for him after the wheel broke on the wheelchair he owned, even though his doctor classified the chair as a medical necessity. Our amendment would have allowed the physician, not the insurance company, to decide what prescriptions and equipment are medically necessary. The amendment provided that a plan may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or particular services if the services are medically necessary. Under the Democratic amendment, Donald would have received a rolling commode.

In Grand Rapids, I spoke with another constituent of mine, Dr. Willard Stawski, a general surgeon. Dr. Stawski told me about a patient of his who did not seek care for her hernia because she was told by her HMO that it was an unnecessary operation. Dr. Stawski told me that after his patient elected not to have the operation, she became very ill. Gangrene set in and she died several months later. Under the Democratic amendment, this tragedy might have been averted. What a doctor deems to be medically necessary, is the medical treatment that the patient receives. Thus, Dr. Stawski's patient would have had the surgery because Dr. Stawski said that the surgery was medically necessary.

All we were asking for with this amendment is that patients be able to receive the care that a doctor or other medical professionals deems to be medically necessary. Doctors are frustrated, patients are frustrated. The Republican majority defeated our efforts to adopt these good amendments.

Mr. President, while I cannot support the Republican susbstiutute bill, I hope we will have a later opportunity to pass a strong bill of rights. The public wants a strong one and they are right.

Mr. BRYAN. Mr. President, for those Americans who have been harmed by the decisions of managed care plans, this public debate is long overdue. For those who yet face a decision about their health care made by their managed care plan, the end to the wait cannot come soon enough.

The Democrats' Patients' Bill of Rights will ensure those who depend on managed care plans for their health care will not be receiving a lesser standard of care than those who do not.

Last week while I was in Nevada, people voiced concerns about who really makes their medical care decisions if they are in a managed care plan. They wanted to know what would happen, under the Democrats' Patients' Bill of Rights, when a patient is told by his or her physician they need a specific treatment, and the physician informs the patient that the plan must first approve or disapprove his decision.

Would their physician be able to decide what treatments would be appropriate for their medical condition? Or, would they be at the mercy of a managed care plan bureaucrat far removed from the situation who would decide ''yea or nay'' on treatment determined necessary by their physician?

We can all empathize with the stress involved in this situation—your doctor has determined what your medical condition requires for appropriate care, but you must wait to see if what you need is approved by the plan. If the answer is ''no'', then you must either forego the care, or pay for it out-of-pocket —not a very good choice.

And what if you found yourself in the situation of a Nevada man, covered by an HMO plan, who came into an emergency room suffering from an upper gastrointestinal bleed. The emergency room physician called for a gastroenterologist to perform an emergency procedure to halt the bleeding. But the gastroenterologist would not treat this man without a prior authorization from the HMO plan. If he did the procedure without the authorization, he would not be paid. The doctor tried to contact the HMO for an hour to get the necessary authorization. During this time, the emergency room had to give the patient four units of blood, which would not otherwise have been required if the procedure had been done in a timely manner. Finally when it appeared the patient might not survive, the doctor contacted the HMO plan and said if he did not get authorization for the procedure, he would go to the media about this patient. The HMO then authorized the procedure.

The Democrats' ''medical necessity'' amendment would prohibit all managed care plans from arbitrarily interfering with a doctor's decision that the needed health care be provided in a particular setting, or is medically necessary and appropriate.

The amendment's definition uses a professional standard of ''medical necessity''. This is reasonable for both the patient and his or her treating physician, and the particular managed care plan. If a decision on whether or not to cover a particular treatment is made pursuant to a professional standard, it will be based on standards and case law interpretations historically used by insurance companies.

If a managed care plan can use its own definition of ''medical necessity'', any external review of a plan's treatment decisions would be resolved using that definition. This very likely would not work to the benefit of the patient.

The Democrats' approach would also maintain the important relationship between a doctor and the patient. It is a relationship that of necessity must be based on complete communication and trust between the two.

The Democrats' proposal will also ensure patients have a right to an external appeal from the decisions made by their managed care plans. One of the key provisions of this amendment is its requirement the appeal process be timely—for both internal and external appeals. It also requires ''expedited'' reviews when a patient is facing a medical emergency.

The Republican bill provides patients no guarantee of an expedited review for medical emergencies. Additionally, a managed care plan could simply delay sending the information needed for an appeal of one of its decisions. There is no deadline requirement for a plan to respond to a decision made by a reviewer. Without a timeliness requirement, patients are at the mercy of when, if ever, a plan wants to deal with an appealed case.

The Republican bill would drastically limit the application of its proposed patient protections to only one type of health care insurance—the self-funded employer plans. Those types of managed care plans provide the medical insurance for many Nevadans who work in the gaming industry. Those employees should have protections. But, why should 113 million people with private insurance be left unprotected? That is what the Republican bill would do, and it is wrong. For those small businesses which provide health insurance for their employees, almost all must depend upon the private insurance market for their coverage. Why should small businesses' employees have less protection than those workers in larger businesses which can afford to self-insure? Why should Americans who have to purchase their health insurance themselves, because they do not have an employer's assistance, be left unprotected?

The Republican bill will only cover 48 million Americans. The Democrats' bill will cover 161 million Americans—both those covered by self-insured employers, and those covered by private insurance. Why should 113 million Americans be without protection? Should we protect only 48 million, or protect 161 million? It is an easy decision.

Women should be able to designate their OB/GYN as their primary physician, and to have direct access to OB/GYN services without first having to obtain a specialist referral. Women also should make a decision with their physicians about the length of their hospital stay when they have a mastectomy. I have long supported these efforts to level the field of health care services for women. The Democrats' Patients' Bill of Rights will ensure those protections.

For individuals who are chronically ill, or have medical problems requiring access to speciality care, the Patients' Bill of Rights will require plans to provide access to specialists. If plans do not have an appropriate specialist within their plans, then the patient will be allowed to go outside the plan network, at no additional cost. The Democrats' Patients' Bill of Rights will ensure this access.

Every American should be assured the quality of their health care and their access to health care options is not diminished, because they rely upon an HMO for their health care coverage.

All of the 161 million Americans throughout this country who receive their health care through managed care plans deserve the protections included in the Democrats' Patients' Bill of Rights.

The opportunity is before us to ensure those protections. But that opportunity is going to be lost today. And that is a tragedy for everyone who depends on managed health care.

Mr. LIEBERMAN. Mr. President, I have been proud to join with Senators CHAFEE, GRAHAM, and other colleagues to express our shared dissatisfaction with the Senate's progress in reaching agreement on a strong patients' bill of rights, and to prepare a balanced, thoughtfully-crafted alternative that we believe would protect the rights of health consumers and could attract the support of a bipartisan majority of the Senate.

Listening to the deeply partisan discussions we have heard on the floor this week, I am reminded of the movie ''As Good As It Gets,'' which has become a cultural touchstone of sorts for venting the popular hostility toward HMOs.

It is not any particular scene I am thinking of, but the title itself. I am moved to wonder if this debate, which seems to be operating on political autopilot and showing no signs of producing anything other than a Presidential veto, is as good as we get in the U.S. Senate, and as good it gets for the American people, who don't know a second degree amendment from a first degree amendment, but who do know that our managed care system badly needs a transfusion of basic fairness and accountability.

We are here today to say that we can and should do better for America's families, that despite the apparent legislative logjam it is still possible to pass a constructive reform proposal, and that we are eager to offer a plan that Senators CHAFEE, GRAHAM, and many of us have been fine-tuning over the last few days which fits that bill.

While Sherlock Holmes had the 7% solution, we are offering a 70% solution.

Our bipartisan alternative includes roughly 70 percent of the patient protections that most Members already agree on, and strikes some balanced compromises on the remaining issues that continue to divide us.

The liability provisions in our bill are an example of our success in finding a sensible middle ground.

This case, the managed care case, reminds me why we have tort law; why we have negligence law; why we have a system of civil justice. There has been this odd result that ERISA has given total immunity to managed care plans who are today making life and death decisions about our lives.

The question is, how do we respond to that, how do we reform it? I think, with all respect that the Democratic bill goes too far.

It opens up the system to the unlimited right to sue and creates the same prospect for the lotteries that have been going on elsewhere in the tort system. I am concerned that those ills will be repeated here—some will get rich and others, many others, will not be adequately compensated for the injuries they suffer as the result of the managed care plan decisions.

And some small businesses and individual people will be priced out of health insurance by the costs that will be added as a result of runaway judgements.

I think the Republican plan, on the other hand, is not real reform because it essentially allows a patient, who is harmed by a negligent decision of a managed care plan, to be denied any significant compensation for their injury.

Under the Republican plan, patients have to traverse an elaborate series of procedural hurdles to be eligible for compensatory damages. First, the patient has to fight their way through the appeals process. Then the independent appeals body must grant a decision in favor of the patient. Finally, if the plan doesn't accept and deliver that treatment, then, under the Republican bill, the only right the aggrieved health care consumer has, is to go to court for the value of that lost treatment, plus $100 a day.

The amendment on liability which Senator GREGG offered went far beyond striking the liability provisions from the Democratic bill and would deny efforts to adequately compensate patients injured because of managed care plan decisions.

That's just not enough.

I think we've struck a reasonable compromise in our bipartisan bill. You're entitled to sue for economic loss which includes not only the cost of your health care, but lost wages, replacement services, and the value of lost wages and replacement services for the rest of your life based on the injury you've suffered.

And it allows for pain and suffering up to $250,000 or three times economic loss whichever is greater. It has pain and suffering but with a limit on it.

Another good example of our success in finding a sensible middle ground comes in the form of our plan's consumer information section, on which I have worked. Both the Democratic and Republican bills provide beneficiaries with information about coverage, cost sharing, out-of-network care, formularies, grievance and appeals procedures. One area of sharp difference is health plan performance. The Republican bill does not include any requirement that the performance of the plan, its doctors, and hospitals in preventing illness and saving lives be reported.

Our bipartisan alternative requires provider performance report cards because we believe this is critical information for consumers to have in deciding which managed care plan to choose. We also reached back to an earlier bipartisan bill I sponsored with Senator JEFFORDS to include waivers and other language to ease the difficulty of administration for HMOs, PPOs, and providers.

The bottom line here is that patients rights don't have to lead to political

fights. There is a path to dependable consumer protections that does not require detours to bash HMOs or our colleagues. We have pled with our leadership to give us the opportunity to offer our alternative as an amendment today and prove our case.

If not, I am prepared, and I believe our coalition is as well, to offer this proposal as an amendment to another legislative vehicle in the Senate this session. The American people deserve more from this critically important debate than high-glossed veto bait. We must show them that we take their concerns and our responsibilities seriously, and pass a law that will in fact improve the quality of health care for millions of American families.

Mr. SARBANES. Mr. President, this week the Senate is finally addressing an issue that is vitally important to the American people—managed health care reform.

The number of Americans who receive health care through managed care organizations continues to increase at a rapid rate. Today, approximately 75 percent of those with employer-provided health insurance are covered by managed care plans.

Although managed care was put forth as promoting both greater efficiency and higher quality health care, all too often the lure of greater profits has resulted in curtailing care to patients dependent on managed plans for their medical needs. The American people are rightly demanding more patient protections, and it is clearly time for Congress to act to guarantee all Americans certain fundamental rights regarding their health care coverage.

The Democrats in both the House and Senate have worked hard to convince the Republican Majority of the need to establish safeguards for patients in managed care. For a long time the Majority chose to ignore the patients' plight and refused to acknowledge the need for any patient protections at all. Last Congress we proposed a comprehensive set of reforms designed to ensure that patients receive the care they have been promised and have paid for. I am proud to be an original cosponsor of this Democratic bill again this Congress.

After seeing how the public responded to this Democratic initiative, the Republican Majority did draft a managed care reform bill. But, unfortunately their bill calls for only the most minimal reforms; in many respects it is a sham. In addition, until this week, they persisted in blocking the issue from being brought up on the floor.

However, the Democrats joined together in insisting that the needs of managed care patients be given careful consideration. After much hard work by the Minority leader and others, an agreement was reached under which patients' rights legislation could be brought up on the Senate floor this week.

The debate which has taken place highlights the difference between the Democratic and the Republican approaches to this issue. The Democrats seek to provide comprehensive coverage and protections; the Republicans are minimalist in both respects. Let us look at some of the differences: the Democrats' bill would protect all 161 million Americans with private insurance; the Republican proposal ignores the over 113 million people who work for other than the large self-insured employers, or State or local governments, or who buy their own insurance.

Our bill would guarantee basic patient protections to all consumers of private health insurance. The Republican proposal would cover only the employees of businesses that assume the risk of self-insuring their employees. Thus, the Republican bill leaves out more than 70 percent of the consumers of private health insurance.

The Democrats' bill provides patients with access to specialists, whereas the Republican bill is woefully inadequate in this regard. For those who are seriously or chronically ill, receiving treatment from a qualified medical specialist can mean the difference between life and death. Our Patients' Bill of Rights would guarantee that patients with special conditions could go to providers with the expertise needed to treat their particular problems, even if the needed specialist was not a member of a plan's provider network. Under the Republican bill, patients are not guaranteed access to the specialists they need and could be charged exorbitant fees for going to an out-of-network provider—even if the plan may be at fault for not having access to appropriate specialists.

The Democratic bill would prevent HMOs from arbitrarily interfering with doctors' treatment decisions whereas the Republican bill does not address this issue at all. The Republicans claim that our provision would allow doctors to order unnecessary care, but that is not the case. Under our bill, an insurer could still challenge a doctor's recommendation, but their denial of coverage would have to be based on medical facts not on their bottom line.

The Democratic bill would restore patients' ability to trust that their health care provider's advice is driven solely by health concerns, not cost concerns. It would prohibit the coercive practices used by managed care companies to restrict which treatment options doctors may discuss with their patients. The Republican bill would allow HMOs to continue terminating health care providers for having frank and candid doctor-patient communications and would allow HMOs to continue using incentives to bias a doctor's medical decision-making.

Managed care companies regularly refuse to pay for emergency room services without prior authorization. This unreasonable requirement has caused countless tragedies as people are forced to waste critical time finding an emergency room their HMO will pay for.

One of my constituents recently experienced this shocking treatment from an HMO. While hiking in the Shenandoah Mountains, she fell off a 40-foot cliff. She sustained fractures to her arms, pelvis, and skull but was quickly airlifted to a hospital in Virginia. Her HMO refused to pay the over $10,000 in hospital bills because she failed to gain ''pre-authorization'' for her emergency room visit. For over a year, she challenged her HMO and faced personal bankruptcy. Ultimately, the Maryland Insurance Administration ordered the insurer to pay the hospital and fined them for refusing to pay from the outset. However, her struggles with the HMO were not yet over. Within a year, after follow-up surgery for her injuries, she found herself again in need of an emergency room. This time she called the HMO beforehand, but was told they would pay only for her screening fees because the visit was not considered a medical emergency.

The Democratic Patients' Bill of Rights would guarantee that patients could go to the nearest emergency room during a medical emergency without having to call their health plan for permission first. Patients would have the right to receive the medical care they need without the limitations currently imposed by HMOs. The Republicans, on the other hand, would not guarantee patients access to the nearest emergency room and would not ensure that patients could receive full medical care without prior authorization.

Our bill would also provide patients with meaningful recourse if they are harmed by a managed care plan's medical decision-making. Today, there is nothing to discourage HMOs from denying critically necessary care. Thus, our bill creates a fair, independent, and timely appeals process through which patients could challenge a plan's denial of care. Under the Republican bill, HMOs could delay the appeals process indefinitely and many HMO decisions could not be appealed at all. Furthermore, where the Republican bill is silent, our bill would enable those harmed by the medical-decision making of HMOs to hold those HMOs legally accountable for second-guessing the advice of a treating physician. The Republican plan would continue to shield HMOs from accountability for conduct that results in injury or death to patients.

The American people need a meaningful Patients' Bill of Rights. That is why I strongly support the Democratic proposal put forward by Senator DASCHLE.

Mr. BAYH. Mr. President, in a few short moments we will be proceeding to our final votes of our four day debate on the Republican and Democratic

versions of the Patients' Bill of Rights. I am taking the floor this evening to explain why I oppose both these proposals and to express my support, again, for the bipartisan approach to managed care reform that I sponsored with my colleagues JOHN CHAFEE, BOB GRAHAM, JOE LIEBERMAN, ARLEN SPECTER, MAX BAUCUS and CHUCK ROBB.

One of the most difficult obstacles to meaningful health care reform is that there is an inherent tension between our two most important objectives.

The first objective is to ensure the highest possible quality care. Regardless of our vantage point on the political spectrum, we can all agree that the United States offers the best quality health care in the world. Men, women and children flock here from every corner of the globe to gain access to our physicians and our hospitals. Maintaining this high standard of care must be at the forefront of any attempt to reform the means by which Americans pay for their health care.

Seemingly at odds with the objective of highest quality care is the need to make sure that health care is affordable. The ability to cure disease or heal the injured is rendered almost meaningless if only a fraction of the population can afford it.

Spiraling health care costs have a negative impact upon society in a variety of ways—some obvious and some not so obvious. I well remember the situation in Indiana when I took over as Governor. In the midst of our worst recession since the 1930s, our Medicaid costs were increasing by 20% per year, an increase that mirrored substantial annual hikes in the private market.

One clear result was that workers around the state were losing insurance as business after business found themselves unable to pay for even basic health coverage.

But for both the state government and for those businesses that maintained health insurance, the spiraling increases crowded out funding for many other significant initiatives and investments. On the state level, paying increased Medicaid bills meant less for education, transportation and child care. For private businesses the choices were equally stark—pay increased insurance costs and in so doing postpone expanding the workforce, offering pay increases, investing in research or modernizing factories and offices.

In 1989, we began to make some very tough decisions in Indiana to bring the Medicaid budget under control; private businesses similarly began to turn to managed care. For the past ten years, those changes have helped to keep health care costs under control and have resulted in continuing insurance coverage without having to choose between offering health insurance or creating new jobs, or maintaining Medicaid or education funding.

But today, there is ample evidence—acknowledged by Democrats and Republicans alike—that the pendulum may have swung too far towards keeping costs down, and as a result, we are jeopardizing the quality of health care that Americans receive.

In trying to redress this imbalance, there are a few lessons that we learned in Indiana that were useful principles for me to keep in mind as this debate progressed.

First, and perhaps most importantly, any significant reform had to be market-based. Any attempt to have the government control the health care system would be doomed to failure.

The Chafee-Graham bi-partisan bill that I have supported since taking office is market based; it sets some basic ground rules but leaves that actual management of health care to the experts in the private sector—the patients, the doctors and the insurers.

Unfortunately, the Republican plan takes the concept of market-based reform to its illogical extreme. That plan falls far short of establishing even the most basic protections for people in managed care. Most egregiously, the Nickles-Lott bill would only cover a fraction—less than 30%—of the people who have private insurance. We have all accepted the idea that there ought to be some minimum protections and guarantees offered to those in managed care to prevent the abuses that we have witnessed over the past few years. But if all sides have accepted that principle, it seems very unfair that the majority would choose to leave nearly 120 million people out of the protections we all believe are necessary.

I strongly support the elements of the Democratic approach that advance these principles—access to specialists, proper emergency care, access to obstetrician/gynecologists, independent reviews of denial of care—but the bipartisan bill wisely avoids the one element of the Democratic Patients' Bill of Rights that I believe will drive health care costs up: expanded liability.

If health care costs do not remain under control, there are serious ramifications for both the national economy and for the American taxpayer.

The United States already pays more—expressed as a percentage of GDP—for health care than any other industrialized nation. A rise in these costs will have an appreciable negative impact upon our economic strength in an increasingly competitive global environment. With pressure from a unified Europe and resurgent Asia, the last thing this Congress ought to do is to help spur a dramatic rise in health care costs for a liability provision that is unlikely to make any American healthier.

And the American taxpayer is at risk if health care costs spiral out of control because it is the taxpayer who will foot the bill if hundreds of thousands of people are suddenly forced into the Medicaid system if they lose their health benefits. We simply, as a nation, cannot afford a return to the days when health care costs increased by double digits every year.

The bipartisan bill does allow some tightly controlled access to the Federal courts for suits that seek restitution for economic loss. It seems to me that before we expose health care plans and employers to unlimited liability and to punitive damages, we must at least try this limited, moderate approach.

Mr. President today we will face a test of whether Washington can still work. The American people will be watching to see if their cynicism and apathy towards the political process in general and Washington, in particular, will be deepened or whether we can put partisanship aside and restore their confidence in our ability to govern for the benefit of the nation.

Some in this chamber truly do not want to have any legislation that reforms the way in which HMOs operate; some do not want to have any legislation so that they can have an issue for the 2000 elections.

Neither approach serves the American people very well and that is why I support the bi-partisan bill as the only possibility to actually get something done. The Democratic proposal will not pass the Senate; the Republican proposal will be vetoed by the President and that veto will not be overridden. Compromise is the only possibility before us for success in this area.

The bipartisan bill strikes the right balance between additional patient protections and maintaining control of increasing health care costs. In the final analysis, we have a choice to make: do we choose to just give more speeches that won't help anyone, or do we try to get something done? Are we going to insist upon everything that we want, or will we put aside our partisan differences to get some of what the American people want?

It is my hope, even if that vote doesn't occur today, that the members of this Senate will pass the test by finally putting aside the rancor and bitterness of the past four days, to put aside the desire to score debating points off each other, and to rally around this centrist, responsible bipartisan bill that will give the American people the key components of HMO reform that they need and deserve.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I yield 3 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

I commend my colleagues from Rhode Island and Florida for their efforts to try to craft a bipartisan compromise.

We succeeded in putting together legislation that I believe would have led us to a bill that could become a law.

As Senator CHAFEE indicated, we are in a situation where a bill that is supported by an overwhelming majority of all of the health-related organizations—doctors, nurses, patients, and providers—is not going to enjoy enough votes on this floor to pass.

The bill that will pass is going to be vetoed by the President.

I hope we can find a way to crawl out of our fox holes and find the common ground that is necessary if we are going to address in a responsible way the issues and the concerns we have been talking about for this entire week. I commend the leadership for sticking to their agreement and giving everyone an opportunity to be heard. I regret there was no sense of compromise on the floor. It is important we do that. I hope we continue with that mission. I appreciate those who have worked hard to achieve that compromise.

I yield the floor.

Mr. GRAHAM. I yield 1 minute to the Senator from Arkansas.

Ms. LINCOLN. Mr. President, I, too, compliment our colleagues from Rhode Island and from Florida. We have had a train wreck in terms of the health care proposals we tried to present this week in the Senate.

For the past few days in the Senate we have had a lot of colorful charts and graphs. We have seen a lot of ads on TV paid for by special interest groups. There has been a lot of partisan maneuvering. What we haven't had, what the American people haven't seen, is a sensible, moderate debate on this critical issue of health care.

Tonight, I am very proud to join my colleagues in trying to provide emergency relief, to find the middle ground in this debate with the proposal that should be acceptable to the majority of the people, the Members of the Senate, and without a doubt is in the best interests of the American people.

This issue is of great importance to the American public and they are waiting to see if Washington—and more importantly, if the Senate—will be able to do their job. And that is to present a plausible response to the reforms that are needed in this Nation's health care program.

I applaud my colleagues.

Mr. GRAHAM. Mr. President, I yield 1 minute to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Florida.

It has been a spirited debate. We must acknowledge there have been impressive displays of party unity on both sides, but to what end? The end of the sound and fury is we will produce a bill we know the President will veto, and therefore there will be nothing done to help the American people with the problems they have with health care.

It didn't have to be that way. There was a third way. There was a third way that would have recognized and expressed something else the debate has concealed: The fact that across party lines we agree on about 70 percent of the topics we talked about. It was the aim of our bipartisan group to put that majority round of agreements on the bill. Unfortunately, we didn't have an opportunity to have it heard by our colleagues in this debate.

We will be back. We are going to submit our proposals and there will be another day.

I yield the floor.

Mr. GRAHAM. Mr. President, I will consume such time as remains on our side.

There are a series of winners and losers as we conclude this debate. The first winner is the status quo. We all know the result of the effort of the last 4 days will be nothing. We will be in exactly the same position as we were before we started.

The losers are all those American families who have genuine concerns about the way in which they are being treated—the arbitrariness, the inadequacy of services under their current health maintenance organization plan.

The winner is cynicism. The American people will again question whether their political institutions are capable of responding to serious public issues. The loser will be the opportunity we had to bring together in the best spirit of the Senate a bipartisan plan, an American plan that would have dealt with an American problem.

The Miami Herald editorialized yesterday that what the American people want is Senate action, not a showoff dictated by political consultants.

Unfortunately, that is what they have received.

We will continue the effort to fashion a reasonable bipartisan plan that will deal with the legitimate concerns, first of all, of the American people—not a small percentage of the American people. We will do so in a way that will be sensitive to the cost of health care but also sensitive of the fact that people should get what they contract for from their health maintenance organizations and will provide an enforcement mechanism that is meaningful.

This is not the last chapter in this debate. I anticipate that shortly we are going to have the rubble of a collapsed bill under the weight of a Presidential veto.

I urge my colleagues to use the time between now and then to think seriously about whether that is the last record we want to write on this important national issue. I do not think it is what we want. We don't want an issue. We want a result that will help American families.

The day to achieve that result is, unfortunately, not today, but it will come. Hopefully, it will come soon.

The PRESIDING OFFICER. The Democrat leader.

Mr. DASCHLE. I yield 8 minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if the Chair would be good enough to let me know when 5 minutes remain.

Mr. President, a little over 2 years ago, a number of Members were working with those involved in the health care field, those that have been injured because of actions taken by HMOs, and those doctors and nurses who believe that we could do better.

Tonight we are at a point in the development of a policy where we have seen a setback in terms of protecting patients. We have seen a setback in giving patients and their doctors the opportunity to make medical judgments, rather than having their medical judgments overridden by the economic judgments made by gatekeepers, accountants or insurance company officials. We have received a setback, but I, for one, am not discouraged. I believe that as a result of the last 4 days of debate not only do we have a better understanding about what is important, but I think the American people have a much better understanding.

I think the actions we can expect from the House of Representatives as we begin their debate and discussions starts at an entirely different level. I am very hopeful we will get a strong bill out of the House of Representatives.

I am absolutely convinced, as I stand here, that we will have the opportunity to resolve this issue in favor of the concept underlying the Democratic bill, a concept which as been supported by doctors, nurses, by children's advocates, women's advocates, and advocates for the disabled: that when doctors and patients make a medical judgment, patients will get the type of health care they have actually paid for and not be prevented from getting the best health care.

I am absolutely convinced that is a concept that will be accepted. It was not accepted during this debate. Others will have a different judgment on it. I believe that is inevitable. We have seen other battles where we have seen the inevitability come to pass. I am convinced of it.

I, for one, think this has been an enormously constructive and productive debate these last 4 days. Quite frankly, as one who has been fortunate enough to be involved in this debate, rarely have I seen—at least on our side—so much involvement by the Members, and their participation, their knowledge, their awareness and the wealth of experience that was brought to illuminate so many of these issues. I think that has to be to the benefit of the American people.

I am not discouraged. I regret that we were not successful, but we will continue this battle and we will be successful.

In conclusion, I do thank the majority leader and thank the Senator from Oklahoma, for they have responsibilities as leaders of this institution. I thank them for the way in which this debate has been developed and the structures for the discussion that have been afforded to us over the past days.

I thank in particular our leader, the Democratic leader, Senator DASCHLE. I thank Senator DASCHLE on behalf of those of us who feel strongly about this issue—it is not just, I know, those of us on this side. I am sure those on the other side also feel strongly but have come to different conclusions than those we came to about this issue. We would not have had the debate this week if it had not been for Tom DASCHLE of South Dakota. There are no ifs, ands or buts. This has been, I think, an extraordinary service to this institution, and I think it has been an extraordinary service to the patients and the medical professionals in this country.

I thank my colleague and friend, Senator REID, who was so much a part of the leadership, and of such help and assistance during this time.

I thank the members of our committee. I serve on a number of committees and have been proud to serve on all of them. But my heart is with the Health, Education, Labor and Pensions Committee. All of our members were extremely active. Senator DODD; Senator HARKIN; Senator MIKULSKI, who has been so involved in health care issues; Senator BINGAMAN; Senator WELLSTONE; Senator MURRAY; Senator REED—every one of these Senators has been so engaged and involved in this issue.

I pay tribute to our chairman, Senator JEFFORDS, for his courtesies, and Dr. FRIST, for his strong dedication to trying to find ways—which we were unable to on this measure. But I have respect and affection for the members.

I also thank so many others who were not on the committee who were so involved and engaged, particularly those on our side, although there were others on the other side.

I also wish to thank the many staff people who have worked on this issue this week and for the past two years. From my staff, David Nexon, my long time chief health advisor, Cybele Bjorklund, my deputy health advisor, who worked so ably on this legislation, Michael Myers, my staff director, for his leadership on this legislation, Will Keyser, Jim Manley, Connie Garner, Melody Barnes, Carrie Coberly, Matt Ferraguto, Jacqueline Gran, Jon Press, Ellen Gadbois, Stacey Sachs, Theresa Wizemann, Webster Crowley, Andrew Ellner, Paul Frey, Arlan Fuller, Sharon Merkin, Dan Munoz, Malini Patel, and Kate Rooney.

From Senator DASCHLE's staff, Bill Corr, Laura Petrou, Ranit Schmelzer, Mark Patterson, Jane Loewenson, and Elizabeth Hargraves; the staff of the Department of Health and Human Services and the Department of Labor; the staff of the Democratic Policy Committee; and the staffs of so many other Senators that have played a critical role during this debate.

I think, as always, their involvement and their support has been invaluable, permitting us to have a level of discussion which I think was worthy of this institution.

Finally, I want to say on this issue, as all of us would understand in our responsibilities, that we will be back. We may have a setback tonight, but I, for one, do not believe this is a setback in this issue. We will be back to fight, and fight, and fight again, and I believe ultimately to prevail.

I thank the Chair.

Mr. BYRD. Mr. President, I will vote against the Republican alternative to the Patients' Bill of Rights. All week long, I have supported amendments that would have strengthened the Republican bill and would have provided all privately insured Americans with meaningful patient protections. At each step along the way, the Democratic amendments were rejected.

There are major deficiencies in the Republican bill. The bill that will be passed by the majority covers only 48 million Americans who receive their coverage through self-funded plans. What about the 113 million that their bill leaves out? Don't those 113 million people deserve protections too? I believe that all 160 million Americans with private insurance deserve basic protections.

Another important weakness in the Republican plan, Mr. President, is that it does not provide patients the opportunity to hold their health plans responsible under state law. If a health plan's decisions lead to the injury or death of a patient, the plan should not be shielded from accountability.

I regret that the Senate narrowly rejected the Robb amendment, which I cosponsored. This amendment would have provided women with important access to their obstetrician/gynecologist (ob/gyn). The Republican bill does not allow a woman to designate her ob/gyn as her primary care provider.

Another major distinction between the bills is who makes medical decisions. Will it be the doctor or the insurance company? Unfortunately, the Republicans rejected our definition of medical necessity. Under our bill, plans could not deny benefits based on the insurance companies' definition of medical necessity instead of the doctors' definition.

The Democratic version of managed care reform includes access to clinical trials for patients with life-threatening or serious illnesses. The Republican bill provides access to clinical trials only for those suffering from cancer. In addition, their provision applies solely to 48 million Americans. Their bill leaves too many seriously ill Americans without the hope that experimental therapies through clinical trials provide.

I regret that the Senate has squandered this opportunity to enact a true Patients' Bill of Rights and provide important protections to all privately insured Americans. I feel I must vote against this bill that puts health plans' profits ahead of patients' well-being. I hope that we can revisit this issue one day and pass legislation that provides strong patient protections.

The PRESIDING OFFICER. The assistant majority leader.

Mr. NICKLES. Mr. President, I thank my colleague from Massachusetts for his statement, as well as Senator REID. It has been a pleasure to work with both. This has been a very productive and fruitful debate. As a result, we ended up with a very good bill.

I am going to call on several members of our task force who helped put this bill together and worked very hard, not just for a week, not just for this week but, frankly, for the last year and a half. We had countless meetings and a lot of people, a lot of staff, put in a lot of effort. This was an effort that we felt very strongly about because we wanted to improve the quality of health care without increasing costs and increasing the number of uninsured, and I think we have done it.

Mr. MCCONNELL. Mr. President, I come to the floor today to express my strong support for the Republican Patient's Bill of Rights Plus Act. As private health coverage has shifted toward coordinated care, many consumers are concerned that their health plan focuses more on cost than on quality. Many consumers fear that they might be denied the health care they need. To respond to these concerns, both parties have developed patient protection legislation.

Our colleagues Senators DASCHLE and KENNEDY have offered a proposal which I believe takes the wrong direction. Their bill tries to impose a one-size-fits-all solution in a manner which would override many of the reforms our states have decided—or, equally important, decided not to—enact. Their proposal includes liability provisions which will dramatically increase premiums and further expand the medical malpractice industry in this country. In fact, their bill should be called the ''Lawyers' Right to Bill'' not the Patients' Bill of Rights and the tragedy of their lawsuit saturated approach is that it would make health insurance unaffordable to 1.8 million Americans—including 30,000 Kentuckians.

I am pleased to say that we have crafted a better proposal for protecting America's families which is embodied in the Patient's Bill of Rights Plus Act. The Patient's Bill of Rights Plus

Act provides needed protections for Americans in a way which won't increase the number of uninsured Americans by driving up health care costs.

The Patients' Bill of Rights Plus Act guarantees access to emergency care. It requires plans to pay for emergency medical screening and stabilization under a ''prudent layperson'' standard. If we pass this legislation, we will never again have to hear heart-wrenching stories about families with desperately ill children who bypass the nearest hospital in order to make it to a hospital which is in their plan's network. Under our plan, if you have what a normal person would consider an emergency, you can go to the nearest hospital, period.

The Patients' Bill of Rights Plus Act would provide direct access to pediatricians and OB/GYN's. This commonsense provision would allow parents to take their children directly to one of the plan's pediatricians without having to get a referral from their family's primary care physician. Similarly our legislation would allow women to go directly to a participating OB/GYN, without having to get a referral from their primary care physician.

The Patients' Bill of Rights Plus Act also bans ''gag clauses''. Gag clauses are contractual agreements between a doctor and a managed care organization that restrict the doctor's ability to discuss freely with the patient information about the patient's diagnosis, medical care, and treatment options. Our legislation would put an end to this practice. I believe a doctor should be able to discuss treatment alternatives with a patient and provide the patient with their best medical advice, regardless of whether or not those treatment options are covered by the health plan.

The Patient's Bill of Rights Plus Act also provides strong, independent external appeals procedures to ensure that patients receive the care they need. Many Americans are concerned that their health plan can deny them care. If a plan denies a treatment on the basis that it is experimental or not medically necessary, a patient can appeal that decision. The reviewer must be an independent, medical expert with expertise in the diagnosis and treatment of the condition under review. In routine reviews, the independent reviewer must make a decision within 30 days, but in urgent cases, they must do so in 72 hours. As opposed to the Kennedy plan which mandates a broad, one-size-fits-all definition of medical necessity, our plan allows those decisions to be made on a case by case basis by an independent external medical doctor. Unlike the Kennedy bill which encourages lawsuits, the Patient's Bill of Rights Plus Act focuses instead on giving patients the care they need. After all, when you're sick, don't you really need an appointment with your doctor, not your lawyer?

The most troubling aspect of Senator KENNEDY's legislation is that it will further swell the numbers of uninsured Americans.

The Kennedy plan drives up health care costs and makes health insurance unaffordable for more Americans. According to the very conservative estimates of the Congressional Budget Office, the Kennedy Patients' Bill of Rights would increase insurance premiums 6.1 percent (Source: Congressional Budget Office Report on S.6, 4/23/99). This means that 1.8 million Americans would likely lose their health insurance.

In Kentucky, 30,095 people would likely lose their health insurance.

In California, 271,927 people would likely lose their health insurance.

In New York, 118,091 people would likely lose their health insurance.

In Minnesota, 36,315 people would likely lose their health insurance.

Even if the Kennedy bill does not pass, it is expected that health insurance premiums will rise an average of seven percent next year (Source: Towers Perrins 1999 Health Care Cost Survey 1/99). At a time when premiums are rising well above the rate of inflation, do we really want to pass legislation which raise premiums even more? The answer is clearly no.

Our Patients' Bill of Rights' Plus Act takes a better approach to the problem of the uninsured. While avoiding provisions which will drastically raise premiums, it includes important tax provisions to make insurance more affordable. Earlier this week we passed the Nickles Amendment which will allow self-employed individuals to deduct 100% of the cost of their health insurance. This is particularly important to the 124,000 of Kentucky's farmers, ministers, stay-at-home moms, and young entrepreneurs who are self-employed. According to a study by the Employee Benefits Research Initiative, nearly ½ (43.6 percent) of all workers in the agriculture, forestry, and fishing sectors have no health insurance. By allowing the self-insured to fully deduct the costs of health insurance, we are taking an important step in reducing the numbers of uninsured.

There are certainly significant differences between our two bills. However, no single issue distinguishes the two more than the question of liability. I believe we can and should find bipartisan agreement on the important issues of providing emergency care, ensuring direct access to pediatricians and OB/GYN's, banning gag orders, deductibility of health insurance for the self-employed, and a whole myriad of issues except for one thing: The Kennedy bill insists on new powers to sue. Leafing with abandon through the yellow pages under the word ''attorney'' is not what most Americans would call health care reform.

Simply put, I believe that when you are sick, you need a doctor, not a lawyer. I am opposed to increasing litigation because it will drive up premiums, drive 1.8 million Americans out of the health insurance market, prevent millions more uninsured from being able to purchase insurance, and aggravate an already seriously flawed medical malpractice system.

If 1.8 million Americans lose their health insurance, 189,000 fewer women will have access to mamograms and 238,000 fewer women will have access to pelvic exams. I have a question for the supporters of Sen. Kennedy's bill. What kind of reform makes preventative services less available? What kind of reform is that?

As if driving 1.8 million Americans out of the health insurance market wasn't reason enough to oppose the Kennedy bill, I am also strongly opposed to expanding liability because it will exacerbate the problems in our already flawed medical malpractice system. Typically these lawsuits drag on for an average of 33 months. Even if at the end of this 33 months, only 43 cents of every dollar spent on medical liability actually reaches the victims of malpractice (Source: RAND Corporation, 1985). Most of the rest of the judgement goes to the lawyers. That's right, over half of the injured person's damages are grabbed by the lawyers. Why would anyone want to expand this flawed system which is so heavily skewed in favor of the trial lawyers?

The Washington Post said last March that ''the threat of litigation is the wrong way to enforce the rational decision making that everyone claims to have as a goal'' (Source: Washington Post 3/16/99). More recently the Post said that the Senate should enact an external appeals process ''before subjecting an even greater share of medical practice to the vagaries of litigation'' (Source: Washington Post 7/13/99). The Los Angeles Times Editorial page called expanding liability to health plans ''bad medicine for both employees and employers'' and stated that ''The key to fixing ERISA is not in radical measures like more lawsuits. . .'' (Source: Los Angeles Times 2/29/98)

Mr, President, I have always felt that this debate is about improving private health insurance in America. That the debate was about providing better care, for more Americans not less.

We can and we should guarantee access to emergency services.

We can and we should ensure direct access to pediatricians.

We can and we should ban gag clauses.

We can and we should provide an independent external appeals process.

We can and we should provide full deductibility for the self-employed.

By voting for the Patients' Bill of Rights Plus Act, we will have taken all of these important steps and more. However, what we must not do is take action which will deprive 1.8 million

Americans of health insurance. Mr. President, I urge my colleagues to vote for this common-sense health care reform.

Mr. FRIST. Mr. President, I rise to address a point of some contention on the floor over the past two days. Two days ago, I twice quoted from Dr. Robert Yelverton, Chairman of the Primary Care Committee of the American College of Obstetricians and Gynecologists. The precise quotes were as follows: First, ''The vast majority of OB/GYNs in this country have opted to remain as specialists rather than act as primary care physicians,'' and second, ''None of us could really qualify as primary care physicians under most of the plans, and most OB/GYN's would have to go back to school for a year or more to do so.''

These quotes, which were taken from the New York Times, on June 13, 1999, were entirely accurate as reported by the Times. I ask unanimous consent to have printed in the RECORD the New York Times article.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the New York Times, June 13, 1999]

BEYOND THE HORROR STORIES, GOOD NEWS ABOUT MANAGED CARE

By Larry Katzenstein

Most health plans these days are some form of managed care. And for most families, it is the mother who decide which one to use.

''Women visit doctors more than men, and in a family situation, they may be the ones who have primary responsibility for taking children to the doctor,'' said Elizabeth McGlynn, the director of the Center for Research on Quality in Health Care at the Rand Corporation in Santa Monica, Calif.

Wendy Schoales, a homemaker in Everett, Wash., offered another reason: ''We're more picky.''

Mrs. Schoales's husband works or the Boeing Company, which, like many large employers, offers several health-plan options. Several years ago, when she switched her family from traditional fee-for-service care to managed care to cut expenses, an important motivation was her being able to continue to use the obstetrician and gynecologist who had delivered her first child, Ashlyn. ''When you find a doctor you like, you want to stick with him, especially when it comes to an ob-gyn,'' she said.

Two years ago, Mrs. Schoales's second child, Gavin, was born under managed care but with the same obstetrician and gynecologist. The care was just as good as it had been with Ashlyn, she said, and the cost was significantly lower. ''They charged us just one copayment for the whole maternity experience,'' she said.

For the same reasons, Katherine Davidge of Newton, Mass., also fared well under managed care during the births of her two children. Her experience in getting her managed-care plan to cover treatment for depression, on the other hand, was an exercise in exasperation.

Ms. Davidge's plan subcontracts mental-health services to another company, a common practice in managed care. ''I'd call this company and ask, 'Is Dr. X covered?' '' she said, ''And they'd say no. And then the same thing would happen for Dr. Y and Dr. Z. So, then I asked for a list of practitioners I could see, and it was really bizarre because they just wouldn't give us the list. They said they typically don't give it out.''

After several months of phone calls and letters, Mr. Davidge said, she received a list. ''It was so small that it was almost impossible for me to find somebody that I knew anything about,'' she said. ''So I gave up.''

Managed care would seem tailor-made for women. It provides a coordinated system of care that makes preventive services readily available—and women use preventive measures at twice the rate men do. Health-maintenance organizations and other managed-care plans remind members to come in for checkups. With a primary-care doctor to facilitate matters, plans are supposed to help route patients to the most appropriate specialist for their ailments—and all this for a more affordable premium and limited out-of-pocket expenses.

''One reason women's preventive services have always been such a leading issue in managed care is that two of the tests it emphasizes, Pap smears and mammograms, provide the best evidence that preventive testing saves lives,'' said Dr. Karen Scott Collins, an assistant vice president of The Commonwealth Fund, a philanthropic foundation in New York City that supports research on health and social policy.

Yet it is the darker side of managed care that has received Most of the attention in recent years—the follies and tragedies caused by restricted choice of physicians, barriers to needed care, delays in service, limitations on care and a zeal for cost-cutting.

Women, especially, could be excused for thinking that managed care is bad for their health, because some of the most highly publicized outrages attributed to health-management organizations, or H.M.O.'s, and other managed-care plans have involved women's issues: drive-by mastectomies, drive-by deliveries, coverage denied for what were regarded as promising breast-cancer treatments and refusal to let obstetricians and gynecologists be primary-care physicians.

The abuses attributed to managed care have caused a backlash in the form of legislation to make it more accountable, particularly to women. This includes the Newborns' and Mothers' Health Protection Act of 1996, which requires a minimum hospital stay of 48 hours after a normal vaginal birth and 96 hours after a Caesarean section, unless the mother and physician agree to an earlier discharge. Laws in many states mandate that women in managed care be given direct access to an obstetrician and gynecologist without a referral from their primary-care physician, and a Patients' Bill of rights Act pending in Congress would make choosing an obstetrician and gynecologist for primary care the law of the land.

Despite the mixed reviews that managed care gets from patients and physicians, findings from a 1998 Commonwealth Fund survey, announced last month, suggest that women in managed-care plans fare better in some important ways than those who receive traditional medical care.

''The joke about managed care is that it doesn't manage and it doesn't care,'' said Humphrey Taylor, the chairman of Louis Harris & Associates of New York City, which conducted the survey. ''But the findings from this survey suggest that managed care is serving women at least as well as fee-for-service medicine, and certainly better than some of the managed-care horror stories would suggest.''

The survey, conducted by telephone, involved 1,140 women with managed care and 351 women with traditional fee-for-service care, all of them younger than 65. Among the key findings were:

Women with managed care were more likely to identify a particular doctor as their regular source of care (87 percent of them did so versus 78 percent of those with traditional care).

Women with managed care were more likely to say that their health plan sends them reminders for preventive care (27 percent versus 18 percent).

Women with managed care were more likely to have seen an obstetrician and gynecologist as their primary care physician (66 percent versus 61 percent).

Women with managed care were more likely to have received a Pap smear in the last three years (74 percent versus 67 percent).

Among women 50 and older, those with managed care were more likely to have received colon-cancer screening (29 percent versus 20 percent) and to have talked with their doctor about hormone-replacement therapy (56 percent versus 50 percent).

One in five women under both types of coverage reported problems in gaining access to health care, like obtaining an expensive prescription or seeing a specialist.

But the survey has not made believers of many physicians who specialize in women's health. ''As a gynecologist, my biggest problem with managed care is the severe restrictions that have been placed on my ability to make independent decisions on how to treat disorders that might require surgery,'' said Dr. Robert Yelverton of Tampa, Fla., who estimated that 80 percent of his patients have managed care.

Dr. Yelverton said that one managed-care company requires a woman who is bleeding heavily from excessive menstrual flow and has excessive pain with her periods to be confirmed anemic and to be on iron supplements for three months without improvement before being allowed to have a hysterectomy.

That requirement ''is based on the premise that too many hysterectomies are done,'' said Dr. Yelverton, who said he believes that most obstetricians and gynecologists would first try hormonal treatment rather than surgery for such problems. ''But when that doesn't work, we have patients who are miserable,'' he said.

Dr. Yelverton, the chairman of the American College of Obstetricians and Gynecologists' primary care committee, said that one of the most highly publicized improvements is managed care, allowing a woman to see an obstetrician and gynecologist as her primary-care provider, ''hasn't worked out.''

''The vast majority of ob-gyns in this country have opted to remain as specialists rather than act as primary-care physicians,'' he said, attributing this to the stringent standards that managed-care plans have set for primary-care providers. ''None of us could really qualify as primary-care physicians under most of the plans,'' he said. ''And most ob-gyns would have to go back to school for a year or so to do so.''

Health care experts consider the measures assessed in the Commonwealth Fund survey—having a regular doctor or getting regular Pap smears—to be good indicators of quality of care. But the most crucial measures for evaluating any type of care are the results: diagnosing breast cancer at an early stage, for example. A study published last February in the Journal of the American Medical Association looked at this result

and found that in this case, too, managed care had the edge over traditional care.

The study involved nearly 22,000 women over age 65 whose breast cancers were diagnosed between 1988 and 1993. Researchers found that women enrolled in Medicare H.M.O.'s were generally more likely than fee-for-service patients to have had their cancers diagnosed at an earlier stage. And among women who underwent breast-conserving surgery, known as lumpectomy, the H.M.O. enrollees were significantly more likely to have received radiation, the medically recommended accompanying treatment.

So, where does that leave matters? ''With three-quarters of all insured women now in some type of managed-care plan, the time has come to shift the focus from whether managed care is better or worse than fee-for-service to making sure that women are receiving quality health care in whatever type of managed-care plan they belong to,'' said Dr. Collins, the Commonwealth Fund executive.

She and other health-care experts applaud a current voluntary program in which managed-care plans are graded on more than 50 measures, several pertaining to women's health.

This set of measures is known as the Health Plan Employer Data and Information Set. It is administered by the National Committee for Quality Assurance, a private, nonprofit organization also involved in accrediting managed-care plans. The committee's most recent compilation of information, known as Quality Compass 1998, includes Health Plan Employer Data scores and consumer-satisfaction data submitted by 447 commercial managed-care health plans that collectively cover 60 million Americans.

Some managed-care plans do not participate in the program. Others do but do not allow their scores to be publicly reported. But several large employers, including Xerox and General Motors, strongly encourage managed-care plans under contract with them to make their scores public. And some states, including New York, New Jersey and Maryland, require plans to release this information. Working with the committee, the states issue annual managed-care report cards through pamphlets and on their Web sites. The www.health.state.ny.us site has information for New Yorkers.

Regarding mammography screening rates, for example, New York residents can learn the names of the seven health plans—CDPHP, CHP/Kaiser, Finger Lakes, Health Care Plan, Healthsource HMO, HMO CNY and Preferred Care—that performed significantly better than the statewide average during 1996 and 1997, and the five health plans—CIGNA Health Care, MVP, Physicians Health Service, Prudential Health Care Plan and United Healthcare-NYC—that performed significantly worse.

Some physicians believe that these efforts are having a positive effect. One is Dr. Jeffrey Hankoff, a family physician in Santa Barbara, Calif., who takes care of a large managed-care population and is the medical director of an independent practice association, or I.P.A., a group of about 30 physicians who collectively negotiate contracts with managed-care plans.

''One thing managed care has brought to the table is that quality is the major focus and not a token effort,'' Dr. Hankoff said. ''Every time a patient writes a letter of complaint, our I.P.A. has a committee that reviews it. We're really attempting to make sure that people are getting the care they're supposed to be getting. In a managed-care operation, that's monitored all the time because the plans demand it and the Government demands it of the plans. It's something that managed care really hasn't received credit for.''

Look at the Stats, Talk to Friends

Here are steps that women can take for choosing a high-quality managed-care plan:

Ask your employer's benefits department if its plans make their Health Plan Employer Date and Information Set (Hedis) scores public, and ask to see them. ''You should prefer a plan that's willing to show its Hedis numbers,'' said Elizabeth McGlynn of the Rand Corporation in Santa Monica, Calif.

Find out whether a plan is fully accredited by the National Committee for Quality Assurance, and reject plans that have applied for accreditation and failed. Accreditation provides assurance that a plan has a quality-improvement program. Accreditation information for most plans is available on the committee's Web site (www.ncqa.org) or by calling (888) 275–7585.

Ask if the plan offers a specific program for women's health, has it own medical director for women's health, or has a network of providers that includes a women's health center. Then try to find out if they're more than gimmicks.

''There are certainly some issues of women's health that have been picked up by managed-care organizations purely for advertising purposes, to attract women,'' said Mark Chassin, chairman of the department of health policy at Mount Sinai School of Medicine in New York City. ''But it has been difficult for women to get customized or gender-based advice about important treatment issues such as heart disease, for example, where women have different risk factors from men and need to be managed differently and to consult with specialists who understand those differences.''

Talk to people in the plan. ''Word of mouth is probably underestimated as a good indicator of quality,'' said Donald Berwick, who directs the Institute for Health Care Improvement in Boston.

Consider the doctors. ''The most important aspect of quality in managed care is the provider you choose rather than the plan,'' said David Blumenthal, director of the Institute for Health Policy at Massachusetts General Hospital and Partners Health System in Boston. Because doctors belong to an average of eight plans, ''in most communities right now, most managed-care companies include most doctors in that community, so you can get almost any doctor on any plan,'' Dr. Blumenthal noted. ''The quality variations among plans probably mostly reflect the different doctors.''

For many people, the worst aspect of managed care is having to stop seeing a doctor who is not in the plan. So before joining a plan, find out if your doctor participates and, if not, what it will cost if you continue seeing that doctor.

Ask whether the plan covers prescription drugs. This is especially important for women taking hormone replacement therapy or oral contraceptives.

If you have children, ask if the plan provides baby-sitting or has provisions for combining child and adult visits.

Mr. FRIST. Unfortunately, before introducing these statements, I apparently misspoke and said, ''Let me share with Members what one person told me.'' I should have said, ''As Dr. Yelverton was quoted in the New York Times as stating.'' So, I wish to clarify the RECORD.

Dr. Yelverton has taken offense at my use of his quotes. In fact, he contends that I ''misused'' his quotes. At this time, Mr. President, I ask unanimous consent to have printed a letter from Dr. Ralph Hale, with an attached memo from Dr. Yelverton, into the RECORD, so that his views may be clear.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, July 14, 1999.

Hon. BILL FRIST,
Washington, DC.

DEAR SENATOR FRIST: As Executive Vice President of the American College of Obstetrics and Gynecologists (ACOG), I feel it necessary to clarify ACOG's position on the Robb/Murray amendment to allow women in managed care plans direct access to ob-gyn care. I've also attached a memo from Dr. Robert Yelverton, Chairman of ACOG's Primary Care Committee, correcting your misuse of his statements in a June 13 New York Times article.

ACOG and Dr. Yelverton fully support efforts in Congress, including the Robb/Murray amendment, which would enable ob-gyns to be designated as primary care providers. A recent ACOG/Princeton Survey Research Associates survey found that nearly one-third of all ob-gyns in managed care plans are denied the opportunity to be designated as primary care physicians. Ob-gyns are often the only health care provider many women see throughout their adult lives and are best suited to understand and evaluate the health care needs of their patients. While not all ob-gyns may choose to accept a PCP designation, all ob-gyns should have the opportunity to be designated as a woman's PCP under managed care.

We also strongly endorse the Robb/Murray amendment's provision that would require managed care plans to allow women direct access to the full array of covered ob-gyn services provided under the plan.

While the amendment failed yesterday on a 48 to 52 vote, we are hopeful the Senate will take up this important issue again. Dr. Yelverton and I urge you to vote in favor of these important policies.

Sincerely,

RALPH W. HALE, M.D.,
Executive Vice President.

TAMPA BAY WOMEN'S CARE
Tampa, FL, July 13, 1999.

To: Lucia DiVenere, ACOG Government Relations.

From: Robert W. Yelverton, M.D., Chairman, Primary Care Committee.

I received your fax tonight and offer the following in response.

I have never spoken directly to Senator Bill Frist (R–TN) or any member of his staff on the subject of OB/GYNs as primary care physicians or on any other subject. The quote that Senator Frist attributed to me on the floor of the Senate today came from an article in the June 13, 1999, edition of the New York Times. The article may be viewed on the New York Times website (go to www.nytimes.com, then click on Health and Science). I was contacted by the article's author, Larry Katzenstein, and asked to comment on the impact of managed care on women's healthcare in this country. In my interview with Mr. Katzenstein, I discussed ''barriers'' that managed care organizations have raised against the efforts of OB/GYNs

to become primary care physicians. The quote attributed to me by Senator Frist was from a non-quote in this article. I told Mr. Katzenstein that some managed care organizations have placed barriers consisting of such stringent (not ''high,'' as Senator Frist stated) standards for their qualifications as primary care physicians that most OB/GYNs would not be able to meet them without further training.

One objective of my comments was to demonstrate that the College's interests were to allow OB/GYNs to provide women's healthcare to their patients unimpeded by the cumbersome requirements of managed care referral systems. Mr. Katzenstein's article did not emphasize to the degree it should have that these were barriers to OB/GYNs being designated primary care physicians—not ''high standards''—as has been discussed repeatedly in meetings of the Primary Care Committee. I went on to say to Mr. Katzenstein that the qualification requirements that some managed care organizations impose on OB/GYNs in certain instances exceeded even those required of family physicians. He chose not to include that statement in his article.

Senator Frist's misuse of my statement in support of his position that OB/GYNs could not act as primary care physicians because of the ''high standards'' that managed care organizations set for primary care physicians, is regrettably misleading, to say the least, and does an injustice to the true intent of my statements.

I personally supported then and I support now the amendment sponsored by ACOG to allow OB/GYNs to act as primary care physicians and to allow direct access for women's healthcare and did, in fact, spend a portion of this very afternoon e-mailing my senators and encouraging them to vote in support of the amendment.

Please contact me at (813) 269–7752 after 9:00 a.m. tomorrow (Wednesday). I will be glad to discuss this matter with you at that time and will support any effort that you want to undertake to clarify this issue now on the floor of the Senate.

Mr. FRIST. The gist of Dr. Yelverton's complaint is that he was informed that I used his quotes to oppose an amendment which sought to allow OB/GYNs to be treated as primary care physicians. Dr. Yelverton supports allowing OB/GYNs to serve as primary care physicians and he supports ''direct access for women's healthcare.'' My position is that we should not be confusing the issue and saying that OB/GYNs—specialists—are ''primary care physicians'' and thus have the implied responsibility of serving as overall gatekeepers for insurance plans. Instead, I believe we should insure that women have direct access to OB/GYNs for obstetrical and gynecological care without going through a gatekeeper. In that spirit, I used Dr. Yelverton's reported quotes.

I continue to believe that our task is to see that women can have direct unimpeded access to OB/GYNs. We will do that, without saying that OB/GYNs must be designated as ''primary care physicians'' who are responsible for treating all aspects of the patient's health needs, including ear infections and the like. I sincerely believe that direct access to OB/GYNs is the issue, not whether we label OB/GYNs as ''primary care physicians.''

Mr. President, I yield the floor.

Mr. DEWINE. Mr. President, as debate draws to a close on managed care reform, I want to talk about a few of the key provisions that I strongly support in the comprehensive legislation developed by the Republican Health Care Task Force and my colleagues on the Senate Health Committee.

All throughout the process of developing responsible managed care reform legislation, I have shared the same overall policy goal held by most of my colleagues: to reform the managed care system without reducing quality, without increasing cost and without adding to the ranks of Americans who cannot afford health insurance. These are important issues for individuals and families.

Just as important to them, and to me, is the impact of managed care on the quality of health care provided to children. That issue, perhaps more than any other, governed how I examined and worked on this very important legislation.

Working with my friend and colleague from Tennessee, Senator BILL FRIST, I worked to ensure that the bill approved earlier this year by the Senate Health Committee protected the interests of families with children. The bill approved by the Committee and included in the Task Force bill provides for direct access to pediatricians. For any family, this is common sense. Pediatricians are general practitioners for children. Why should parents have to take their child to a primary care physician in order to be given permission to have the child see a pediatrician? This ''gatekeeping'' role is just not necessary.

That's why Senator FRIST and I worked to include language in the Committee-passed bill that lets parents bypass the gatekeeper. Under this bill, parents can take their child straight to the pediatrician. The Task Force bill also includes this language.

The larger debate concerns pediatric specialists. My view on this, based, I might add, on considerable personal experience, is that children are not simply a smaller version of adults. Fortunately, for the most part, children are proportionately healthier than adults. This means that for the small number of children who suffer from illnesses and conditions, they are the exception to the rule. To a parent who loves them, however, this is no consolation. Not only is their child suffering, but treatment can also be extremely expensive.

Children who suffer from cancer, to take one example, should be able to see a pediatric oncologist, not an oncologist who was trained to treat adults. That is why Senator FRIST and I worked to include in the Committee-approved bill an amendment that would require the practitioner, facility or center to have, and I quote from our amendment, ''adequate expertise (including age-appropriate expertise) through appropriate training and experience.'' By requiring age-appropriate expertise, we are saying that a child will see a pediatric specialist and an elderly patient will see a geriatric specialist. We are ensuring that the most vulnerable people—the youngest and the oldest—within our population are referred to the specialists who are trained to treat their particular age group. We have also clarified this language to ensure ''timely'' access to such specialty care.

Mr. President, let's not lose sight of our bottom line goal: to ensure quality health care without compromising access to care. We already have 43 million Americans who are without any health care coverage. Excessive mandates on the quality of care will only drive up the cost of providing care, and could price health care out of the range of affordability. Our legislative efforts must not add to the uninsured. Mr. President, employer-provided health insurance is strictly voluntary—employers do not have to offer health insurance to their employees. So, we are walking a fine line between ensuring that our nation's health care quality remains high, while still keeping such care affordable.

In my home state of Ohio alone, 1.3 million of 11 million Ohioans are uninsured—they have no health care coverage at all. Worse still, in Ohio we have 305,000 children who have no health insurance coverage. With health care costs estimated to increase by 7–8 percent due to inflation alone, it is clear that we should not add to this cost increase.

On this score, there is serious cause for concern. A Lewin Group study found that for every one percent rise in premiums, 300,000 more people become uninsured. The Congressional Budget Office (CBO) estimated that the Daschle-Kennedy Patients' Bill of Rights bill would increase health care premiums by 6.1 percent. That means an additional 1.8 million Americans would lose health insurance if that particular bill becomes law. Based on data provided by the CBO, that bill would add $355 each year to the average worker's health care premium. If that is not enough to drive Americans to the ranks of the uninsured, it will certainly add to the cost of living for American families.

I support the Task Force legislation, which CBO estimated would raise premiums by only 0.8 percent—that's eight-tenths of one percent. This legislation also would provide direct access to pediatricians and access to specialty care. This legislation would provide for an independent external review process for all adverse coverage decisions that

are based on a lack of medical necessity or investigational or experimental nature of the treatment. This process will better protect everyone, including children and the elderly, because it would ensure that the independent external reviewer assigned to review an adverse coverage determination has expertise (including age-appropriate expertise) in the diagnosis or treatment under review. All of these patient protections are included, while still keeping health care affordable.

I also support this legislation because it would help 317,000 Ohioans and close to 9 million other Americans nationwide who are self-employed, but can only currently deduct 45 percent of their health care costs. The self-employed are mainly farmers, family-owned and operated businesses, and independent business people and entrepreneurs. They represent the heart and soul of our economy, but the tax code treats these first-class workers like second-class citizens.

Mr. President, in the last several years, I have voted for legislation that would move this important tax break to full deductibility, which large corporations already have. By making such health care costs 100 percent deductible for the self-employed, we have the opportunity to reduce the ranks of the uninsured. We would be making health insurance more affordable, and more accessible for our country's self-employed workers and their families.

These are just some of the provisions that would improve our managed care system—improvements that would not compromise affordability and accessibility. That is why I will vote for the Task Force bill later today.

Mr. WARNER. Mr. President, this week the United States Senate has been debating the provisions of two pieces of legislation dealing with increased patient protections for individuals with health plans. The bill that I support is called the ''Patients' Bill of Rights Plus Act.'' The other bill under consideration is called the ''Patients' Bill of Rights.'' Though these bill have similar names, they differ greatly in what they will in fact accomplish. After I briefly summarize the major components of these bills, it will be clear that the title of the ''Patients' Bill of Rights'' is a misnomer. It will also be clear that the ''Patients' Bill of Rights Plus Act'' is a bill that is truly focused on the American people. Through its major components, this bill will provide consumer protections, enhance health care quality, and increase access to healthcare.

The Patients' Bill of Rights Plus Act contains a number of provisions that are key consumer protections. These provisions will greatly enhance the health plans of the 48 million Americans who are covered by self-funded group health plans governed exclusively by the Employee Retirement and Income Security Act (''ERISA'') and will enhance the quality of healthcare.

First, the Patients' Bill of Rights Plus Act has emergency care protection for consumers. Currently, some plans and managed care organizations require prior authorization for emergency department services and/or have denied payment for emergency room services if it turns out the patient's situation does not meet the plan or organization's definition of an emergency. As a result, a participant may be liable for the entire emergency room bill. This potential large cost to the patient, and the uncertainty of coverage, has a significant negative impact on the patient seeking emergency room care, even if such a visit is reasonable. What a tragedy it would be for a person to die because that person refused to go to the emergency room out of fear that coverage would be denied later?

The Patients' Bill of Rights Plus remedies this situation in a cost effective manner by requiring self-funded ERISA plans that provide coverage for emergency services to pay for emergency medical screening exams using a ''prudent layperson standard.'' The bill also requires these ERISA plans to provide coverage for any additional emergency care necessary to stabilize an emergency condition after a screening exam. Under the prudent layperson standard, an ERISA plan would be required to cover emergency medical screenings if a person with an average knowledge of health and medicine would expect that the absence of immediate medical attention would result in serious jeopardy to the individual's health. For example, let's say an individual is experiencing chest pain. Though I am not a doctor (my father was), I do know that chest pain could at least be a symptom of indigestion, heart burn, or a heart attack. If this individual went to the emergency room because of these chest pains, the prudent layperson standard would cover emergency screening, even if the heart pain turned out to be a case of indigestion.

Another problem that I continuously hear people complaining about is gatekeepers. Many plans require patients to visit their primary care physicians and obtain a referral before they can visit a specialty doctor. These gatekeeping provisions can, in certain circumstances, drive up the cost of healthcare, and also make it more difficult for patients to access appropriate medical care. Moreover, certain gatekeeping provisions fail to recognize that women and children have unique health care needs. The Patients' Bill of Rights Plus Act also remedies these problems by requiring self-funded ERISA plans to provide direct access to routine obstetric and gynecological (''ob/gyn'') care and routine pediatric care without requiring prior authorization.

Third, in addition to improving access to emergency care services, ob/gyns, and pediatricians, the Patients' Bill of Rights Plus Act ensures access to covered specialty care by requiring ERISA plans to provide patients access to covered speciality care within network, or, if necessary, through contractual arrangements with specialists outside the network. While this bill would not prevent a plan from requiring a referral by a patient's primary care physician in order to obtain some specialty services, the bill does require a plan to provide for an adequate number of visits to the specialist when the plan requires a referral.

Fourth, the Patients' Bill of Rights Plus Act also addresses the situation of when a patient's physician under a plan is terminated or is not renewed by the plan. This bill requires an ERISA plan to continue coverage with a patients' provider, if the patient is undergoing a course of treatment that includes institutional care, care for a terminal illness, or care starting from the second trimester of pregnancy. Coverage duration is for up to 90 days for a patient who is terminally ill or who is receiving institutional care. For a pregnant woman who is in her second or third trimester, coverage is required to be continued through the postpartum period.

In addition to providing these key consumer protections to the 48 million Americans who are covered by self-funded group health plans governed exclusively by ERISA, the Patients' Bill of Rights Plus Act creates appeals procedures for the 124 million Americans covered by both self-insured and fully-insured group health plans. These appeal provisions are essential protections to ensure that Americans receive the service and coverage they are entitled.

Simply put, the Patients' Bill of Rights Plus Act requires an internal and external review process under which consumers can appeal a plan's denial of coverage. A plan must complete a consumer's internal appeal within 30 working days from the request for an appeal. An internal coverage appeal can also be expedited, meaning the determination must be made within 72 hours, in accordance with the medical exigencies of the case, after a request is received by the plan or issuer. In the event that the plan denies coverage because the treatment was not medically necessary or appropriate or was experimental, the internal review must be conducted by a physician who has appropriate expertise and who was not directly involved in the initial coverage decision.

A consumer who is denied coverage and who loses an internal appeal still may have an avenue to pursue coverage through an external appeal. An external review is available when a plan has denied coverage based on lack of medical necessity and appropriateness and

the amount involved exceeds a significant financial threshold or there is a significant risk of placing the life or health of the individual in jeopardy. Once an external review is requested, a plan must select a qualified external review entity, in accordance with the medical exigencies of the case. The plan must select the entity in an unbiased manner and the entity must be: (1) an independent external review entity licensed or credentialed by a State; (2) a State agency established for the purpose of conducting independent external review; (3) an entity under contract with the Federal Government to provide independent external review services; or (4) any other entity meeting criteria established by the Secretary of Labor.

The external review entity then selects the independent expert to conduct the external review. This independent expert reviewer must have appropriate expertise and credentials, must have expertise in the diagnosis or treatment under review, must be of the same specialty as the treating physician when such an expert is reasonably available, and must not have certain affiliations with the case or any of the parties involved. This expert's job under the external review is to render an independent decision based on valid, relevant, scientific, and clinical evidence. This includes information from the treating physician, the patient's medical records, expert consensus, and peer-reviewed medical literature to assure that standards of care are reviewed in a manner that takes into account the unique needs of the patient.

This internal and external review process is integral to ensuring that patients get the medical care they need. Again, the bill provides for an Independent medical judgment by a qualified and non-biased medical expert. This will protect against the possibility that a health plan might try to ''short change'' its consumers. Our bill is a responsible approach that will not drive up costs and cause more Americans to lose health insurance coverage.

Sixth, the Patients' Bill of Rights Plus Act protects health insurance consumers against the use of a technological innovation that could prove costly to them. Scientists today believe that most people carry genes with certain characteristics that may place these people at risk for future diseases. Consequently, insurance companies could use this technology and charge higher premiums to those individuals who are genetically predisposed to certain diseases. The Patients' Bill of Rights Plus Act protects against this by prohibiting all group health plans and health insurance issuers from denying coverage, or adjusting premiums or rates based on ''predictive genetic information'' for the 140 million Americans covered by both self-insured and fully insured group health plans and individual health insurance plans.

Finally, this bill protects consumers and increases the quality of health care by protecting patient-provider communications. The communications are protected through the elimination of gag rules, which restrict physicians and other health care providers from discussing patient treatment options not covered by patients' plans. I believe in providing patients with the most information possible so that they can make informative healthcare decisions, in consultation with their health care provider. The gag rule prohibition in this bill will permit health care professionals to discuss treatment alternatives with patients and render good medical advice, regardless of whether the treatments or alternatives are covered benefits under the plan.

Not only does the Patients' Bill of Rights Plus Act provide consumer protections and increase health care quality, this legislation also increases access to the health care system. First, this bill expands the use of Medical Savings Accounts (''MSA''). These accounts were created in 1994 but are currently only available for employees of firms with 50 or fewer employees. This bill expands MSA availability to all individuals. This bill also loosens some of the restrictions on Flexible Savings Accounts (''FSA''). An FSA is an account which an employee can deposit money into to cover healthcare costs that are not covered by the plan. Current law, however, provides that any money in the FSA that is not used by the end of the year is lost. This bill would allow workers to keep up to $500 of unused FSA funds in tax-preferred accounts every year, giving those patients greater control over their health care. I have long been a supporter of giving Americans the ability to better control their own health care costs by purchasing special tax-preferred savings accounts for basic medical expenses. Finally, the Patients' Bill of Rights Plus Act expands access to health care by allowing self-employed Americans to deduct 100 percent of health insurance expenses from their taxes. Combined, MSAs, FSAs, and the full deductibility of health care costs for the self-employed will increase Americans flexibility in health care coverage options and decrease the number of uninsured.

Mr. President, this is just a brief summary that highlights some of the major provisions of the Patients' Bill of Rights Plus Act. As I am sure you can see Mr. President, that this bill is truly a Patients' Bill of Rights. This bill provides consumers with a number of protections against health plans and increases accessibility to the health care system. Consequently, I am proud to be a cosponsor of this important piece of legislation.

On the other hand, because I feel so strongly that we as a Congress must work toward increasing accessibility to the heath care system, I feel compelled to speak out against the so called ''Patients' Bill of Rights.'' This bill, by prescribing more mandates, more regulations, more bureaucracy, and more lawsuits, will certainly raise the costs of health care and close the access door to many Americans.

Health care costs are already high in this country, and many Americans cannot afford health insurance. According to Dan Crippen, director of the Congressional Budget Office, there were approximately 43 million Americans under the age of 65 that lacked health insurance coverage in 1997. As health care costs continue to rise, who do you think is going to pay for the increased cost? Well, I am fairly certain it will not be the insurance companies or the health care providers. Rather, increased costs will be passed on to the consumers through higher premiums and reduced benefits. That means the consumer will have to bear the cost by paying higher premiums for their health plans and receiving less benefits. Higher premiums for consumers mean even more Americans will be unable to afford health insurance coverage.

Mr. President, I believe the United States Congress should pass a Patients' Bill of Rights that provides consumer protections and does not result in people losing access to the health care system. The ''Patients' Bill of Rights'' does not achieve these objectives.

The Congressional Budget Office has conducted a cost estimate of the ''Patients' Bill of Rights.'' The original cost estimate of this bill was that it would increase premiums 6.1%. It is not difficult to understand that higher premiums are likely to result in some loss of health insurance coverage. If you increase costs, some people will not be able to afford health insurance. Americans should not have to choose between the basic necessities of life like food and shelter and health insurance. Mr. President, given the number of uninsured Americans and the prospect of increasing health care costs, the ''Patients' Bill of Rights,'' by increasing premiums by 6.1%, is simply irresponsible.

Predicting the exact number of Americans that will be uninsured if the ''Patients' Bill of Rights'' becomes law is difficult. However, the numbers the experts keep telling me are that this bill will result in over 1 million Americans losing their health insurance coverage. Of this over 1 million Americans, an economic consulting firm estimates that this bill will cause over 34,700 Virginians to lose their health insurance. Let me reiterate this point Mr. President. The experts have been telling me that due to the 6.1% premium increase in the ''Patients' Bill of Rights,'' over 1 million Americans and approximately 34,000 Virginians are likely to lose their health insurance. This, Mr. President, I cannot accept.

Mr. President, legislation that will cause so many Americans and so many Virginians to lose health insurance coverage is not a true Patients' Bill of Rights; therefore, I am unable to support the inappropriately titled, ''Patients' Bill of Rights.'' On the other hand, the Patients' Bill of Rights Plus Act is a true Patients' Bill of Rights. The Patients' Bill of Rights Plus Act increases access to the health care system and provides key consumer protections. I am proud to be a cosponsor of this legislation, and I urge my colleagues on both sides of the aisle to support this true patient protection piece of legislation.

Mr. BINGAMAN. Mr. President, over the past few days, my Democratic colleagues and I presented a number of arguments which clearly laid out the need for managed health care reform.

The ability to hold insurance companies accountable for their decisions is a critical element in ensuring the overall quality of patient protections.

While we will continue to present our case in a variety of ways, I would like to take this opportunity to relate a story that was shared with me just a few weeks ago about a young girl from Albuquerque, New Mexico.

Anna, 6 years old at the time, was a very active and energetic young girl and excited about entering first grade that year. One evening, Anna went with her parents and her brothers and sisters to a softball game. She and other children went off to play in an area near the softball field. Suddenly, some of the children came running towards the adults, screaming for help. Anna had caught her foot in a gate. Her foot was bleeding profusely and she was in agonizing pain. She was immediately rushed to the local emergency room.

After Anna was examined by her doctor and after a conversation with her family's HMO, it was determined that Anna would not be admitted to the hospital that night.

Anna's family reluctantly took her home that night where she was in pain throughout the evening. Her family was forced to watch their small, frail daughter lay in bed in agony.

The next morning, her mother was worried because Anna's foot was purple, swollen, and cold. Anna was in tremendous pain and had a fever. Her parents did not hesitate any longer and Anna was rushed back to the emergency room.

This time she was admitted immediately and treated on an emergency basis, but it was too late and her family's worst fears were realized. Anna had a raging infection that had already destroyed half of her foot which had to be amputated.

Anna had two surgeries and spent 6 weeks in the hospital. She will live with this deformity forever.

Unbelievably, her family's HMO has delayed paying for the 6 weeks she was in the hospital to have her foot amputated and grated at a cost of $23,000.00.

Anna's family paid for the protection of health insurance. What they received in return was a possible delay of critical medical service which has left Anna disfigured and has ruined her family's credit.

To the amazement of anyone who hears this story, under current law, Anna's HMO will not be held accountable for their decisions.

Under the Democratic plan, Anna and her family would have legal recourse like any other American has in this country when they are wronged by a business.

The Democratic plan simply states that if a patient is injured or killed as a result of an insurance company's decision, the insurance company can be held liable under state law.

Let me be clear. This will not open the flood gates to more litigation and raise the cost of health insurance.

It doe not override states' rights. It simply says that whatever rights a given state chooses to grant shall not be blocked by federal legislation.

Without adoption of the Democratic plan, stories like Anna's will continue to be told. I understand Anna is quite a young girl and she will go on. But she and her family will struggle with this nightmare.

The Democratic plan is not about lawyers—it is about people like Anna and protecting their rights.

Anna, her family and millions like them in this country are waiting for us to do just that.

Mr. GRASSLEY. I commend the leadership, Senator LOTT and Senator NICKLES, and the minority leader, Senator DASCHLE, for coming to an agreement to bring this very important legislation, the Patients' Bill of Rights, to the Senate floor for debate. I know this is a politically charged issue, but I believe there is enough in common on both sides of the aisle to pass a good, strong, bipartisan bill. At the end of the day, we can have legislation that will provide patients with the necessary protections they want, and deserve, without driving up the cost of insurance so high that we add to the number of uninsured.

Many of the provisions in the bills that have been introduced during this Congress and last Congress are similar to provisions I put forth in my Medicare patient bill of rights bill or S. 701, which was adopted as part of the Balanced Budget Act of 1997. The cornerstone of my Medicare legislation was an expedited appeals process with a strong independent external review procedure and user-friendly, comparative consumer information so Medicare enrollees could make informed choices about their health plan options. Although the Medicare program already had an external review process, there were problems with the timeliness of reviews, particularly in urgent situations where a patient's health was in jeopardy. My bill codified the appeals process to ensure that these situations would be rectified. Independent reviews would be completed in 72 hours when considered urgent and 30 days for non-urgent situations.

My legislation also addressed another problem with the Medicare program. The program did not offer enrollees clear, concise, and detailed information about health plan choices and beneficiary rights in managed care. As more and more plans entered the Medicare market, it became increasingly clear that beneficiaries needed access to detailed, objective information about their options and about the protections they have under the Medicare program. S. 701 included new requirements for the program to provide enrollees comparative and user-friendly consumer information that became the foundation for the National Medicare Beneficiary Education program that is in existence today.

In addition to the expedited appeals process and the consumer information program, S. 701 contained other items like prohibiting gag clauses in Medicare managed care contracts, offering a point-of-service option, and assuring access to specialists when medically necessary. Not all of these provisions were included in the Balanced Budget Act of 1997, but I am proud to say most were and, as a result, Medicare beneficiaries enjoy these rights today.

Senator JEFFORDS' bill reported out of committee, and the Republican leadership bill, S. 300, also share many of the patient protections I advanced for Medicare for individuals currently insured under the Employee Retirement Income Security Act (ERISA). While there have been some who have criticized the Republican bill for not covering all insured individuals, the reality is most individuals are covered under state consumer protections. However, for the 48 million people who are solely covered under ERISA, our bill would provide them similar protections to what most individuals enjoy today under their state laws. Furthermore, our bill would extend the two most fundamental and important protections to all employer-sponsored plans—an appeals process with a strong external review mechanism, and detailed, user-friendly consumer information so that individuals can make the best health plan choice possible for their needs. Our bill would not duplicate state regulation, thus avoiding unnecessary costs and regulatory burdens for employers. These costs ultimately get passed on in the form of lower wages, reduced health benefits, and fewer jobs.

To argue that the cost of this additional regulatory burden, and I might

add this unnecessary cost, is worth it because everyone should have the same federal protections is short-sighted and just plain wrong. Health insurance coverage is a benefit that Americans want and desperately need. It is a benefit that employers voluntarily provide. If we require that all plans, even those already regulated by the state, be subjected to any new federal law, we will increase the cost of providing health insurance coverage. There is no dispute here. We have the figures from the Congressional Budget Office. In fact, the CBO provided us with a breakdown of the cost of each new patient protection. And guess what? The costs go up as we mandate more government regulation. This is not rocket science, this is common sense.

We need to ask ourselves as members of the Senate if we want to jeopardize the health insurance coverage of hard-working Americans for our own political and personal gain. We have guaranteed health insurance, so we don't need to worry about losing our coverage. But what about the voters, the people we are supposedly trying to help with this bill:

Should we pass this bill without regard to the cost or the impact it will have on people's coverage?

Should we be telling our constituents who are content with their health plan that the cost doesn't matter because what matters most is helping people who were harmed by their managed care plan?

Should our response be to folks back home that they should be willing to pay more for protections they already have under state law so that the federal government can step in to do what the states are already doing?

In addition to the rise in premiums patient protections will most certainly cause, the private sector is now predicting health care costs will increase even further than anticipated. A recent survey released by a human resources consulting firm indicates health insurers and health plan administrators expect HMO costs to increase 6 percent. Point-of-service plans are expected to rise 7.7 percent. According to a General Accounting Office (GAO) report, a 6 percent premium increase will result in approximately 1.8 million Americans losing their health insurance. This is without Congress taking any action. If the Democrats had their way, we would be adding another 5 to 6 percent on top of the 6 percent increase already projected. What good are patient protections when you don't have any health insurance? And the costs of higher insurance premiums are not only measured by the loss of coverage. Families will have to make choices between a better education for their children; preparing for retirement; starting a business; or simply affording to each out on occasion just to pay their higher premiums to keep their health care coverage.

The survey goes on to cite reasons for these higher than expected premium increases. At the top of the list of reported reasons is new state and federal mandates. Do not be mistaken. The impact of increased regulation is real. And the cost is far greater than some monetary figure or percentage increase can possibly demonstrate. We are talking about peoples' health insurance coverage, and ultimately their health. For research has shown there is a direct correlation between a person's health and whether that person has insurance.

The Republican bill attempts to target protections where no state protections exist under ERISA. It provides two fundamental federal protections to all employer-sponsored plans. One of these provisions, which will offer patients the ability to solve disputes with managed care plans, is the appeals process. This provision, in my estimation, would solve many of the problems people experience with their managed care plans. This approach, unlike the Democratic approach, would provide assistance to the patient when they need it the most—at the time when care is needed. What good is it to know you can sue your health plan when your health has already been harmed or worse yet, you are dead? What good is to sue when most of the money ends up in the hands of trial lawyers?

Our bill would allow for any dispute regarding medical necessity decisions or a treatment determined to be experimental by the plan to be appealed to an external independent review board. This board would be made up of medical experts in the area of dispute. The appeals process would be timely, independent, and binding on the health plan. Patients would get health care when they need it, not a lawsuit after its too late.

The other new Federal protection that is fundamental to consumer choice is the availability of consumer information. The Republican bill would establish new disclosure and detailed plan information requirements for all employer-sponsored plans. This information would be available to people to ensure they understand what their plan covers, how it defines medical necessity, what they should do when a dispute arises, and much, much more. This provision will enable patients to make decisions about their health care and will create greater competition among health plans to provide quality care and service.

Throughout this debate we must remember what the purpose of this legislation is. We must not let rhetoric cloud our judgment about what will truly benefit patients and not special interest groups. We must remember this debate is about patients; not trial lawyers; not doctors; and not bureaucrats in Washington. We need to act responsibly to pass a bill that will provide meaningful patient protections while preserving the health insurance coverage of millions of hard-working Americans. Again, I ask the fundamental question we must consider. What good is a patient bill of rights when you don't have insurance?

Republicans and Democrats agree on a number of issues that really matter to our constituents. We should be able to pass a bipartisan bill with those provisions we all support. Both sides may have to compromise. But that is part of making the legislative process work. I ask my colleagues to remember on whom this debate should focus on. Let us not forget, it is the patients' bill of rights.

Mr. MURKOWSKI. Mr. President, today I rise to join my colleagues in the important debate on ensuring the health care rights of patients across America.

Our nation has the best health care in the world, yet there is a growing concern over changes in how most Americans receive health care. Individuals once accustomed to choosing a doctor and paying for medical treatment are now thrown into managed care systems or HMOs. Too often for the patient, HMO rules, restrictions and concern for profit seem of more consequence than providing quality health care.

The Republican plan, called Patients' Bill of Rights Plus, is a direct response to patient concerns. In a nutshell, the Republican bill guarantees affordable, quality health care and provides access to the best doctors and specialists available.

The Republican bill will protect the unprotected by establishing a Bill of Rights for patients whose plans are not already regulated by existing consumer protection laws. Under our bill, patients will have the right to talk openly and freely with their doctor about all treatment options; the right to coverage for emergency care; and the right to see the doctor of their choice.

It will make health insurance more affordable and accessible by accelerating full tax deductibility of health premiums for the self employed; and expanding the Medical Savings Account pilot program to all of America.

It will empower patients by providing a timely and inexpensive appeals procedure for all patients who are denied coverage by an HMO.

Why is the Republican plan a better alternative?

The Democrat bill, called ''The Patients Bill of Rights Act,'' may have a similar title to the Republican bill, but the two bills represent entirely different approaches to the role of government in health care:

The Democrat bill encourages litigation.

Our plan insures patients will get the care they need, not a trial lawyer

knocking at their door. It creates a fair and efficient process to resolve disputes with HMOs.

The Democrat plan, will enhance lawsuits, not the delivery of health care. Mr. President, health care cannot be improved through the court system.

The Democrat plan creates massive Federal bureaucracy. The Democrat plan regulates all health insurance at the federal level—thereby pre-empting state laws. The Democrat plan is a litany of federal mandates on private health insurance. It's one step closer to a federal take-over of America's health care system.

The Democrat plan is a ''one-size-fits-all plan.'' The Democrat bill squeezes patients into a one-size-fits-all health plan. The Democrat plan puts one of the most ineffective agencies, the Health Care Financing Administration, in charge of it all!

Maybe that works in Massachusetts, but it won't work in my State of Alaska. Let me explain.

The Federal Intrusion in Alaska doesn't work. Mr. President, a one-size-fits-all'' approach doesn't fit Alaska's health care needs. Let me tell you the facts:

Alaska contains the most rural, remote areas in the nation;

Alaska is 74 percent medically underserved; and most importantly;

Alaska is a state in which the Federal Government, and in particular, the Health Care Financing Administration, just doesn't understand.

Let me tell you about three health care problems in Alaska that were exacerbated by Federal intrusion:

Federal intervention threatens to destroy Alaska's Rural Physician Residency Program. Alaska's rural health care problems are tough. Physician turn-over rate is high. At Bethel Hospital, 4 of the 16 primary care physicians on staff leave every year. Many villages populated by 25–1,000 individuals never even have access to physicians.

The result is that bush Alaska has the highest rates of preventable diseases in America. Doctor Harold Johnson, head physician of the Alaska Family Residency Program described the physician needs of Alaska as follows:

> The history of physician turnover, isolation and general burn-out had been continuing in bush Alaska settings without any sign of improvement for the last 45 years. The Alaska Family Practice residency is a vital program designed to train a workforce to handle bush Alaska's harsh conditions, isolation and unique culture.

I worked to protect that residency program with specific language in the Balanced Budget Act, but still this important program is threatened.

Why? Because the Health Care Financing Administration (HCFA) improperly interpreted my language, thereby preventing our doctors from training in rural Alaska and other rural areas across the nation. Senator COLLINS and I had to introduce legislation to stop HCFA from harming these rural programs. It's this agency, HCFA, that Democrats now ask to run health care for most of America.

HCFA ignores Alaska's Medicare access problems. Access to health care is the over-riding problem for Alaska's elderly. Fourteen of nineteen primary care physicians in a major hospital in Anchorage will no longer accept Medicare patients. Why? Because doctors in rural areas lose money on Medicare patients in rural areas.

I have stated my concern over and over to the Health Care Financing Administration, but was ignored. As a matter of fact, the Administrator of the agency testified before the Finance Committee on February 26, 1998 that her agency has found ''no overall problem with access to care'' anywhere in the nation.

Why is HCFA ignoring rural America? I have been working with her agency for the past year to educate them—and have even brought representatives up to Alaska. But the problem persists.

Once again I stress that HCFA is not the agency to run all of America's health care. HCFA's approach of a one-size-fits all'' solution never seems to consider rural America.

And, lastly,

Health care access is denied to King Cove, Alaska. This debate is about ''patients rights''—about the rights of American citizens to have certain guarantees when they need medical attention. But when I think of King Cove, Alaska, I can't help but note a certain level of hypocracy by the party on the other side of the aisle.

It was one of the last votes Congress cast last year, ''The King Cove Health and Safety Act of 1998''—here's the background.

King Cove is located in the westermost part of Alaska and is accessible only by sea or air. Air traffic is often completely stopped due to a combination of prevailing northernly winds, heavy snows, strong crosswinds and turbulence.

Since 1981, there have been 11 air crash fatalities and countless other air crashes and injuries from the King Cove airport. One fatal accident involved a medivac flight headed for Anchorage.

The people of King Cove came to Congress to ask for access to health care—to ask for permission to build a small gravel road to a nearby, 24-hour, ''all-weather capability'' airport in the town of Cold Bay. Permission from Congress was needed because the Department of Interior prevented the gravel road from crossing a mere seven miles of federal property.

I am not talking about the ability for a King Cove resident to get an M.R.I., or the ability to choose their own specialist. I am talking about the most basic of all health care rights—access—the ability to simply get to a hospital.

My bill to allow that access was vigorously opposed by the Democrats. And President Clinton threatened a veto. Why? Because a big ''one-size-fits-all'' federal law prevented a 7-mile road. Once again those big ''one size fits all'' laws don't seem to fit Alaska.

Sadly, the majority of Democrats last year voted to deny the most basic right—access to health care—to Alaska residents. So the Democrats can ''talk the talk'' all they want about HMOs, and access to emergency rooms, but when it came time to ''walk-the-walk'' for the people of Alaska, they could not and would not do it.

I ask my colleagues, how can we be on the floor of the Senate debating what happens to a person after he gets to a doctor or hospital when many here were unwilling to provide Alaskans with access to that doctor or hospital?

Mr. President, that is what Federal intrusion has done to health care in Alaska. Again I stress that a ''one-size-fits-all'' package doesn't work in rural America.

Public health is too important to be sacrificed to such a big-government vision.

I favor patients rights that will strike against government control of the health-care system; I favor a plan that makes coverage more affordable and puts patients in control of their medical care; I favor the Republican bill.

I yield the floor.

Mr. MCCAIN. Mr. President, over the past four days, we have cast many difficult votes. Often, as you know, several issues are addressed in a single amendment or series of votes. Therefore, in order to ensure that my positions on these matters are fully understood by my constituents, I ask unanimous consent that an explanation of my votes on health care amendments be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

SENATOR MCCAIN'S VOTES ON PATIENTS' BILL OF RIGHTS

7/15/99: Kerrey Amendment #1253—JSM voted no because it was too broad in scope requiring an unlimited continuation of care from all plans with too many exceptions causing excessive costs for patients. Failed 48–52

7/15/99: Collins Amendment #1243—JSM voted yes because it made long term health care more affordable while also expanding direct access to obstetric and gynecologist care for women; providing timely access to specialists; and expanding patient access to emergency care. Passed 54–46

7/15/99: Ashcroft Amendment #1252—JSM voted yes because the amendment tightens up the external review process, making it more independent of the influence of insurance companies, and because it moves toward requiring insurance companies to pay for the costs of individuals participating in clinical trials. Amendment was adopted 54–46.

7/15/99: Gregg Amendment #1250—JSM voted yes because the amendment eliminates the provisions in the Democrat bill that would allow excessive and unnecessary litigation. He believes, however, that patients should be permitted reasonable and limited access to the courts to recover compensatory damages when denied proper health care by their insurer. Amendment was adopted 53–47.

7/14/99: Dodd Amendment #1239—No recorded vote on text of Dodd amendment regarding insurance coverage for individuals participating in clinical trials and access to approved drugs and devices; text of amendment was eliminated by adoption of Snowe Amendment #1241.

7/14/99: Kennedy Amendment #1242—JSM voted yes because he believes the patient protections afforded by the underlying legislation should be extended to as many people as possible, without precluding states from establishing additional protections. Amendment failed 48–52.

7/14/99: Snowe Amendment #1241—JSM voted yes because the amendment establishes requirements for extended coverage and overnight hospital care for mastectomies and similar procedures. Amendment was adopted 55–45.

7/14/99: Bingaman Amendment #1243—JSM voted no because he felt it did not fully address the problem which is why he preferred the amendment offered by Senator COLLINS providing timely access to specialists while also expanding access to emergency room services, women access to obstetric and gynecological care and expansion of deductibility of long-term care to individuals. Failed 47–53.

7/13/99: Santorum Amendment #1234—JSM voted yes because the amendment provides for full deductibility of the costs of health insurance for self-employed individuals and restates states' rights to regulate health plans which are not exempt from state control. Amendment was adopted 53–47.

7/13/99: Graham Amendment #1235—JSM voted no because the amendment would allow individuals to receive non-emergency care in emergency facilities if a non-life threatening medical condition was discovered during the course of treatment for a life-threatening condition. He supported the language in the amendment mandating that all patients have access to emergency facilities, but felt that authorizing post-stabilization care in an emergency facility would open the door for people to receive a litany of unauthorized, costly health services if they come into an emergency room under the pretense of a life-threatening condition. Conditions discovered during the course of an examination in an emergency facility, should be handled through the normal referral process using non-emergency doctors and facilities. Amendment failed 47–53.

7/13/99: Nickles Amendment #1236—JSM voted yes because the amendment waives the requirements of the underlying legislation if their implementation would result in a 1 percent increase in premiums or make health care unaffordable for 100,000 Americans. Amendment was adopted 52–48.

7/13/99: Robb Amendment #1237—JSM voted no because the amendment would eliminate the threshold exemptions in the Nickles amendment #1236. He supported the provisions of the amendment that required coverage and established minimum hospital stays for patients undergoing mastectomies and related procedures. These provisions were subsequently adopted in the Snowe Amendment #1241. Amendment was defeated 48–52.

7/13/99: Frist Amendment #1238—JSM voted yes because it made health plans accountable for their actions and delivery of medical care to patients. 52–48.

Mr. GORTON. Mr. President, as a parent and grandparent, I know there is nothing as important as taking care of one's family, especially if a family member is sick. If your daughter gets hurt, you want her healed. If your dad is ill, you want him to get better. It's human nature. Our compassion and desire to help our loved ones is limitless. Caring for your family is as natural as breathing. That's why good medical care is so important to all Americans.

Health care is about security, it's about peace of mind. It's very personal. It's about your doctor, your hospital, and your health care plan. It should not be about attorneys, paperwork, and the massive federal government.

America is blessed with the best medical care in the world, but the quality of our health care will be jeopardized if we fail to prepare for the challenges of this rapidly developing field.

As Congress takes a hard look at the health care system, we need to take a step back from the partisan bickering so often associated with the political system and instead do what's best for our families.

So as this debate in Congress ensues, I will support proposals, from either party, that will make health care better.

These are the principles I advocate:

Ensuring that Americans have access to the highest quality health care available;

Making sure that your medical decisions are made by a doctor;

Access to healthcare that is affordable; and

Creating opportunities for families that are now uninsured to buy health care coverage.

Washington families from Poulsbo to Pullman should have access to the best available care when they need it. Congress should implement common sense consumer protections for patients not covered by existing state laws.

Patients should be able to go to the nearest emergency room without worrying about whether that hospital is a part of his or her insurance plan's network. They should simply get the care they or their families need.

Woman should also have direct access to their ob-gyn for their health care needs, and children need to be able to see pediatricians who specialize in children's health care.

The patient-doctor relationship is unique and very personal. Patients should be able to choose their physician; under the Patients' Bill of Rights Plus Act, which I support, they can.

Patients should also be confident they are receiving the highest quality health care. It is difficult to keep abreast of the new developments and treatments in the fast-changing world of modern medicine. We have learned more in the last five years about how to improve health care than we learned in the prior 25 years. We need to make sure that hard-working doctors have the tools and the best information they need to provide the best care.

Should patients have recourse if they think their plan has been negligent or unfairly denied them treatment? Absolutely. We need to look at models that work during this debate, and adopt health care reforms that move the standard of patient care forward, not back.

Some in Washington, DC want to complicate the health care equation. Instead of a quick resolution and access to care when patients need it, patients would have to wait years for the courts to resolve the issue. The problem with that philosophy is that lawsuits are after the fact—the damage is already done. We should focus on quality health care and on treating patients, not spending all time in court. After all, you can't sue your way back to health.

Who benefits if we have more lawsuits? Clearly not the patients. One GAO study from 1987 found that cases with merit below $50,000 were unlikely to be pursued by plaintiff's attorneys. And, the time to payoff—if any—takes on average 33 months to be resolved; and medical malpractice claimants only received 43 cents on the dollar.

Their plan would allow employers to be sued. But, for many small businesses one lawsuit would put them out of business. In fact 57% of small businesses said they would drop health care coverage for their employees rather than risk a lawsuit that could put them out of business. That is not good for families.

I believe there is a better way. Patients should be able to hold their health plans accountable. New internal and external appeals provisions give all patients in group health plans that ability. If a patient believes his plan wrongly denied coverage for a health care service he can access a timely internal review conducted by the plan. If he still disagrees with the plan's determination, a patient can ask for an independent review conducted by a doctor who is a specialist in the area of dispute. The decision of the external review is binding on the plan and the court is able to award monetary penalties if the plan does not comply.

There are those in Washington, DC that would extend the arm of the federal government into your families' health insurance—requiring you to pay for benefits you may or may not need. The Congressional Budget Office concludes that the bill offered by the Democrats would cause premiums to rise by 6.1 percent, or $355 per family.

Ultimately, increased costs mean more American families can't afford insurance. The Lewin Group estimates

that for every 1 percent increase in premiums 300,000 people lose their insurance coverage. A 6.1 percent increase would put health care out of reach for 1.8 million more Americans. In Washington state it means as many as 50,000 more Washingtonians may be unable to afford health insurance. That's unconscionable.

Instead, insurance coverage needs to be more accessible to American families. One way to do that is to allow full deductibility of health insurance costs for those who are self-employed—the same benefit many businesses receive. Employees who pay for their families' insurance premiums should also be allowed that same tax deduction. Medical Savings Accounts should be made more broadly available—37 percent of the people currently enrolled in the MSA pilot program were previously uninsured.

Our mandate is clear: ''first do no harm.'' This time-tested creed of the medical profession applies to this debate. The challenge is to provide common sense improvements to the current system but not at the expense of increased costs, more uninsured families, fewer health care choices, and another layer of government bureaucracy between patients and their doctors.

Let me add, Mr. President, that I think it is important that we have this debate. But, unfortunately, both parties are engaging in political gamesmanship and procedural antics on the Senate floor; each hoping to prove it is the champion of the health care issue. What's the end result? A debate—but, just a debate.

That result—no real progress—seems to me the exact result that political Washington, DC is hoping for. Where there was a glimmer of bipartisanship—for example on amendments that would give patients access to clinical trials or end the practice of drive-thru mastectomies—politics reigned.

In the meantime, there is a growing crisis in our rural areas as seniors continue to lose access and choice in their health care options. We know that as mandates pile up the cost of providing health care increases. Yet, the Administration's answer to Medicare has been across the board reductions in payments to hospitals and insurance plans. Just two weeks ago a number of plans decided they could no longer afford to do business in Eastern Washington. There is now only fee-for-service in most of Eastern Washington meaning seniors will end up paying more for fewer benefits.

Earlier this week, I attended a hearing at which rural hospital administrators testified about the impact of Medicare changes on access to care for seniors in rural areas. As the Administration develops payment systems, and issues its regulations and guidance for Medicare, I continually hear from the medical community, particularly those in rural areas, that the payment reductions and increased paperwork burden are simply intolerable. If hospitals and doctors can no longer do business in rural areas it ultimately means that the quality of care for seniors and other families living in our rural communities is in jeopardy.

We must work towards more choice, access and quality care for all Americans; for those who may be in group health plans, the subject of this current debate, but also for seniors and those Americans living in rural communities.

Congress' focus should be to create new opportunities for covering the uninsured by enacting provisions to make health insurance more affordable and accessible. We should pass common sense patient protections for those who are currently unprotected by state laws and all patients should be able to hold their health plans accountable.

After all, health care is about security, it's about peace of mind, it's about your doctor, and your hospital; but most importantly, its about your family.

Mrs. SNOWE. Mr. President, I rise today to express my strong support of the Patients' Bill of Rights. This bill will provide needed reform to our managed care system and ensure some basic patient protections for those with health insurance who do not fall under state jurisdiction.

This week the Senate debated an issue that goes to the heart of the personal security of every American. . .an issue that underlies all other issues. . .that cuts across racial lines, income levels, gender, or profession. Health care in this Nation affects all of us, touches all of our lives. And I am pleased that we are having this opportunity to discuss how we can ensure that health care delivery in the new century never loses sight of its most important component—the patient.

We need to have this discussion because, to paraphrase the recent car commercial, this is not your father's health care system. It isn't even the system we knew ten or fifteen years ago. Not so long ago, health care was delivered on a fee-for-service basis. Today, an explosion of advances in medicine and technology along with the advent of managed care, HMO-based networks, have changed the face of health care in America. And it is time to take stock.

We need to ensure that medical decisions are dictated by patients and their doctors—not the fine print on an insurance policy. And we must do so in a way that doesn't step on the toes of sound policies already put in place by individual states and doesn't substitute endless courtroom litigation for immediate medical treatment.

As more and more people enter into managed care plans, we hear of more and more problems—in some instances, it seems that patients are barely off the operating room table before they are sent home, whether they are ready or not. Or patients are denied access to a treatment or the specialist they need—something my state staff hears time and time again from constituents.

I happen to think that medical tests and medical doctors should be driving medical decisions, not actuaries or accountants. In all too many cases, it seems as though health care has become too much about crunching numbers and not enough about healing patients.

Indeed, the whole drive toward managed care has been prompted by an effort to contain and reduce health care costs in this nation—by itself, a worthy goal. And by-and-large, managed care has proven less costly than the traditional fee-for-service system—in fact, last year, the average premiums for traditional fee-for-service plans were almost 20 percent higher than HMO premiums and about 7 percent higher than premiums for preferred provider organizations.

But the question is, at what price? There is a real feeling among many Americans that, in some far off place, bureaucrats they will never see are making decisions that will dictate the quality and level of care they will receive. There's a real feeling that the average American has little say in what is probably the most deeply personal issue there is—and that the dollar sign is more compelling than any X-ray or MRI.

This bill addresses these concerns in a number of important and effective ways, all designed to put patients first.

This bill recognizes that medical emergencies are just that—emergencies. If you are being rushed to the hospital with a heart attack, that's hardly the time to have to phone ahead for prior approval—under this bill you'll know you're covered.

This bill protects a patient's right to hear the full range of treatment options from their doctor. It is outrageous that patients are often denied the best possible information just when they need it most, and this legislation would make these so-called ''gag clauses'' a thing of the past.

This bill would allow parents to bring their children directly to pediatricians, instead of having to go through primary care physicians. How much sense does it make that some managed care plans consider pediatricians to be specialists? The last time I checked, being a child is not a sickness—children deserve the quick and direct access they need to doctors who are really just general practitioners for kids, and under this bill they get it.

This bill would protect one's right to see a specialist. If a patient believes that seeing a specialist is the only way to get a sound diagnosis, they should not be denied that option.

And finally, this bill allows patients who are pregnant, terminally ill, or in the hospital to continue to see their current doctor, even if that doctor is no longer participating in the patient's health care plan. It's unconscionable that, after seeing a doctor who knows your condition better than anyone else, you could be asked to return to square one—and that would no longer happen under this legislation.

I realize that both parties have identified some of the more pressing problems with managed care, and both have laid out ideas on how to address these problems. And I truly believe that Senators on both sides of the aisle are concerned with what they've seen and heard from their constituents. The point that must be made here is that it is not so much our goals that differ, but rather the path we take in getting there.

And one of the most glaring differences is the way we approach existing state laws. Not surprisingly, many states have already beaten us to the punch when it comes to patient protections, and this bill respects the work they have done by complementing, rather than undercutting, their efforts.

Maine, for example, banned so-called ''gag clauses'' back in 1995, provided direct access to ob/gyns in 1996, and instituted the prudent layperson standard for emergency care in 1998. Wouldn't it make a lot more sense for the federal government to focus on fixing what's broken, instead of the problems that states like Maine have already fixed?

Yet, the Kennedy-Daschle bill asks us to overturn all the laws duly passed by 50 state legislatures and substitute then with a ''father knows best'' approach. It basically says, ''thanks for all your efforts on this issue—now step aside and let the real experts take over''. We think a better idea is to complement, not displace, state decisions and this bill does just that by providing benchmark protections for patients who are not already covered by State regulated plans.

We also take a different approach when it comes to disputes over care, emphasizing swift access to providers over the slow grind of the legal system. Under this bill, if an individual has a problem with a decision about their health, they can appeal, under an expedited process, to an independent party who is an expert in the condition being reviewed.

Why? Because what patients need first and foremost is medical relief now, not legal relief later. If I were sick today and I didn't believe I was getting the care or treatment I needed, I would rather see a doctor than a lawyer. The bottom line is getting well, and this bill would rather put medication ahead of litigation.

Finally, let me just say that I believe no patients bill of rights could be complete without a provision to protect against genetic discrimination.

Every day, scientists are finding links to a whole host of diseases. An estimated 15 million people are affected by over 4,000 currently known genetic disorders. Today, testing is available for about 450 disorders—but testing is useless if people are afraid to take advantage of it for fear of insurance discrimination.

No wonder then a reported 8 out of 10 people who undergo genetic testing pay for it out of their own pockets. Others simply forgo testing altogether. And still others refuse to participate in important medical research.

This is a travesty that must be remedied, and it would be remedied by this bill, which includes a provision I authored that provides absolutely fundamental protections against genetic discrimination in health insurance. This language has a long history—I first introduced these protections in the 104th Congress in conjunction with Representative LOUISE SLAUGHTER in the House.

Since then I have worked extensively with Senators JEFFORDS and FRIST to ensure that this bill effectively addresses the need for protections against genetic discrimination in the health insurance industry.

Americans should not live in fear of knowing the truth about their health status. They should not be afraid that critical health information could be misused. They should not be forced to choose between insurance coverage and critical health information that can help inform their decisions. They should not fear disclosing their genetic status to their doctors. And they should not fear participating in medical research.

We have laid out stringent, tough, and sensible guidelines that allow people to use the information that can be obtained from genetic testing without fear. Any of my colleagues who have heard me talk about genetics know about my constituent, Bonnie Lee Tucker, who is afraid to have a genetic test for breast cancer—despite the fact that she has nine immediate family members who have had this killer—and despite the fact that she believes this information could help protect her daughter. Why? Because she is afraid it will negatively impact her ability and her daughter's ability to get insurance.

Our language ensures that people who are insured for the very first time, or who become insured after a long period of being uninsured, do not face genetic discrimination. It ensures that people are not charged exorbitant premiums based on such information.

It ensures that insurance companies cannot discriminate against individuals who have requested or received genetic services. It ensures that insurance companies cannot release a person's genetic information without their prior written consent. And it ensures that health insurance companies cannot carve out covered services because of an inherited genetic disorder.

In short, it ensures that Bonnie Lee Tucker, and the thousands of Americans like her, can take advantage of the latest scientific breakthroughs to protect their health and well-being without losing their insurance coverage.

There will be no issue more important in the 106th Congress than the one before us this week. No issue affects people more personally than health care, and we have a real responsibility to ensure that any changes we make put the patient's interests first. I believe this legislation puts patients first without unnecessary bureaucracy, without excessive involvement from the federal government, without trampling the laws already on the books in all fifty states, without increasing the costs of insurance or increasing the number of the uninsured.

Mr. BUNNING. I rise in opposition to the Kennedy health care bill and in support of the Republican alternative—the Patients' Bill of Rights Plus.

Mr. President, when the rhetoric starts heating up, it is often difficult to tell exactly what is going on.

However, it has been my experience that quite frequently, the best way to determine where people are headed is to look at where they have been. You can often tell where people are going if you look back to where they are coming from.

And, quite honestly, I get a little nervous when I hear people talking about providing a bill of rights for patients that sounds very enticing. Without looking into the facts, I get a little nervous because I know where the supporters of the Kennedy bill have been.

I know where the President has been. We know where they are coming from on health care.

Where are they coming from? Well, back in 1994, these same people were trying to sell us on Clinton Care—the President's misguided proposal which would have taken away a patient choice and freedom and which would have put the Federal Government in charge of the Nation's entire health care system.

Fortunately, that proposal was rejected by Congress and the American people. It failed because it was recognized for what it really was—a big government proposal that would have moved us closer to single-payor, government-run health care system.

And the American people made it clear back in 1994 they simply didn't have a great deal of confidence that letting the Federal Government run health care would be any kind of improvement.

Now, the debate has changed. We are talking about ''expanding patients' rights.'' And who can be against that?

But if you look at the people who are talking the loudest about these new

rights, you will see the very same folks who supported Clinton Care—and who have consistently supported single payer, socialization of medicine all along. And that should concern everyone.

Have they changed their spots? I don't think so.

Be that as it may, even if you ignore the past and simply accept the Kennedy bill as a stand-alone measure that has nothing to do with past congressional efforts to put the Government in charge of health care, there are some very good reasons to oppose it. And there are some equally strong reasons to support the Republican alternative.

The reasons to oppose the Kennedy bill are simple. It will increase health care costs. It will increase the number of people who have no health insurance coverage dramatically. And it will seriously threaten our existing system of voluntary employer provided health care insurance.

It promises new ''patient rights'' which sound appealing at first blush, but when you look at it a little closer you discover that the costs are awfully high and the only ones who really benefit from those new rights are the lawyers and the bureaucrats.

I would like to talk about a couple of the problems that I see with the Kennedy bill and then point out a couple of the reasons that the Republican alternative is better.

First is the scope of the Kennedy bill—who will be affected. Today, much of the health care is regulated under the Federal ERISA statute—the Employee Retirement Income Security Act.

Today 42 million Americans get health care insurance through their employer as part of a plan that is directly governed by ERISA.

But, an even larger number—84 million—get their insurance through health plans that ERISA leaves to State regulation. Under the Kennedy bill, this would change.

The scope of the Kennedy bill is so broad that the States would be cut out of health care regulation. Uncle Sam would be in the driver's seat.

That's not what we want. One of the reasons the Clinton health bill failed was because Americans were suspicious of the Federal Government making health care decisions.

Many of us believe these decisions need to be kept as far from Washington as possible. The States have a role to play. Mr. President, even in Kentucky where our States general assembly has made some mistakes with health care recently, we want to keep working before turning everything over to Uncle Same.

So, the scope of this bill is troubling.

But even more troubling is the cost of the Kennedy bill. That is what health insurance is all about in the first place—the cost of health care.

And cost is certainly the one single health care issue that Kentuckians talk the most to me about. The cost of insurance premiums, prescription drug prices, medical equipment.

People are worried about their bottom lines. They are worried about how much is going to come out of their pockets. They want to know if they are going to be able to continue to afford to take care of themselves and their families.

For the folks who are worried about costs, the Kennedy bill is definitely the wrong prescription because it will increase costs, it will raise prices and it will swell the number of uninsured American families.

The nonpartisan Congressional Budget Office reports that the Kennedy bill would raise health insurance premiums 6.1 percent above inflation over the next three years.

In Kentucky this translates into $190 in higher insurance premiums that families would have to pay each year.

The worst part of these higher costs is that they mean fewer Americans will be able to afford health insurance.

CBO estimates the Kennedy bill will cost 1.4 million Americans their health insurance.

As many as 30,000 Kentuckians could lose their insurance coverage because of the higher costs imposed by the Kennedy bill.

According to at least one estimate, all of the new regulations and mandates in the Kennedy bill will cost almost $60 billion.

Somebody is going to pay those costs. Insurers are going to pass their costs along to the employers. And the employers will have to make a decision on whether to pass those increases along to their employees. And some of them may decide to drop the health care benefits they currently offer to their employees altogether.

So, that's the bottom line. the Kennedy bill of rights will mean that fewer people have health insurance—and those who still have it, will pay a lot more for it.

On the other hand, the GOP plan addresses health care quality without significantly raising costs. It would increase costs less than 1 percent.

That's a mighty big difference for the 1.4 million Americans who would be priced out of the market by the Kennedy bill, and for the millions of other Americans who would have to pay more out of their pockets for higher premiums.

A new bill of rights doesn't help you much if you lose your insurance coverage because you or your employer can't afford the premiums.

Our bill doesn't drive up costs, and it won't cause more Americans to lose their coverage because it doesn't have all of the new mandates and new regulations that the Kennedy bill does.

In fact, the Republican alternative actually includes provisions to help expand the availability of health insurance coverage and to help reduce the costs of insurance.

Our bill makes health insurance premiums 100 percent deductible immediately. That makes health insurance more affordable for 125,000 Kentuckians and millions more across the country who are self-employed.

The Republican bill also would lift the cap on the number of medical savings accounts that can be set up. Currently there is a national limit of 750,000. Our bill would allow every American who wants to set up a medical savings account the opportunity to do so.

MSAs might not be the right thing for everyone, but they make sense for a lot of families and they can really cut costs for many of them.

Our bill also improves on the existing ''flex accounts'' that many employees use to get health insurance coverage through cafeteria plans. Right now, many employees can use flex accounts to help cut medical costs and save money. Our bill would give employees even more flexibility to shift their coverage from one insurer to another and to make sure they can continue to see their own doctor.

Our bill contains these provisions to help reduce the costs of health care, and to expand health insurance coverage. The Kennedy bill includes none of them.

Over 40 million Americans have no health insurance coverage at all. The last thing we should do here in the Senate is pass legislation that is just going to make that number rise.

But that is what will happen if we pass the Kennedy bill. The supporters of this legislation claim that they want to give more rights to patients, that they want to protect Americans from the HMOs and the big insurance companies.

But, instead, their bill is an empty promise that would actually give Americans fewer rights. You can't have patient rights to fight your insurer if you can't even afford to buy insurance in the first place.

Imposing more regulations and more requirements on employers and insurers might have a gut appeal, but in the end it's not going to fix anything. It's only a placebo—a sugar pill—that turns out just to be an empty promise that won't cure this patient.

The next issue I want to address has to do with liability and lawsuits.

Everybody has heard the horror stories and a lot of Americans are becoming more and more worried that they are not going to be able to get the care they need because their insurance company refuses to pay for the treatment their doctor recommends.

When that happens, the question for patients becomes—what do you do if your insurer disagrees with your doctor?

The Kennedy bill's answer to this question is simple—it says sue your HMO or your employer. Sue your insurance company. Go to court and let the lawyers fight it out about your health care.

Under current law, patients can already sue their HMO in Federal court, and many of them are doing this. But, the Kennedy bill goes a step further and sets up a litigation lottery by lifting the Federal preemption and making it easier for patients to sue in State courts too.

The bill's supporters make a big deal out of liability and say that lawsuits are the best way to hold HMOs and employers accountable for decisions. And at first, suing your HMO—the big bad insurance company—might sound like a good idea, a sort of rough justice.

But I don't think anyone really believes that getting lawyers involved and going to court is the best way to obtain better medical care.

If your insurance company denies you coverage for a specific problem or a specific treatment, and you need medical care quickly, suing is not a very effective answer.

And I don't see how suing an employer about your health plan is going to help make things better. It's just going to make it more expensive, and give employers an incentive not to offer health care to their employees.

If you do sue under the Kennedy bill, there is no telling how long you are going to be in court, even if you can afford to pay a lawyer to take the case. And going to court to get a judge to rule on medical decisions isn't going to help a patient get help any more faster.

More lawsuits are only going to clog up the courts and increase legal bills, and in the end that is just going to drive up health care cost.

According to the General Accounting Office, it takes 33 months—almost three years—to resolve the average medical malpractice claim.

Some take much longer, and most patients can't wait that long for medical care.

Everyone knows that there are too many lawsuits in America. We hear it all the time. Most of the time in Congress, we are debating changes to the liability rules to cut down on litigation, to keep matters out of the courts.

For instance, we just passed the Y2K bill to give businesses and high tech firms more incentives to fix problems before they occur.

That's what we should do with health care. It just doesn't make sense to say we are going to improve health care by filing more suits in our courts. Making it easier to sue insurance companies or employers is a knee-jerk, feel-good reaction that isn't going to help anybody get medical care any faster.

On the other hand, the Republican bill says that if you are a patient and you think you're not getting a fair shake from your insurer, you can immediately appeal for a speedy internal review of the case. No lawyers, no courtrooms, no legal games.

And, after that review, if you think you still aren't being treated fairly, you can demand a quick and timely independent review by outside experts.

The Kennedy bill claims to have external reviews too. But the bill's primary focus is on making it easier to sue, and that means the primary arena for external reviews is going to be the courts.

The bottom line, Mr. President, patients already can sue their HMOs in Federal court. They have that right today.

But instead of encouraging quick resolutions of disputes, the Kennedy bill encourages even more lawsuits in State courts. This will only shift scarce resources from the operating room to the courtroom, and that's the last thing we need.

You can't sue yourself healthy.

In conclusion, Mr. President, I would like to tell my colleagues about what happened in Kentucky when our State adopted a health care bill that increased regulations, took away patients' freedoms and injected the government further into medical care. It's a living example of what could happen is we passed the Kennedy bill.

A couple years ago our general assembly passed a Clinton-lite health care bill. Back then we heard a lot of the same arguments that we do now about the need for more regulations and more government involvement in health care.

The proponents argued that the government had to step in to protect patients from insurers and to hold the line on costs.

Well guess what happened in Kentucky? We passed a big government health plan with all sorts of new mandates on insurers. The legislation was designed to protect patients, and give them more rights by the power of government intervention.

What happened was predictable. The insurance companies fled Kentucky in droves. For a while there were only two insurers who would underwrite individual health plans in our State—Blue Cross/Blue Shield, and State Government. That's it. Everyone else left us high and dry.

The number of uninsured Kentuckians rose. Costs increased. Medical care became more expensive and harder to get.

Since then, our State legislature has been backtracking and paring back those regulations and mandates. And guess what. Insurance is becoming more available again and prices have stabilized.

That's the sort of situation we are looking at if the Kennedy plan passes. More regulation, more government in your personal life, higher costs, and worse health care. It happened in Kentucky, and it can happen in the rest of the country if we pass the Kennedy bill.

Mr. President, I urge my colleagues to oppose the Kennedy bill. It's the wrong prescription for America. We know that more regulation and more government aren't the answer, but we have to keep fighting this battle.

It wasn't the answer in the Clinton health bill, it wasn't the answer when we passed health care reform in Kentucky, and it's not the answer today.

If you want higher medical costs, if you want more uninsured Americans, if you want more government rules and fewer choices for individuals, then support the Kennedy bill.

But, Mr. President, that's not what we really need. We need more affordable, more available, health insurance. We need a reliable, fast, and fair system of reviews to keep insurance companies honest but we don't need a flood of lawsuits. That is what the Republican bill offers.

Mr. McCAIN. Mr. President, our personal health and the health of our loved ones is the most valuable thing we possess. Unfortunately, we often take good health for granted until tragedy strikes and the health or well-being of a family member is jeopardized by disease, accident, or the ills often associated with aging. This is when we fully appreciate the value of good health, as well as the importance of access to quality health care.

When one of us or a loved one becomes ill, the obstacles of daily life become insignificant in comparison to ensuring the best health care services are available to ensure a full and speedy recovery. Our priority instantly becomes seeking and receiving the best possible care from qualified medical professionals.

Unfortunately, too many Americans feel powerless when faced with a health care crisis in their personal life. Many feel as if important, life-altering decisions are being micro-managed by business people rather than medical professionals, and too many Americans believe they have no access to quality care or cannot receive the necessary medical treatment recommended by their personal physician.

Many Americans work hard and live on strict budgets so they can afford health insurance coverage for their family. Then, the moment they need health care, they are confronted with obstacles limiting which services are available to them: confronted by frustrating bureaucratic hoops; and confronted by health plans that provide little, if any, opportunity for patients to redress grievances. This happens too often and can be attributed to several factors.

Our health care system is very complicated. It is comprised of thousands of acronyms and codes, and even has

acronyms for acronyms. Our overly complex health insurance system intimidates and confuses many Americans. Many of us fail to fully examine the coverage provided by our health plans until we become ill, and then it is difficult to understand the legalese of the plan documents. Another contributing factor is the depersonalization of health care, which has become focused more on profits than on proper patient care.

I am not embarrassed to admit that I find the complexity of the health system very disconcerting and am often overwhelmed by its intricacies. I can certainly relate to the majority of Americans who are overwhelmed by a system which does not meet their basic needs in a simple, efficient and affordable manner.

Let me stress that I am not here today to bash managed care. I am not here to condemn Health Maintenance Organizations (HMOs) and the services they provide millions of Americans. I applaud the success of managed care in reining in skyrocketing health care costs, eradicating excessive and costly health care expenditures, and significantly reducing unnecessary overuse of the system. Managed care has played a direct role in reducing health care costs so that health care coverage is affordable for millions of hard-working American families.

However, while I appreciate the important contributions of managed care, we must protect the rights of patients in our Nation's health care system. Too many Americans feel trapped in a system which does not put their health care needs first. They believe that HMOs value a paper dollar more than they do a human life.

I know that my colleagues share my view, as do most managed care companies, that we cannot continue to ignore the rights of patients. For far too long, we have allowed the health care reform debate to be determined by special interest groups. Democrats are perceived as advocating certain principles and priorities for the trial lawyers, who are drooling over the prospect of unlimited and excessively costly litigation against insurers. Meanwhile, Republicans are perceived as working to protect the profit margin of the insurance companies and big business. As a result, this critical debate is overwhelmed with partisan bickering, and millions of Americans are left with no representation and inadequate health care.

It is time for all of us to put aside partisanship and the influence of special interests to work together for what is needed and wanted by our constituents—safe, quality, affordable health care.

I believe several fundamental health care principles must guide our health care debate:

First, we must put Americans in charge of their own health care. There are too many people who feel overpowered and overwhelmed by the current medical system. The current structure has created a caste system, and many patients believe they have become the serfs. Patients and their doctors should control their health care decisions, not HMO bureaucrats or political bureaucrats in Washington. Physicians utilizing the best medical data must make the medical decisions, not insurance companies or trial lawyers. We need to put in place a balanced system that allows managed care companies to reduce costs but also reinvigorates the patient-doctor relationship which is essential for receiving optimal care.

On the other hand, patients need to recognize that they cannot rely solely on doctors to always provide the best medical options. We each have a responsibility to learn how our medical plan operates, read about the options available to us and our family before we become sick, and most importantly, become better consumers of health care. I don't think many people would enter a salesroom or bank unprepared with the pertinent information for purchasing a new car or home, but too many of us blindly enter into major decisions affecting our health without doing any research. I know this is not easy, particularly with our very complex health care system and when so many of us barely find the time for sleep between work and family responsibilities. But we must become better advocates for ourselves in this complex medical system.

To that end, the government should help Americans become educated consumers by ensuring pertinent health care information is readily accessible. I have advocated and will continue to advocate a central web site or other service which simplifies research for Americans as they gather data on available health care options.

Second, we must improve access to affordable health care. It is simply disgraceful that 43 million Americans can not afford health care coverage. This is the largest number of uninsured citizens in over a decade, despite our strong economy and past actions to provide greater access to medical care. We must continue building upon already enacted reforms by expanding medical savings accounts, offering flexible savings accounts, providing full tax deductibility for self-employed health insurance costs, and allowing tax deductibility for long-term care expenses.

We must stop wasting our limited resources on pork and wasteful spending projects, so that we have more money to assist Americans who are uninsured and can not afford to put money away in medical savings accounts or will not be able to benefit from a tax credit. We should provide more funding for our nation's community health centers which are a tremendous resource in helping millions of Americans gain access to health care who would otherwise go without. Community health centers have instituted a sliding fee schedule which allows people to contribute what they can afford and still receive health benefits. We should strengthen and expand these successful centers throughout our country.

In addition, our tax code impedes a competitive market by prohibiting many Americans from truly being health care consumers. Many people lack purchasing power and are dependent on their employers for health care coverage. Tax benefits should not be limited for health care purchased only by big businesses. We should develop a method for providing the same tax benefits to individuals and families.

Third, Americans must have a choice of doctors to meet their health care needs. Today, too many women cannot go directly to an obstetrician or gynecologist for medical care. Instead, they are forced to waste valuable time seeking a perfunctory referral from a ''gatekeeper'' doctor before they can go directly to their OB/GYN. The same is true for children. Mothers and fathers should be allowed to take their children directly to a pediatrician. Instead, the current system forces them to go through a gatekeeper for referral. Women and children must be given the opportunity to seek care directly from the trained professionals best suited to address their unique health needs.

Additionally, Americans should be free to choose their doctors, including specialists, if they are willing to bear the additional costs which may accompany this freedom. People should be able to enroll in a point-of-service plan with access to a multitude of physicians, rather than be limited to an HMO which restricts freedom of choice in doctors.

Fourth, we must guarantee access to emergency care. If a man or woman in Phoenix, Arizona fears they are having a heart attack, they should not be required to seek approval from their managed care company prior to calling an ambulance and going to an emergency room. Any bill we pass must guarantee care in an emergency room without prior approval from an HMO if the person believes that it is an emergency situation.

Fifth, we must ensure continuity of care. Individuals who are pregnant, terminally ill, or institutionalized should be given special consideration so that their necessary care is not interrupted abruptly if their employer changes health plans.

Sixth, doctors must be able to communicate openly and fully with their patients. Today, some doctors are prevented by HMOs from openly discussing all medical treatments available to a patient. This is unconscionable. HMOs must not be allowed to stop

doctors from openly discussing all possible care available, even if the procedures are not covered by the HMO. A doctor's loyalty must be to the patient and not an HMO's bottom line.

Seventh, a free and fair grievance process must be available in the event an HMO denies medical care. A mother should have options when she is told her son or daughter's cancer treatment is not necessary and will not be covered by her insurance. We can not support a system that leaves that mother powerless against corporate health care. She must have access to both internal and external appeals processes which are fair and readily available and which use neutral experts who are not selected, paid, or otherwise beholden to the HMO. In life-threatening cases, there must be an expedited process.

Finally, once all options to receive necessary medical care have been exhausted, including an external appeals process, and that care has not been appropriately provided, every American should have the right to seek reasonable relief in the courts. I find it incredible that HMOs and their employees are able to avoid responsibility for negligent or harmful medical care. Americans covered by ERISA health plans should have the same right of redress in the courts as those who are enrolled in non-ERISA plans if they are unable to receive a fair resolution through an unbiased appeals process. We must ensure that patients receive the benefits for which they have paid and rightfully deserve. We must also ensure that unscrupulous health plans not go unpunished when they act negligently, resulting in harm to a patient.

I drafted a compromise on this issue which would be fair to patients and HMOs and would not cause excessive and costly lawsuits. The proposal, which is filed as amendment number 1246, would require patients to go through both the internal and external appeal processes if they were unsatisfied with care or decisions of their HMO. Once the appeal process reached a decision, they could accept the decision, or if they felt they still had not been treated fairly, they could go to the courts. In court, they could receive compensatory damages with a cap of $250,000 on non-economic damages.

I believe this is a fair and reasonable compromise which would allow patients to be compensated, but eliminates the potential for extravagant awards that could drive up the cost of health care. Unfortunately, I was precluded from calling up this amendment and another amendment which would have protected the rights of children born with birth defects (amendment number 1247) because of the stringent controls established by the Leadership for debate on this bill.

It is unfortunate that this health care reform debate has been controlled by special interest groups on both sides and mired in partisan political maneuvering. This has become a debate—not about providing affordable access to quality health care for all Americans—but a debate about preserving the positions of competing special interests. It has become a debate about the interests of trial lawyers versus the interests of insurance companies—not the interests of patients. No reasonable compromise has been offered on either side to resolve issues like liability, choice, access, and cost. Instead, we are voting on competing proposals at the extremes.

This is not a debate. It is a contest—a contest between parties and special interests. And it is a contest that no one—not Republicans, not Democrats, certainly not the American people—wins, except, of course, the special interests who are only concerned about their financial well-being, rather than the physical or financial well-being of every American. It is a shame that this body is so controlled by special interests that we cannot even put the health of the American people ahead of politics.

I cosponsored the original Republican Patients' Bill of Rights, S. 326. And despite the concerted efforts of the trial lawyers and the insurance companies and those more interested in partisan politics than the health of the American people, we have succeeded in adopting some much-needed improvements to the original bill. For example, the external appeal process has been made more independent of the influence of the insurance companies; a small step has been taken toward requiring HMOs to pay for an individual's participation in a clinical trial; it requires expanded access to specialists and emergency medical care; and it mandates extended hospital care following mastectomies and related surgeries. These improvements are a step in the right direction—toward putting the needs of patients first.

Because of these changes, I am reluctantly supporting final passage of this legislation. I am doing this because I believe it is important to move forward and enact legislation to implement much-needed health care reform. The House will soon take up health care reform, and I hope they will pass a reasonable health care reform bill which honestly puts the needs of patients first. We can then work for a practical and fair compromise during conference.

I want to put my colleagues on notice that, if a conference agreement comes back to the Senate that does not meet the standard of putting patients first, then I will have to oppose that legislation. This is too important an issue to allow the influence of special interests to prevent us from doing what is right for all Americans.

Mr. NICKLES. Mr. President, I call on the chairman of the HELP Committee, Senator JEFFORDS, for 2 minutes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will make my full statement after the vote, but this bill gives new consumer protections to the 48 million Americans in self-insured plans that the States are unable to protect. This bill creates a new, binding, internal/external appeals process for 124 million Americans. This bill also protects 140 million Americans from having their predictive genetic information used to deny them health insurance coverage, and it expands access to health insurance through increasing affordability and choice of health care options.

As we prepared this legislation, we had three goals in mind. First, to give families the protections they want and need; second, to ensure that medical decisions are made by physicians in consultation with their patients; and finally, to keep the cost of this legislation low so it does not displace anyone from being able to get health care coverage.

The Patients' Bill of Rights was not crafted easily and it was not crafted hastily. This legislation is a result of over 2 years of work by the Senate HELP Committee. In March of 1997, I chaired the first of 17 hearings on the topic of improving health care quality. In April of 1998, I chaired a committee field hearing at Fletcher Allen Hospital, in Burlington, VT. Numerous leaders from the Vermont medical profession and Vermont insurance regulators pointed out the State of Vermont already has passed 22 patient protections, including direct access to OB/GYNs and a ban on gag rules and a continuity of health care provision. Vermont's most pressing need, according to these State providers, was to enact protections for those individuals in self-funded plans that the States could not protect.

The Vermont health providers also stressed their strong concern that any Federal health care legislation not increase costs. The Congressional Budget Office estimates that the Kennedy proposal would have raised health insurance premiums by 6.1 percent. A study commissioned by the AFL-CIO concluded that such an increase would cause 1.8 million Americans to lose their health insurance. This would mean approximately 4,000 Vermonters would lose their health insurance. The Vermonter who could still afford health insurance would have to pay an additional $328 a year for family coverage.

During the battles over the last few weeks, we have heard a great deal of biting, political rhetoric. But we cannot forget that the real issue is to give Americans the protections they want

and need in a package they can afford and that we can enact. We must pass this bill.

Mr. NICKLES. Mr. President, how much time remains for both sides?

The PRESIDING OFFICER. For the majority, 11 minutes 20 seconds, and 13 minutes 1 second to the Democratic side.

Mr. NICKLES. I yield 2 minutes to the Senator from Pennsylvania, also a very strong contributor to the membership of our task force.

Mr. SANTORUM. Mr. President, I thank Senator NICKLES for his outstanding leadership on this task force. We would not be where we are today, passing what I believe is a very useful and precise way to respond to a very complicated problem. Senator NICKLES shepherded this task force with great skill. He deserves a great amount of the credit for what is being accomplished today.

With respect to the comments that this bill is dead, it is not going anywhere, the President is going to veto it, I would say this: Of all the criticism I heard about the Republican bill, most of it is it just does not go far enough. It is not that what we are doing is not right or it is not in the right direction; it just does not do enough.

I do not know about you, but I have watched Congress for a long time. I have seen a lot of things happen in this institution, where sometimes it is good just to do something in the right direction, that we all agree is in the right direction. I do not think anyone is saying what you are doing is absolutely antithetical to good health care, you say internal/external—no. We need more of that, we need a tougher one, but not to say what we are doing is bad. It just is not enough. I am hopeful people will say doing something that is good should not be the enemy of what some believe is the best.

So I am hopeful we can get together, the House has to act, they are going to pass a different bill, and then we can sit down with the President and our colleagues on the other side of the aisle and do something that is good. Let's do something on which we can agree. Let's do something that can move the ball forward and work together so we can go out and say: We, in fact, did protect patients. We did improve the quality of health care. Maybe not as much as some would suggest we could—I differ with that—but we did do something positive. We did improve access to health insurance. We did not blow a hole and increase costs dramatically to drive people out from health coverage. That is what we need to do, to move forward and do something good.

Mr. NICKLES. Mr. President, I yield 2 minutes to the Senator from Missouri, Mr. ASHCROFT.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, we have a great opportunity, which we will capitalize on this evening, by voting for this measure which has been the result of hard work by a team and task force of individuals dedicated to improving the health care of Americans and access to health care. I am grateful for it. I totally reject the notion that this is a victory for the status quo. One person can make this a victory for the status quo. Bill Clinton can. He could veto this. I do not believe we should think that he will. I believe we should continue to work and present him with this great opportunity to lift the status of health care of Americans.

One area I was concerned was that people ought to get the right treatment from HMOs and that, if they have a disagreement with an HMO, they ought to be able to settle that disagreement in a way that gets them treatment. So an appeals process was established for an internal appeal by the patient and an external appeal.

I sought to improve the bill. It did not include this provision, but I offered an amendment which said, if the external appeal agreed with the patient and said that the patient deserved the treatment and ordered the HMO to do it, and if the HMO would not provide the treatment—we have amended this bill now so the person is eligible to go and get the treatment elsewhere and charge the HMO, and the HMO that wrongfully refused the treatment to the patient has to give a $10,000 penalty payment to the patient.

This really gives the patient what the patient needs, health care. The Democratic proposal sends the patient to court. How disappointed would you be, as a person, if you called for an ambulance and you found them taking you to the court instead of to the hospital?

We do not want to end up with a dead relative and a good law case. We want to end up with good treatment, and that is what this bill will do. It has a strong set of enforcement provisions to respect the rights of individuals, and if the HMO fails to comply with that enforcement, we send the people to the hospital, not to the courtroom.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? The Democratic leader.

Mr. DASCHLE. I yield 3 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank the Chair.

Mr. President, I rise this evening with great regret, regret that we have not done what we should have done to protect the children of America who are in a managed care plan. The bill before us that we will vote upon is a litany of missed opportunities and missed statements with respect to the status of children in managed care. For example, access to pediatricians. They are classified as specialists, so they cannot be automatically the primary care provider to children. Frankly, most Americans believe that is exactly who they are.

Second, there is no guaranteed access to pediatric specialists. We have language in this Republican proposal that talks about age-appropriate specialists. That is language written by HMO lawyers to ensure that they can magically transform an adult specialist, who might have seen a child at 1 year or 2 years, into an age-appropriate specialist, just as they do today.

We have a situation in which we have not provided for expedited internal and external appeals based upon developmental needs of a child. Children are different from adults. They have conditions for which an adult could wait months and months and months for adequate care, but in a child they become critical because the child's development is critical. These are shortcomings that will leave the children of America shortchanged.

We can and must do more. We could have done more, and we could have given all the individuals in managed care the right at least to go to consumer assistance centers, ombudsman programs, so they could have their questions resolved, and we pushed that aside.

Frankly, the greatest disappointment I have is that we heard a lot of discussion this evening and the last few days about the cost of this bill. We could give all these protections to children, every item in the Democratic proposal, and the cost would be negligible, because one of the good news issues is that children are generally healthy. But for those chronically ill children, it would have made all the difference in the world.

Today is not the day we are helping the children of America in managed care, but I hope we will some day, and that day will come, and it must come.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, for the last 2 years, Democrats have worked tirelessly for this moment. We have been guided by a very simple goal. That goal is to protect the rights of 160 million Americans who have private health insurance. Democrats have tried to answer the question: What should motivate that system, money or medicine? What should be the crux of our health care system? Do we put a money screen on decisions, or do we put a medical screen on decisions? We concluded that when it comes to someone's life, someone's health, the answer to that question is very simple.

Democrats have outlined six basic principles. The first is that all 160 million Americans ought to be covered by patient protections. We offered an

amendment to ensure that all 160 million Americans would be covered, and our Republican colleagues defeated it.

The second principle is to ensure we provide access to needed care regardless of circumstances: access to qualified specialists, real access to emergency rooms, access to lifesaving treatments and drugs, access to quality care that is unique to America in some cases. We offered amendments to provide these protections, and our Republican colleagues defeated them.

The third principle is simply this: That doctors ought to make medical decisions. Not accountants, not bureaucrats, not people with green eyeshades who make monetary decisions instead of medical ones. Let doctors make those decisions. We offered an amendment, and our Republican colleagues defeated it.

The fourth principle is quite simple to understand, but extremely important to millions of Americans. Let us, above everything else, protect the doctor-patient relationship. Let us ensure that all doctors can talk about all medical options with their patients when they are facing critical medical decisions. Let us ensure that we protect doctors from retaliation by managed care companies. And let us ensure that chronically ill patients get to keep their doctors.

Mr. President, that is not too much to ask. When we talk about rights, basic rights in this country, what could be more basic than that? We offered an amendment, and our Republican colleagues defeated it.

The fifth principle is one we also feel strongly about, and that is accountability. I have heard many of our Republican colleagues say: You should not have to go to court to get your health care; the important thing is getting the care you need.

We agree with that, and we provide a strong, independent appeals process. But all too often, HMOs make decisions that are wrong. And all too often, patients are left with absolutely no recourse. We simply believe that when this happens, when an HMO or an insurance company makes the wrong decision, you ought to have some recourse. You ought to be able to hold them accountable. You can with a doctor. You can with a hospital. Why not with an insurance company?

Finally, I have never been more proud of our women Senators, and I have never been more convinced that we need more women in the Senate than I am tonight, because they have enlightened us, Mr. President, in our caucus and on the floor. They have sensitized us to women's issues unlike anything I have ever heard before. There isn't a man in the Senate who can tell us what they told us, with the eloquence, with the passion, with the feeling. They told us there are special needs of women that just are not being addressed. If we are going to make this system work better for millions of Americans, we ought to understand that. So we offered an amendment to ensure that women's needs are protected, and our Republican colleagues defeated it.

Tonight, I agree with those who have said we missed a golden opportunity to pass a real Patients' Bill of Rights. We have offered clear choices. The majority has opposed us every step of the way. The majority leader said, let's work together, work with us. We have made every effort to work with our colleagues, but the only thing we have gotten back is what I believe the Republican bill truly stands for when it calls itself HMO reform. In my view, HMO stands for ''half measures only.'' That is all we have gotten—half measures. To those who say, isn't this just a little bit better? my answer is no. In all sincerity, I believe we will actually lower the standard when we pass this bill tonight. We have not made progress; we have moved backward.

I am always amused, frankly, that our Republican colleagues turn to taxes anytime they want to fix a problem. I am surprised there is not a tax break for observing the speed limit. Tonight, there is another $13 billion bill that we will be voting on, most of which is a tax break. I support meaningful tax reform, targeted especially to working families. But when we talk about a Patients' Bill of Rights, are we really talking about the need for a tax break, or a break from the kind of oppression that many people feel with their insurance and managed care companies?

I also regret the fact that we did not have an opportunity to debate the bipartisan bill. I wish we could have had a good debate on the Graham-Chafee bill. I wish we could have at least moved forward with that piece of legislation. I believe there would have been 45 Democratic votes for that bill tonight. The problem is, as I understand it, there are only three on the Republican side.

Even if we offered a bipartisan bill, cosponsored by two very prominent Members of our Senate tonight, we would only have the same 48 votes we had on almost every single amendment we offered.

The President will veto this bill because he and we know we can do better than this, that we should not lower the standard. We should do far more to ensure that we cover all patients, all 160 million. Ultimately, I believe, as Senator KENNEDY noted, we will pass a comprehensive Patients' Bill of Rights.

This afternoon I was reminded again of how critical this is to real people. Throughout this debate, what meant most to me is the experience I have had in talking to real people whose lives have been affected by managed care companies, whose lives have been directly, and in some cases, negatively affected by their decisions.

Justin Dart, a full-fledged lifelong Republican was out on the lawn this afternoon. He was there in his wheelchair, surrounded by medical equipment needed to function and maintain his health. He has experienced medical care. He has benefited from it, and, unfortunately, as he related again today, he has been disappointed by it.

In the most passionate and most eloquent way he could say it, with his lips quivering, speaking to all of us, as he urged the Senate to do the right thing tonight, he said: ''I'll give my life for my country, but I won't give it to an insurance company.''

Too many people have given their good health, and in some cases their lives, because decisions have been made by insurance companies for the wrong reasons. We are going to fix that. I am hopeful, as others have expressed, we can do better, we can find a way to ensure that all Americans are going to be protected, as we know they should be. We should not give up until we know we have done the job right.

Mr. President, over the past three-and-a-half days, we have finally had the opportunity to have a good debate on several critical issues affecting patients' rights. Senate Democrats—and the patients of America—have waited a long time for it. Because of limited time, other critical issues remain to be debated. Still, we are glad the Senate has spent most of this week debating two dramatically different approaches to patients' rights. The American people deserve to understand the differences. They are important.

Mr. President, the Senate has indeed missed a golden opportunity to pass a real Patients' Bill of Rights.

Instead, the Republican majority is handing the insurance industry its version of HMO reform: Half Measures Only.

On critical issues, we gave our colleagues a choice: guaranteed patient access to the closest emergency room versus ambiguous assurances of limited emergency care; access to clinical trials for all life-threatening and disabling diseases versus limited clinical trials only for cancer; medical determinations made by doctors and other health professionals versus decisions made by HMO accountants; the right to hold HMOs accountable for their decisions that harm or kill patients versus the right to live with whatever bad decisions an HMO might make; and, of course, the extension of basic rights to all privately insured Americans versus the exclusion of over 100 million Americans.

The list goes on.

All that was necessary on the Senate's part was to listen to the doctors and nurses and other health professionals. To listen to the American people. Unfortunately, a majority of the

Senate chose to ignore those voices and listen instead to the industry that stands to continue to profit from our failure to provide meaningful patient protections. The industry that opposes even minimal protections and any means of enforcing them.

Frankly, we are astounded. Yes, we were told repeatedly by Senator NICKLES and Senator GRAMM and Senator FRIST that this would happen. That their plan was simply to block this legislation from ever coming to the Senate floor, since they did not want to be in a position of having to defend an indefensible position. When that plan failed, they made it clear their strategy was focused on political cover instead of meaningful reforms. (That cynical strategy will ultimately fail, too.)

Still, we held out hope—that reason would win out in the end. That the overwhelming public support for our modest reforms —support that knows no partisan boundaries outside of Washington, DC—would influence at least a handful of Senate Republicans. We are astounded that it did not—that there are not five Republican senators willing to challenge their leadership in order to please over 80% of the American people.

Maybe some of them just didn't read the two bills. The other day, Senator GRAMM again invoked the name of his ''mama'' and said he wants her to be able to call her doctor instead of a bureaucrat when she gets sick. Well, we agree. But, given his concern, Senator GRAMM and the vast majority of his Republican colleagues are supporting the wrong legislation.

It is the Democratic bill that protects patients' rights to communicate directly with their doctor and make medical decisions with their doctor—without inappropriate interference from a nameless, faceless HMO accountant.

Senator GRAMM and other opponents argue: ''The Democratic bill is a step toward government-run health care.''

That charge is simply untrue—under our bill, health care professionals, not the government, would make decisions.

Ours is not a step toward government-run health care; it's a step away from HMO accountant-run health care.

The insurance industry's TV ads opposing the Democratic bill warn that people get hurt ''when politicians play doctor.'' Again, that is the height of irony.

Senate Democrats are not playing doctor. Under the current system, and under the Republican bill, it is HMO accountants who are playing doctor, denying the real doctors the ability to implement medically sound decisions. And real people are getting hurt every day.

Let's be clear—we're not opposed to managed care.

The theory of managed care—that a primary care physician and health network will understand the whole patient and manage his or her care to improve patient health—is a good one. But all too often that theory has been corrupted in practice.

Too often, instead of managed care, we have managed costs.

The Hippocratic Oath is not about saving money; it's about saving lives. And while we should take reasonable actions to curb health care costs, we cannot do it at the expense of Americans' health. Furthermore, any costs associated with the Democratic bill would be minimal—and nonexistent for HMOs that already provide the medical services they should.

The United States has the best health care in the world—the best doctors, nurses, facilities, and equipment. But what good is the best health care in the world if insurance company accountants block your access to it?

Over the course of the last several days, my Republican colleagues have rejected every Democratic proposal to improve Americans' access to better health care. In one twist, they rejected our proposal to protect women from being discharged from the hospital too soon after breast cancer surgery, only to turn around the next day and take credit for that proposal at the same time they denied those same breast cancer victims—and other women and men—access to clinical trials for new, life-saving treatments.

It has been a pattern all week: reject the real patient protections, and, in the specific cases where there's enough of a public outcry, offer up a half-measure that pretends to solve one problem at the expense of another. We saw the same tactic on the juvenile crime bill, when Republicans bent over backwards to avoid any meaningful gun legislation. Their operating principle: block the real solution and take credit for a false one.

Perhaps the most egregious and disheartening example of hypocrisy is the majority's approach to determining which Americans will benefit from the half-measures they are willing to support. Democrats believe all 161 million privately insured Americans should be guaranteed a national floor of patients' rights. We are talking about the basic rights of American patients. Two people living on the same street—possibly insured by the very same company—should not have two different sets of ''basic rights'' simply because they work for different employers.

Under the Republican bill, only 48 million Americans—those in self-funded plans—are covered by the vast majority of their protections. They exclude over 100 million Americans from their so-called protections.

The majority has argued that this exclusion is necessary to satisfy one of their core principles: that the states should be left to regulate HMOs. In the Nickles amendment striking the Kennedy amendment to cover all privately insured Americans, the majority stated, ''It would be inappropriate to set federal health insurance standards. . . . One size does not fit all, and what may be appropriate for one State may not be necessary in another.'' That amendment passed Tuesday, by a largely party-line vote.

So the majority established that as its core principle, one that overrides the need to provide all Americans basic health care rights. Yet listen to the core principle laid out in the Snowe amendment I mentioned earlier. (Curiously, the Snowe amendment, which every Republican senator supported, extended its protections to all privately insured women.)

In the Snowe amendment, the majority stated a ''core principle'' diametrically opposed to the core principle of the Nickles amendment: ''In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.'' That amendment passed Wednesday at 1:23 pm.

Two-and-a-half hours later, the Republican majority reversed itself once again. They voted against a Democratic amendment to expand coverage to all privately insured Americans, regardless of their condition or disease—not just women with breast cancer. The whole idea behind a comprehensive Patients' Bill of Rights is that it will cover all people and all diseases, not simply those that get the most media coverage.

Some of my colleagues seem to have two contradictory sets of core principles on the same issue on the same day. And, at the end of the day, the result is that, for all but one disease, the majority has chosen to deny more than 100 million Americans any protections at all.

It's a cynical, and destructive, philosophy. The American people are sure to reject it, for they understand this issue far better than some politicians seem to think. How could they not understand? Every American knows someone who has been denied timely, necessary treatment by an HMO that put costs above patient care.

Our bill is a modest one. It would guarantee American patients a minimum level of protection to ensure timely access to quality health care. That's what Americans expect when they buy health insurance, and that's the least they deserve.

I am disappointed that, this week, America's patients were denied that minimal protection. But I can assure them that the fight for their rights is far from over. Senate Democrats—and maybe even a few brave Republicans—are committed to a real Patients' Bill of Rights, and it will pass, whether it's

next week, next year, or next Congress. I guarantee it.

Mr. President, I also want to take a moment to thank some of the multitudes of people who have fought so hard for a real Patients' Bill of Rights and who are committed to that fight until we succeed.

I thank Senator KENNEDY. I must say, I do not know if we have a more passionate, more articulate, more aggressive defender for working people in this country than we have in Ted KENNEDY. He is an inspiration. We all are deeply indebted once more for the leadership he has provided not only in our caucus but in the Senate on this extraordinarily important issue. I am proud to have worked with him to develop S. 6. Also, he, like many others, has been tireless on the floor this week, and I commend him for doing such a good job for our entire caucus.

I thank my assistant Democratic leader whose presence on the floor has just been phenomenal. I do not know how I could do what I do were it not for the fact that he is always there—always there.

I thank my caucus. I do not know that I have ever been more proud of the caucus than I am tonight for their participation, for their leadership, for their willingness to roll up their sleeves to do their homework, to come to the floor and debate, as they did so aggressively all week. In one way or another, every member of our caucus has contributed to this debate and to the two-year effort to make it possible. More of them than I could name right now have contributed enormously, often selflessly. Our caucus has never been more unified. We believe in patients' rights, and we are committed to fight for them.

So, I thank every Democratic senator. I say to each of you, it truly would not have been possible without you.

I thank, as well, the majority leader for allowing this debate, and the assistant Republican leader. This debate happened because they agreed to schedule it. It would not have happened were it not for that agreement, and I am grateful for that.

I thank Senator FRIST for his involvement because of his unique experience in life.

A special thanks goes to the more than 200 organizations representing doctors, nurses, and other health care providers as well as consumer groups, that have supported our bill. They pulled out all the stops they could, with whatever limited resources they had, to ensure that they were part of this American Democratic system. Again, I cannot name them all. But their shared commitment to a comprehensive, meaningful Patients' Bill of Rights has been critical to this process. And I say to each of them, don't be disheartened by today's loss. As I said before, we will ultimately prevail, and patients will ultimately be protected.

I should send that same message to Justin Dart and all the men, women, and children who have shared their stories—often painful stories—with us. This debate could not have been held were it not for the fact that they put meaning to this debate in ways that only they can. Their stories remind us that this is not a theoretical debate. It is a real choice affecting real people who have suffered and will continue to suffer in the absence of meaningful reforms. We thank you, and we will continue the fight.

Last, I want to thank the people who are too often thanked last, the staff—the staff in every office who have worked in various ways to ensure our long struggle led to a real floor debate.

Senator KENNEDY's staff deserves special recognition. I'm sure there were many others, but I want to recognize four of them in particular: Michael Myers, David Nexon, Cybele Bjorklund, and Jim Manley. As always, they are as amazing as their boss. They have been absolutely essential to the effort.

Finally, I want to thank my own staff—both those in my own office and those throughout the Leadership Committees. At the risk of leaving someone out, I'm going to try to name most of them. Few people know how hard they work, and their commitment to service and to this cause of patients' rights is unsurpassed.

From my staff, I want to thank especially: Jane Loewenson, Elizabeth Hargrave, Shelly Ten Napel, Pete Rouse, Laura Petrou, Bill Corr, Mark Patterson, Ranit Schmelzer, Molly Rowley, Marc Kimball, Chris Bois, and Elizabeth Lietz.

From the Floor Staff, I thank Marty Paone, Lula Davis, Gary Myrick, and Paul Brown. We are very lucky, as Republicans and Democrats, to have the floor staff that we do. We owe them a big debt of gratitude, because without them we could not do what we do.

From the Leadership Committees, my special thanks to: Bonnie Hogue, Caroline Chambers, Chuck Cooper, Maryam Moezzi, Tim Mitchell, Jodi Grant, Nicole Bennett, Maria Meier, Alexis King, Jamie Houton, Andy Davis, Mary Helen Fuller, Marguerite Beck-Rex, Brian Barrie, Kobye Noel, Katherine Moore, Nate Ackerman, Rick Singer, Clare Flood, Adriana Surfas, Kevin Kelleher, Brian Jones, Russell Gordon, Robyn Altman, Jeremy Dorin, Paige Smith, Chris Casey, Jeff Hecker, and Toby Hayman.

So tonight, Mr. President, the fight goes on. I am optimistic that in the end we will have the opportunity to debate, once more, how we can resolve this issue, how we can stick to those six principles, how we can ensure that this American health system, which is so good in so many ways, can be made better.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The assistant majority leader.

Mr. NICKLES. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. Six minutes 47 seconds.

Mr. NICKLES. First, I compliment my colleague and friend, Senator DASCHLE—this has been a good debate—as well as Senator REID and Senator KENNEDY. We have had a good debate, good discussion of the issue. We have never had a cross word. We have had some good debate, excited debate.

I want to call on an additional couple members of our task force—first Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Thank you, Mr. President.

I begin by expressing my appreciation to Senator NICKLES and my other colleagues on the health task force. We have labored hard during the past year and a half, and I am very proud of the legislation we introduced.

I also thank our staff, particularly Priscilla Hanley on my staff who has worked night and day during the debate.

We are on the verge of passing landmark legislation that will expand access to health care, that will hold HMOs accountable for providing the care that they have promised, and that will improve the quality of health care in this country.

I am particularly pleased that the final bill contains provisions I offered to provide a tax deduction for the purchase of long-term care insurance, to ensure that women have direct access to OB/GYNs without having to go through a gatekeeper, to guarantee that a terminally ill patient is able to keep his or her doctor even if that doctor has left the HMO network, and to expand patient access to a variety of health care providers.

At the heart of this bill is the internal and external appeals process that will provide coverage and protections to everyone in all employer-sponsored health plans. This appeals process will ensure that consumers receive the care they have been promised up front, before harm is done, and without having to hire an expensive lawyer and resort to a lawsuit in order to get the care they need.

That is the heart of this bill. We have worked hard to provide these kinds of protections which will ensure that people do get the treatment they need when they need it—not damages years later in a courtroom.

I thank the assistant majority leader for the time.

I am proud to be a supporter of this important legislation.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The assistant majority leader.

Mr. NICKLES. I thank the Senator from Maine for her outstanding leadership. I also thank the Senator from Missouri who mentioned a few of the changes he made in the appeals process that I hope my colleagues listened to. He made this a much better bill. I thank my colleague.

When you look at the appeals process that Senator ASHCROFT has explained and Senator FRIST has explained, no one can say this isn't a very substantive bill that applies to all employer-sponsored plans.

Next, Mr. President, I yield 2½ minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I just want to openly thank Members on both sides of the aisle. This has been a very challenging bill. Although I think it is going to be more satisfactory to this side of the aisle than the other side, it is a bill that I think we can all, after tonight, go home, think about, talk to our constituents about, and recognize that we have accomplished exactly what at least I wanted to accomplish; and that is, as I said 4 days ago when this first started, to keep the patient at the center of all of this debate—not special interests and not the rhetoric that goes back and forth, but how we can ultimately come up with a bill that helps patients.

We have strong patient protections. We have addressed quality head on and hit it with internal, external review. It has been strengthened from both sides of the aisle. It has been strengthened by recommendations that we have had through our staff and working together.

If we look at the access provisions, they are very strong, the medical savings accounts, the full deductibility for the self-employed, all of which we have done, the gag clauses, the access to specialists, direct access to obstetricians, what we have accomplished in terms of emergency room access, continuity of care. If we put it altogether, it comes back to the benefit of the patients, smack-dab at the heart.

When people ask me all the time, what can you do as a Senator to really help individual people, it comes down to this bill, I believe, a first step.

Our bill does take medical decisions out of the hands of a huge HMO bureaucracy and puts them back to that very special relationship, one I have been blessed to participate in again and again, that special relationship of the doctor-physician, the provider and the patients, who entrust their lives to you, their lives to you, their health care, their quality of life, their ability to see, to walk, to have that heart keep beating. That is entrusted to you. We have benefited that. We have enriched that. We have made that better. That is what we have accomplished tonight.

We have done it without markedly increasing cost because we all know, when cost goes up, out of control, it drives premiums up and access falls, and the number of uninsured are important.

I appreciate the support.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 28 seconds.

Mr. NICKLES. Mr. President, I thank all of my colleagues and, frankly, the entire Senate for a very good debate.

I believe we came up with a very good bill. I think we passed a bill that will improve health care quality. We passed a bill for anybody in America who has an employer-sponsored plan to have an appeal, an appeal that will be decided by doctors, despite some of the advertisements we have seen, appeals that are decided by experts, by doctors. That is binding and that is real. So I hope that maybe some of the rhetoric will tone down a little bit and we will look at what is in it.

We also didn't do damage. We didn't say we are going to turn over health care plans to the Health Care Financing Administration. We are not going to duplicate State regulation. We will not confuse the States and say, no matter what you have done, Washington knows better. We didn't make those mistakes.

We didn't astronomically increase health care costs. We didn't pass a bill that would increase the number of uninsured by a couple million.

Final comment on the President. I hope the President decides not to play politics and say: We are going to veto that bill; it doesn't do what I want it to do.

I hope he will work with us to pass a positive bill that will benefit and improve health care quality for all Americans. If he wants to play politics, that is his choice. If he wants to, then we don't have to have a bill. It is up to him. If he wants to help us pass a good bill, I think we can do so, that would improve health care quality for all Americans.

Mr. President, I yield back the remainder of our time, and I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the two pending amendments are agreed to.

The amendments (Nos. 1254 and 1232) were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER (Mr. HAGEL). The question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—53

Abraham	Gorton	Murkowski
Allard	Gramm	Nickles
Ashcroft	Grams	Roberts
Bennett	Grassley	Roth
Bond	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Voinovich
Enzi	McCain	Warner
Frist	McConnell	

NAYS—47

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Fitzgerald	Mikulski
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Byrd	Johnson	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

The bill (S. 1344), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. NICKLES. Mr. President, I move to reconsider the vote

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I would like to make a couple of comments concerning the bill. I have already stated that I very much respect and appreciate the tenor of the debate that we had throughout this week with proponents and opponents of the legislation we just passed, including Senator KENNEDY, Senator REID, Senator DASCHLE, and others. I think we had an excellent debate.

I also want to thank my colleagues who really did work hard, and especially I thank Senator JEFFORDS for his leadership, and Senator COLLINS, Senator FRIST, and all the members of the task force. They did a fantastic job.

In addition to the Senators I just mentioned, I want to thank other members of the task force, including Senator HAGEL from Nebraska, the Presiding Officer of the Senate, Senator SANTORUM, and other Senators who worked so hard.

Also, Senator ENZI joined us and did a fantastic job on the floor, as well as in the Health Committee.

A lot of people put in a lot of time and effort, and a lot of staff members worked very hard on both the majority side and the minority side. I want to recognize a few.

First, from my staff, I thank Stacey Hughes and Megan Hauck. Eric Ueland, Hazen Marshall, and Mark Kirk did a fantastic job.

In addition, I want to recognize some staff members from other staffs who probably spent more time in the last year and a half working on this issue than any other issue. I can assure you that in the last month, and in particular the last 2 weeks, this has been a full-time job, including Saturday and Sunday, and late nights almost every night: With Senator COLLINS, Priscilla Hanley; Senator DEWINE, Helen Rhee; Senator ENZI, Chris Spear, Ray Geary, and Jen Woodbury; Senator FRIST, Anne Phelps and Sue Ramthun did a fantastic job on a number of provisions; Senator GRAMM, Mike Solon; Senator GREGG, Alan Gilbert; Senator HAGEL, Steve Irizarry; Senator HUTCHINSON, Kate Hull; Senator JEFFORDS, Paul Harrington, who did a fantastic job both in the Health Committee and also on the floor, and Kim Monk, Tom Valuck, and Carole Vannier did a fantastic job; Senator LOTT, Sharon Soderstrom and Keith Hennessy; Senator CRAIG, Michael Cannon; Senator ROTH, Kathy Means, Dede Spitznagel, and Bill Sweetnam; Senator SANTORUM, Peter Stein; Senator SESSIONS, Rick Deeborn, and Libby Rolfe.

This is an understatement because these staff members worked very hard.

In additional, I wish to recognize Senator GRAMM, who worked on this task force, and was the primary promoter of the medical savings account, which is a very important thing for bringing tax equity and relief.

I have already mentioned Senator ROTH helped us, as well as his staff. Senator GREGG, who led the fight, frankly, against having a propensity for lawsuits, did a fantastic job; Senator HUTCHINSON, and Senator SESSIONS.

This was not an easy effort. It was a challenge. I think it was a good effort, and I think we produced a good bill because we had a lot of Senators who were willing to spend a lot of time trying to improve the quality of health care in America.

I hope the President will not look at the rhetoric that was sometimes on the floor, but will look to the substance of the legislation and work with us to see that it will become the law of the land.

My thanks to Senator JEFFORDS and others who worked so hard to make this happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I truly believe that tonight is a win-win situation. We have made health coverage significantly better for those people who have such coverage today, but, almost more importantly, we make it more accessible for others, and more affordable for others in accomplishing the many patient protections—the improvement in quality, the appeals, internal and external.

A lot of people have been involved over the course of the last year. I simply want to add my thanks to the two leaders in this effort, Senator JEFFORDS, chairman of the Health, Education, Labor, and Pensions Committee, for whose committee this bill passed and was debated. And, through much bipartisan discussion, the amendment process improved a bill that the task force, after about 6 to 8 months of very hard work, developed.

It was under Senator JEFFORDS' leadership that this bill took its final shape so that it finally arrived on the floor, and we were able to debate it.

Senator NICKLES for the last year and a half has chaired a task force, has been the quarterback, the manager of a broad range of people who participated in the study of the issues, true substantive study—not superficial policy reviews but a substantive study of the issues. Senator NICKLES oversaw and managed a group of people on that committee who have already been mentioned, including Senators ENZI, GREGG, HAGEL, and Senator COLLINS who literally has been on the floor for the last 4 days almost without leaving, participating in the debate on issue after issue.

Thanks also to Senator SANTORUM, Senator GRAMM of Texas, Senator LOTT—especially our majority leader, Senator LOTT, who spoke so eloquently a bit ago summarizing what this bill has been about, what it will accomplish, the confidence that he placed in both the task force and the Health, Education, Labor and Pension Committee.

I especially want to thank several staff members: Stacy Hughes and Meg Hauck, who have shown leadership among all the staff members; Anne Phelps and Sue Ramthun, two people with whom I worked most closely with and who have gathered the information, digested the issues, and spent late nights here.

I had the opportunity to work with Sue Ramthun over the last several years on health issue after health issue. This will be the last bill that she participates in, in the Senate—at least for a while. I say ''for a while'' because I am hopeful she will come back to our staff. I recognize her tremendous leadership and her knowledge of what has gone on in this body in the past. It has been immensely helpful to me, coming here just 5 years ago, to be able to work with an individual who understands the institution, understands the issues, and who has been involved in health issues long before I came to this body.

I want to mention Bill Baird, legislative counsel, who over the last 4 days—and also over the past years—has participated so directly in allowing Members to translate these ideas to specific language for the bill we were able to ultimately pass. It is a win-win.

As I said in my closing remarks tonight, the thing I will think about as I go home and reflect on over the last 4 days is we made real progress. We don't have all the answers. We don't pretend this bill has all the answers in establishing an appropriate balance between managed care, coordinated care, and that doctor-patient relationship. But we are getting it back into balance because it has been out of balance for a period of time. Our bill does take that whole doctor-patient relationship and make it the heart of this managed care environment.

In closing, it has been a wonderful opportunity for me to be able to work, again, on both sides of the aisle as we developed this bill which will significantly improve the quality and access of health care for Americans.

Mr. JEFFORDS. Mr. President, this is a time of trial for so many Members to finally come to this end and have a victory which hopefully will not stop here but will continue. There is too much good in this bill not to have it become legislation that will be passed into law. I am confident the President, when he understands what is in here, and we work with the House and make some changes—I am sure we can accommodate the other side and we can end up with a piece of legislation. Hopefully it will be done this year.

Mr. President, as chairman of the Committee on Health, Education, Labor, and Pensions, which had jurisdiction over this bill, I would like to take a moment to thank all those who have worked so hard to make this bill possible. This legislation has been developed over the course of more than two years, and a great number of people have positively contributed to the process.

This bill represents a tremendous effort by the members of the HELP Committee. I want to thank the members of the Nickles Task Force for their guidance. I wish to thank Senator NICKLES himself, and also the majority leader for their dedication to see this legislation through to the end.

The staff to the members of the HELP Committee have contributed greatly to this bill. Rob Wasinger with Senator BROWNBACK, Prescilla Hanley with Senator COLLINS, Libby Rolfe with Senator SESSIONS, and Kate Hull with Senator HUTCHINSON.

The staff of the subcommittees carried a great deal of weight. This includes Helen Rhee with Senator DEWINE, Chris Spear and Raissa Geray with Senator ENZI, Anne Phelps and Sue Ramthum with Senator FRIST, and Alan Gilbert with Senator GREGG.

The committee markup of this legislation lasted over 11 hours and so I must acknowledge the tireless efforts of Denis O'Donovan, Steve Chapman,

and Leah Cooper from the full Committee staff. I also thank Bill Baird of the Legislative Counsel Office. He has provided enormous help.

I am grateful for the efforts by the staff of the GOP Health Care Task Force. Michael Cannon with the RPC, Steve Irizarry with Senator HAGEL, Mike Solon with Senator GRAMM, Peter Stein with Senator SANTORUM, and Kathy Means, Bill Sweetnam, and Dede Spritznagel with Senator ROTH.

Finally, I would like to thank the assistant majority leader's staff for their leadership. Stacey Hughes, Meg Hauck, Hazen Marshall, Matt Kirk, Brooke Simmons, Gail Osterberg, and Eric Ueland were invaluable. As well as Sharon Soderstrom and Keith Hennessy from the majority leader's Office.

On my own staff, I would like to thank Paul Harrington, Sean Donohue, Dirksen Lehman, Kim Monk, and Philo Hall and Marle Power my Staff Director. This certainly could not have happened without my health policy fellows, Tom Valuck, Kathy Matt, and Carol Vannier. I especially want to thank Karen Guice and Pat Stroup, who each provided two years of groundwork on this legislation.

The round the clock work, particularly over the past week, of all the staff involved is greatly appreciated.

Mr. President, I could not be more proud of all these people.

Around-the-clock work, particularly over the past week, of all the staff is greatly appreciated. I cannot be more proud of these people. I want to commend them and thank them profusely. I also thank, of course, the people who work in this great body to make sure that we end up doing the right things at the right time.

MORNING BUSINESS

Mr. JEFFORDS. 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.

The PRESIDING OFFICER. Without objection, it is so ordered.

OSCE PA DELEGATION TRIP REPORT

Mr. CAMPBELL. Mr. President, I take this opportunity to provide a report to my colleagues on the successful congressional delegate trip last week to St. Petersburg, Russia, to participate in the Eighth Annual Parliamentary Assembly Session of the Organization for Security and Cooperation in Europe, known as the OSCE PA. As Co-chairman of the Helsinki Commission, I headed the Senate delegation in coordination with the Commission Chairman, Congressman CHRIS SMITH.

THE PARLIAMENTARY ASSEMBLY

This year's congressional delegation of 17 members was the largest representation by any country at the proceedings and was welcomed as a demonstration of continued U.S. commitment to security in Europe. Approximately 300 parliamentarians from 52 OSCE participating states took part in this year's meeting of the OSCE Parliamentary Assembly.

My objectives in St. Petersburg were to advance American interests in a region of vital security and economic importance to the United States; to elevate the issues of crime and corruption among the 54 OSCE countries; to develop new linkages for my home state of Colorado; and to identify concrete ways to help American businesses.

CRIME AND CORRUPTION

The three General Committees focused on a central theme: ''Common Security and Democracy in the Twenty-First Century.'' I served on the Economic Affairs, Science, Technology and the Environment Committee which took up the issue of corruption and its impact on business and the rule of law. I sponsored two amendments that highlighted the importance of combating corruption and organized crime, offering concrete proposals for the establishment of high-level inter-agency mechanisms to fight corruption in each of the OSCE participating states. My amendments also called for the convening of a ministerial meeting to promote cooperation among these states to combat corruption and organized crime.

My anti-corruption amendment was based on the premise that corruption has a negative impact on foreign investment, on human rights, on democracy building and on the rule of law. Any investor nation should have the right to expect anti-corruption practices in those countries in which they seek to invest.

Significant progress has been made with the ratification of the new OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Under the OECD Convention, companies from the leading exporting nations will have to comply with certain ethical standards in their business dealings with foreign public officials. And, last July, the OSCE and the OECD held a joint conference to assess ways to combat corruption and organized crime within the OSCE region. I believe we must build on this initiative, and offered my amendment to urge the convening of a ministerial meeting with the goal of making specific recommendations to the member states about steps which can be taken to eliminate this primary threat to economic stability and security and major obstacle to U.S. businesses seeking to invest and operate abroad.

My anti-crime amendment was intended to address the negative impact that crime has on our countries and our citizens. Violent crime, international crime, organized crime and drug trafficking all undermine the rule of law, a healthy business climate and democracy building.

This amendment was based on my personal experiences as one of the only members of the United States Senate with a law enforcement background and on congressional testimony that we are witnessing an increase in the incidence of international crime, and we are seeing a type of crime which our countries have not dealt with before.

During the opening Plenary Session on July 6, we heard from the Governor of St. Petersburg, Vladimir Yakolev, about how the use of drugs is on the rise in Russia and how more needs to be done to help our youth.

On July 7, I had the opportunity to visit the Russian Police Training Academy at St. Petersburg University and met with General Victor Salnikov, the Chief of the University. I was impressed with the General's accomplishments and how many senior Russian officials who are graduates of the university, including the Prime Minister, governors, and members of the Duma.

General Salnikov and I discussed the OSCE's work on crime and drugs, and he urged us to act. The General stressed that this affects all of civilized society and all countries must do everything they can to reduce drug trafficking and crime.

After committee consideration and adoption of my amendments, I was approached by Senator Jerry Grafstein from Canada who indicated how important it was to elevate the issues of crime and corruption in the OSCE framework. I look forward to working with Senator Grafstein and other parliamentarians on these important issues at future multi-lateral meetings.

CULTURAL LINKAGES WITH COLORADO

St. Petersburg is rich in culture and educational resources. This grand city is home to 1,270 public, private and educational libraries; 181 museums of art, nature, history and culture; 106 theaters; 52 palaces; and 417 cultural organizations. Our delegation visit provided an excellent opportunity to explore linkages between some of these resources with the many museums and performing arts centers in Colorado.

On Thursday, July 8, I met with Tatyana Kuzmina, the Executive Director for the St. Petersburg Association for International Cooperation, and Natalia Koltomova, Senior Development Officer for the State Museum of the History of St. Petersburg. We learned that museums and the orchestras have exchanges in New York, Michigan and California. Ms. Kuzmina was enthusiastic about exploring cultural exchanges with Denver and other communities in Colorado. I look toward to following up with her, the U.S. Consulate in St. Petersburg, and leaders in the Colorado fine arts community to help make such cultural exchanges a reality.

As proof that the world is getting smaller all the time, I was pleasantly surprised to encounter a group of 20 Coloradans on tour. In fact, there were so many from Grand Junction alone, we could have held a Town Meeting right there in St. Petersburg! In our conversations, it was clear we shared the same impressions of the significant potential that that city has to offer in future linkages with Colorado. I ask unanimous consent that a list of the Coloradans whom I met be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

HELPING AMERICAN BUSINESSES

Mr. CAMPBELL. In the last Congress, I introduced the International Anti-Corruption Act of 1997 (S. 1200) which would tie U.S. foreign aid to how conducive foreign countries are to American businesses and investment. As I prepare to reintroduce this bill in the 106th Congress and to work on combating crime and corruption within the OSCE framework, I participated in a meeting of U.S. business representatives on Friday, July 9, convened by the Russian-American Chamber of Commerce, headquartered in Denver. We were joined by my colleagues, Senator KAY BAILEY HUTCHISON, Senator GEORGE VOINOVICH and my fellow Coloradan, Congressman TOM TANCREDO.

We heard first-hand about the challenges of doing business in Russia from representatives of U.S. companies, including Lockheed Martin Astronautics, PepsiCo, the Gillette Company, Coudert Brothers, and Colliers HIB St. Petersburg. Some issues, such as export licensing, counterfeiting and corruption are being addressed in the Senate. But, many issues these companies face are integral to the Russian business culture, such as taxation, the devaluation of the rouble, and lack of infrastructure. My colleagues and I will be following up on ways to assist U.S. businesses and investment abroad.

In addition, on Wednesday, July 7, I participated in a meeting at the St. Petersburg Investment Center. The main focus of the meeting was the presentation of a replica of Fort Ross in California, the first Russian outpost in the United States, to the Acting U.S. Consul General on behalf of the Governor of California. We heard from Anatoly Razdoglin and Valentin Makarov of the St. Petersburg Administration; Slava Bychkov, American Chamber of Commerce in Russia, St. Petersburg Chapter; Valentin Mishanov, Russian State Marine Archive; and Vitaly Dozenko, Marine Academy. The discussion ranged from U.S. investment in St. Petersburg and the many redevelopment projects which are planned or underway in the city.

CRIME AND DRUGS

As I mentioned, on Wednesday, July 7, I toured the Russia Police Training Academy at St. Petersburg University and met with General Victor Salnikov, the Chief of the University. This facility is the largest organization in Russia which prepares law enforcement officers and is the largest law institute in the country. The University has 35,000 students and 5,000 instructors. Among the law enforcement candidates, approximately 30 percent are women.

The Police Training Academy has close contacts with a number of countries, including the U.S., France, Germany, the United Kingdom, Finland, Israel and others. Areas of cooperation include police training, counterfeiting, computer crimes, and programs to combat drug trafficking.

I was informed that the Academy did not have a formal working relationship with the National Institute of Justice, the research and development arm of the U.S. Department of Justice which operates an extensive international information-sharing program. I intend to call for this bilateral linkage to facilitate collaboration and the exchange of information, research and publications which will benefit law enforcement in both countries fight crime and drugs.

U.S.-RUSSIA RELATIONS

In addition to the discussions in the plenary sessions of the OSCE Parliamentary Assembly, we had the opportunity to raise issues of importance in a special bilateral meeting between the U.S. and Russia delegations on Thursday morning, July 8. Members of our delegation raised issues including anti-Semitism in the Duma, developments in Kosovo, the case of environmental activist Aleksandr Nikitin, the assassination of Russian Parliamentarian Galina Starovoitova, and the trafficking of women and children.

As the author of the Senate Resolution condemning anti-Semitism in the Duma (S. Con. Res. 19), I took the opportunity of this bilateral session to let the Russian delegation, including the Speaker of the State Duma, know how seriously we in the United States feel about the importance of having a governmental policy against anti-Semitism. We also stressed that anti-Semitic remarks by their Duma members are intolerable. I look forward to working with Senator HELMS to move S. Con. Res. 19 through the Foreign Relations Committee to underscore the strong message we delivered to the Russians in St. Petersburg.

We had the opportunity to discuss the prevalence of anti-Semitism and the difficulties which minority religious organizations face in Russia at a gathering of approximately 100 nongovernmental organizations (NGOs), religious leaders and business representatives, hosted by the U.S. Delegation on Friday, July 9. We heard about the restrictions placed on religious freedoms and how helpful many American non-profit organizations are in supporting the NGO's efforts.

I am pleased to report that the U.S. Delegation had a significant and positive impact in advancing U.S. interests during the Eighth OSCE Parliamentary Assembly Session in St. Petersburg. To provide my colleagues with additional information, I ask unanimous consent that my formal report to Majority Leader LOTT be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CAMPBELL. Thank you, Mr. President, I yield the floor.

EXHIBIT NO. 1

COLORADANS IN ST. PETERSBURG, RUSSIA

Iva Allen, Grand Junction.
Kay Coulson, Grand Junction.
Inez Dodson, Grand Junction.
Isabel Downing, Grand Junction.
Terry Eakle, Greeley.
Betty Elliott, Grand Junction.
Dorothy Evans, Grand Junction.
Kay Hamilton, Grand Junction.
Helen Kauffman, Grand Junction.
Nancy Koos, Denver.
Dick and Jay McElroy, Grand Junction.
Lyla Michaels, Glenwood Springs.
Carol Mitchell, Grand Junction.
Neal and Sonya Morris, Grand Junction.
Pat Oates, Grand Junction.
Kawna Safford, Grand Junction.
Phyllis Safford , Grand Junction.
Dorothy Smith, Grand Junction.
Irene Stark, Montrose.

EXHIBIT NO. 2

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC, July 14, 1999.

Hon. TRENT LOTT,
Majority Leader, United States Senate, Washington, DC.

DEAR SENATOR LOTT: I am pleased to report to you on the work of the bipartisan congressional delegation which I co-chaired that participated in the Eighth Annual Session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE), hosted by the Russian Parliament, the Federation Council and the State Duma, in St. Petersburg, July 6–10, 1999. Other participants from the United States Senate were Senator Hutchison of Texas and Senator Voinovich. We were joined by 14 Members of the House: Rep. Smith, Rep. Hoyer, Rep. Sabo, Rep. Kaptur, Rep. Cardin, Rep. Sawyer, Rep. Slaughter, Rep. Stearns, Rep. Tanner, Rep. Danner, Rep. Hastings of Florida, Rep. Salmon, Rep. Cooksey, and Rep. Tancredo. The combined U.S. delegation of 17, the largest representation by any country in St. Petersburg was welcomed by others as a demonstration of the continued commitment of the United States, and the U.S. Congress, to Europe.

This year's Assembly brought together nearly 300 parliamentarians from 52 OSCE participating States. Seven countries, including the Russian Federation, were represented at the level of Speaker of Parliament or President of the Senate. The Assembly continued to recognize the democratically elected parliament of Belarus which President Lukashenka dissolved following his illegal power grab in 1996.

The inaugural ceremony included a welcoming addresses by the Speaker of the State Duma, Gennady Seleznev, and the Governor of St. Petersburg, Vladimir Yakovlev. The President of the Assembly, Ms. Helle

Degn of Denmark, presided. The theme for the St. Petersburg Assembly was ''Common Security and Democracy in the Twenty-First Century.''

Foreign Minister Knut Vollenback of Norway addressed the Assembly in his capacity of OSCE Chairman-in-Office to report on the organization's activities, particularly those relating to post-conflict rehabilitation and reconstruction in Kosovo. Vollenbaek urged the Parliamentary Assembly and its members to play an active role in promoting human rights, democracy, and the rule of law in Kosovo. Considerable attention was given to the Stability Pact for Southeastern Europe throughout the discussions on Kosovo.

Members of the U.S. delegation actively participated in a special plenary session on Kosovo and contributed to a draft resolution concerning the situation in Kosovo. The delegation was successful in securing adoption of several amendments; underscoring the legal obligation of State to cooperate with the International Tribunal for the Former Yugoslavia; granting access to all prisoners by the International Committee on the Red Cross; extending humanitarian assistance to other parts of the Federal Republic of Yugoslavia; and supporting democracy in Serbia and Montenegro. Senator Voinovich introduced a separate resolution stressing the urgent need to support infrastructure projects which would benefit neighboring countries in the Balkans region. This resolution was widely supported and adopted unanimously.

Work in the Assembly's three General Committee—Political Affairs and Security; Economic Affairs, Science, Technology and Environment; and Democracy, Human Rights and Humanitarian Questions—focused on the central theme: ''Common Security and Democracy in the Twenty-First Century.''

During discussion in the General Committee on Political Affairs and Security, the U.S. pressed for greater transparency with respect to OSCE activities in Vienna, urging that meetings of the Permanent Council be open to the public and media. Considerable discussion focused on the Assembly's longstanding recommendation to modify the consensus rule that governs all decisions taken by the OSCE. During the closing session Rep. Hastings was unanimously elected committee Vice Chairman.

Members offered several amendment to the draft resolution considered by the General Committee on Economic Affairs, Science, Technology and Environment. Two amendments that I sponsored focused on the importance of combating corruption and organized crime, offering concrete proposals for the establishment of high-level inter-agency corruption-fighting mechanisms in each of the OSCE participating States as well as the convening of a ministerial meeting to promote cooperation among these States to combat corruption and organized crime. Other amendments offered by the delegation, and adopted, highlighted the importance of reform of the agricultural sector, bolstering food security in the context of sustainable development, and regulation of capital and labor markets by multilateral organizations.

The Rapporteur's report for the General Committee on Democracy, Human Rights and Humanitarian Questions focused on the improvement of the human rights situation in the newly independent states. Amendments proposed by the U.S. delegation, and adopted by the Assembly, stressed the need for participating States to fully implement their commitments to prevent discrimination on the grounds of religion or belief and condemned statements by parliamentarians of OSCE participating States promoting or supporting racial or ethnic hatred, anti-Semitism and xenophobia. Other U.S. amendments that were adopted advocated the establishment of permanent Central Election Commissions in emerging democracies and emphasized the need for the Governments of the OSCE participating States to act to ensure that refugees and displaced persons have the right to return to their homes and to regain their property or receive compensation.

Two major U.S. initiatives in St. Petersburg were Chairman Smith's resolution on the trafficking of women and children for the sex trade and Rep. Slaughter's memorial resolution on the assassination of Galina Starovoitova, a Russian parliamentarian and an outspoken advocate of democracy, human rights and the rule of law in Russia who was murdered late last year. The trafficking resolution appeals to participating States to create legal and enforcement mechanisms to punish traffickers while protecting the rights of the trafficking victims. The resolution on the assassination called on the Russian Government to use every appropriate avenue to bring Galina Starovoitova's murders to justice. Both items received overwhelming support and were included in the St. Petersburg Declaration adopted during the closing plenary.

An ambitious series of bilateral meetings were held between Members of the U.S. delegation and representatives from the Russian Federation, Ukraine, Turkey, France, Romania, Kazakhstan, Uzbekistan, Armenian, Canada, and the United Kingdom. While in St. Petersburg, the delegation met with Aleksandr Nikitin, a former Soviet navy captain being prosecuted for his investigative work exposing nuclear storage problems and resulting radioactive contamination in the area around Murmansk. In addition, the delegation hosted a reception for representatives of non-governmental organizations and U.S. businesses active in the Russian Federation.

Elections for officers of the Assembly were held during the final plenary. As. Helle Degn of Denmark was re-elected President. Mr. Bill Graham of Canada was elected Treasurer. Four of the Assembly's nine Vice-Presidents were elected: Mr. Claude Estier (France), Mr. Bruce George (U.K.), Mr. Ihor Ostach (Ukraine), and Mr. Tiit Kabin (Estonia). Rep Hoyer's current term as Vice-President runs through 2001.

Enclosed is a copy of the St. Petersburg Declaration adopted by participants at the Assembly's closing session.

Finally, the Standing Committee agreed that the Ninth Annual Session of the OSCE Parliamentary Assembly will be held next July in Bucharest, Romania.

Sincerely,

BEN NIGHTHORSE CAMPBELL, U.S.S.,
Co-Chairman.

IMPASSE IN IMPLEMENTING THE NORTHERN IRELAND PEACE AGREEMENT

Mr. DODD. Mr. President, today the people of Northern Ireland were denied an opportunity to take a major step forward in making the promise of peace contained in the Good Friday Peace Accords a daily reality. Today, David Trimble, President of the Ulster Unionist Party, refused to lend his party's critical support to the implementation of a key provision of that agreement—the establishment of a Northern Ireland legislature and the appointment of its twelve member, multiparty executive. Ironically, in refusing to cooperate in the formation of the assembly, the Ulster Unionists are further away from their stated goal of ensuring IRA decommissioning of its weapons at the earliest possible date.

Regrettably, despite the herculean efforts of British Prime Minister Tony Blair and Irish Taoiseach Bertie Ahern to move the process forward, the so called d'Hondt mechanism provided for in the agreement has been run and an attempt to form an executive with cross community support has failed. I am deeply disappointed that the leadership of the Ulster Unionist Party has been unable to garner the necessary support of its membership to honor the obligations that the leadership committed that party to when it signed the Accords on April 8, 1998. More importantly, the people of Northern Ireland, who turned out in large numbers to participate in last year's referendum endorsing the Good Friday Accords, must also be deeply disappointed that once again their political leaders have fallen short, let this deadline pass and jeopardized the peace process.

Where do we go from here? Prime Minister Blair and Taoiseach Ahern will meet next week to reassess the situation, including the possibility of implementing those provisions of the agreement that fall within the mandate of the British and Irish Governments. In addition, the parties are required by the terms of the agreement to undertake a fundamental review at this juncture. In the meantime, I would hope that the people of Northern Ireland, Protestant and Catholic, who stand the most to lose if this agreement is allowed to wither on the vine, will let their political leaders know how disappointed they are that the agreement is not being implemented in good faith. I would also call upon those who have resorted to violence in the past to refrain from doing so—violence can never resolve the political and sectarian conflicts of Northern Ireland.

Mr. President, for more than a quarter of a century Protestants and Catholics throughout the North have lived in fear that a trip to the movies or the market place could prove to be a fatal one because sectarian violence has been a common occurrence in their daily lives. The Northern Ireland Peace agreement was designed to end the cycle of violence that has destroyed so many families in Northern Ireland. It can still accomplish that goal. There is still time for all of the parties to find the political courage to do the right thing for the people who they claim to represent.

Mr. President, I like to think of myself as a realist, yet despite the events

of the last several days I am optimistic that the Good Friday Accords remain the key to unlocking the formula for a lasting peace throughout Ireland. With the help of the British, Irish and American governments, there is still time for Northern Ireland's political leaders to find within themselves the courage to move forward with the implementation of the Accords. I hope and pray they do so before that time runs out.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 14, 1999, the Federal debt stood at $5,624,306,987,432.02 (Five trillion, six hundred twenty-four billion, three hundred six million, nine hundred eighty-seven thousand, four hundred thirty-two dollars and two cents).

One year ago, July 14, 1998, the Federal debt stood at $5,530,848,000,000 (Five trillion, five hundred thirty billion, eight hundred forty-eight million).

Five years ago, July 14, 1994, the Federal debt stood at $4,624,996,000,000 (Four trillion, six hundred twenty-four billion, nine hundred ninety-six million).

Ten years ago, July 14, 1989, the Federal debt stood at $2,800,265,000,000 (Two trillion, eight hundred billion, two hundred sixty-five million) which reflects a debt increase of more than $2 trillion—$2,824,041,987,432.02 (Two trillion, eight hundred twenty-four billion, forty-one million, nine hundred eighty-seven thousand, four hundred thirty-two dollars and two cents) during the past 10 years.

TWENTY-FIFTH ANNIVERSARY OF THE RUNAWAY AND HOMELESS YOUTH ACT

Mr. LEAHY. Mr. President, this week marks the 25th Anniversary of the Runaway and Homeless Youth Act. I had hoped as part of celebrating the silver anniversary of the passage of this landmark legislation that the Congress would be sending to President Clinton for signature, S. 249, the Missing, Exploited, and Runaway Children Protection Act. This legislation reauthorizes programs under the Runaway and Homeless Youth Act as well as authorizes funding for the National Center for Missing and Exploited Children. Both programs are critical to our nation's youth and to our nation's well-being.

Unfortunately, the bill is still being held up for no good reason. I have been working since 1996 to enact this legislation. Last Congress and again this Congress, we have been able to clear the passage of this important legislation on the Democratic side of the aisle.

I had hoped that by the end of this week my colleagues on the other side of the aisle could be persuaded to let this legislation pass the Senate and President Clinton sign it into law. The many grassroots supporters of this legislation and I remain frustrated.

If we do not pass this legislation soon, I fear it will again, as it was last Congress, be caught up in a more contentious debate on juvenile crime.

I had hoped that we had been able to move away from using this non-controversial legislation to try to pass unreasonable juvenile justice legislation. Last Congress, the Majority was roundly criticized for its tactic, which the New York Times labeled a ''stealth assault on juvenile justice.'' That procedural gimmick cost us valuable time to get this legislation enacted.

This year, it appeared that such procedural ambushes had been avoided in the Senate and minimized in the House. In late May, the Senate had a full and fair debate on a juvenile justice bill. After significant improvements through amendments, the Hatch-Leahy juvenile justice bill passed the Senate on May 20, 1999 by a strong bipartisan vote. The House finally considered juvenile crime legislation in June, although the Republican leadership has steadfastly blocked a House-Senate conference on the Hatch-Leahy bill.

Separately, in April of this year the Senate passed S. 249, the Missing, Exploited and Runaway Children Protection Act of 1999. In May, the House passed S.249 with an amendment. As I explained in a floor statement on June 30, I was hopeful that the Senate would immediately take up and pass the amended version of S.249 and worked to do that. I consulted with the Department of Health and Human Services about certain concerns I had with the House amendment and was reassured that Vermont would not be adversely affected by it. I noted my disagreement with other aspects of the House action and ways to deal with those without holding final passage of S.249 hostage. I regret to report, however, that this important legislation has been in Senate limbo since late May.

The guts of the legislation remain the Leahy-Hatch substitute language to S.249 that was reported by the Judiciary Committee and which passed the Senate in April. We were careful to recognize the important work of these programs in Vermont, as well as the many other programs and staff across the U.S. that are working effectively with runaway and homeless youth and their families. The House-inserted amendments do nothing to change the special care we took in the Senate to craft the main components of this legislation.

The Leahy-Hatch substitute language preserves current law governing the minimum grants available for small States for the Basic Center grants and also preserves the current confidentiality and records protections for runaway and homeless youth.

In addition, our substitute amendment reauthorizes the Runaway and Homeless Youth Act Rural Demonstration Projects. This program provides targeted assistance to States with rural juvenile populations. Programs serving runaway and homeless youth have found that those in rural areas are particularly difficult to reach and serve effectively.

Under the Runaway and Homeless Youth Act, every year each State is awarded a Basic Center grant for housing and crisis services for runaway and homeless children and their families. The funding is based on its juvenile population, with a minimum grant of $100,000 currently awarded to smaller States, such as Vermont. Effective community-based programs around the country can also apply directly for the funding available for the Transitional Living Program and the Sexual Abuse Prevention/Street Outreach grants. The Transitional Living Program grants are used to provide longer term housing to homeless teens age 16 to 21, and to help these teenagers become more self-sufficient. The Sexual Abuse Prevention/Street Outreach Program also targets teens who have engaged in or are at risk of engaging in high risk behaviors while living on the street.

The Runaway and Homeless Youth Act does more than shelter these children in need. As the National Network for Youth has stressed, the Act's programs ''provide critical assistance to youth in high-risk situations all over the country.'' This Act also ensures that these children and their families have access to important services, such as individual, family or group counseling, alcohol and drug counseling and a myriad of other resources to help these young people and their families get back on track.

Runaway and Homeless Youth Services in Vermont show positive results. For those who do not think rural areas have significant numbers of runaway youth, I note that in fiscal year 1998, the Vermont Coalition of Runaway and Homeless Youth Programs and Spectrum Youth & Family Services (''the Coalition''), reported that 81 percent of the 1,067 youths served by the Coalition programs were in a positive living situation at the close of service. They were reunited with their families, living with a friend or relative, or in another appropriate living situation. They were not in Department of Corrections or State Rehabilitative Services (SRS) custody.

Since 1992, the Coalition programs have seen a 175 percent increase in the numbers of youths served: The Coalition programs served 388 runaway and homeless youths in 1992. This number increased to 1,067 in 1997. In 1998, 61 percent of the youths served were 15, 16 or 17 years old.

The Coalition programs are the ''who you gonna' call'' in cases of family crisis and runaway incidents. They are a

critical part of Vermont's ability to respond pro-actively when youths and families are in crisis, and to prevent the need for later, more costly services.

The Coalition average cost per client in fiscal year 1998 was $1,471. Each client has different needs which could mean a week of service, a month, or the entire year. The service could include housing, family counseling, or any of the array of services offered the Coalition programs. The average time a case was open in fiscal year 1998 was 54 days.

The relative costs of various services available to youths experiencing problems frequently associated with runaway and ''push-out'' incidents and other serious family conflict is dramatically higher. For fiscal year 1998, the costs for a bed in Vermont's Juvenile Detention system was over $69,000; a bed in a in-patient adolescent substance abuse treatment facility was over $54,000.

The Vermont Coalition programs provide early interventions that are more humane, and more cost effective. When one youth is diverted from entering state custody, the state of Vermont saves $19,761. If 102 young people, or 9 percent of the 1,067 youths served in fiscal year 1998, were diverted from entering SRS Custody, then Vermont saves over $2,000,000—four times the amount of dollars Vermont currently receives under the RHYA for service to runaway and homeless youths.

The Vermont Coalition and Spectrum Youth & Family Services should be applauded for their important work and I believe the best way to do that is to reauthorize the Runaway and Homeless Act, so programs like these in Vermont have some greater financial security in the future.

I want to thank the many advocates who have worked with me over the years to improve the bill and, in particular, the dedicated members of the Vermont Coalition of Runaway and Homeless Youth Programs and the National Network for Youth for their suggestions and assistance. Without these dedicated public-spirited citizens these programs could not be successful.

The other important piece of S. 249 is authorizing the nation's resource center for child protection, the National Center for Missing and Exploited Children (NCMEC). This center spearheads national efforts to locate and recover missing children and raises public awareness about ways to prevent child abduction, molestation, and sexual exploitation.

Since 1984, when the center was established, it has handled more than 1.3 million calls through its national Hotline 1–800–THE-LOST; trained more than 151,755 police and other professionals; and published more than 17 million publications that are distributed free of charge. The center has worked with law enforcement on more than 65,173 missing child cases, resulting in the recovery of 46,031 children.

Since its creation, the center has helped 83 Vermont missing child cases and has helped resolve 82 of them. Nationwide, prior to 1990, the child recovery rate of the center was 62 percent. From 1990 through 1998, even with increasing caseloads, the recovery of children that are reported to the center has reached 91.8 percent.

Last year, the center launched a new CyberTipline. It allows Internet users to report such things as suspicious or illegal activity, including child pornography and online enticement of children for sexual exploitation.

Each month NCMEC brings chiefs and sheriffs together for special training. To date, the center has trained 728 of these law enforcement officials from all fifty states, including chiefs from Dover, Hartford, Brattleboro, and Winooski, Vermont and representatives from our State Police force.

The center also trains state and local police on crimes against children in cyberspace. Although this program has just begun, already 103 Unit Commanders from 34 states, including Vermont have been trained. In February of this year, Captain David Rich of the Hartford, Vermont Police Department attended this course.

The NCMEC trainers conducted a statewide infant abduction prevention seminar for the Vermont Chapter of the Association of the Women's Health, Obstetric and Neonatal Nurses, attended by 252 nurses and security staff, and conducted site audits at two Vermont hospitals.

I applaud the ongoing work of the Center and hope that the Senate will promptly pass this bill so that they can proceed with their important activities with fewer funding concerns.

Mr. President, S. 249, the Missing, Exploited, and Runaway Children Protection Act, should be passed without further delay.

CONGRATULATIONS TO THE U.S. AIR FORCE

Ms. MIKULSKI. Mr. President, I say to my colleagues in the Senate and to those listening everywhere, I rise to congratulate the U.S. Air Force on their gallantry and their bravery in risking their lives to take much-needed medicine to a woman who is now a scientist working in Antarctica on a National Science Foundation expedition.

This woman recently discovered a lump in her breast and needs medical treatment. She cannot leave Antarctica until the middle of October because of the horrendous weather conditions. She can't get out and nobody can get to her. But God bless the U.S. Air Force. They were willing to step forward at great risk to themselves to take the much-needed medicine, and at a very specific moment, drop the six packages that will be able to provide her with treatment, through the genius of telemedicine.

Imagine the terror of a woman who discovers a lump in her breast. Imagine if this lump is discovered while you are serving at a remote research station on the South Pole, which is completely inaccessible during many months of the year. A plane has never landed on the South Pole during the winter. So how could she hope to get the medical supplies she needed for treatment?

This is the situation faced by a woman serving at the National Science Foundation's Amundsen-Scott research station at the South Pole. She could neither leave the station nor expect outside help until October. We all know when a lump is discovered, immediate treatment is essential. That is part of what we have been arguing about.

But guess what. This is when our U.S. Air Force became involved. We are all so proud of what they do to protect America's values and interests around the world. Most recently, they were successful in ending genocide and ethnic cleansing in Kosovo.

But on this mission to the South Pole, they were called on to act as humanitarians. Flying from New Zealand, the 23-person crew had to fly their aircraft for nearly a 7,000-mile round trip. They had limited visibility. They had to make their drop with great precision—since the medicine and equipment could not be exposed to the harsh conditions for more than a few minutes. Personnel on the ground also showed great skill and courage. They came outside in 70-below degree weather to plot the drop site with a great big letter ''C'' so the supplies could be dropped in the right spot, and they could be there at the right time to get it.

All Americans were awed by their skill and bravery. It was led by Major Greg Pike and his crew. They made their drop successfully, returned safely, and the supplies are now being used.

For those of us who saw the news, we know the U.S. Air Force risked themselves because if that plane ran into difficulty, they were at a point of no return. When they opened up the plane to be able to drop this much-needed medicine, they had to put special gear on because they themselves were facing temperatures at 150 degrees below zero. But they did it because they had the ''right stuff'' to make sure she had the right medicine. I tell you, it was quite a moment to see. Those great guys also sent her a bouquet of flowers and pictures of themselves and their families.

Mr. President, this also reminds us of the bravery of our National Science Foundation staff who have also worked in very difficult conditions to conduct the important scientific research.

We say to her, to the lady in the Antarctic, if she can watch us on C–SPAN: God bless you. We are pulling for you,

and we say here in the Senate, God bless the U.S. Air Force.

I yield the floor.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4206. A communication from the Department of State, transmitting, pursuant to law, a report entitled ''Battling International Bribery'', dated July 1999; to the Committee on Foreign Relations.

EC–4207. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–4208. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–4209. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Amend 31 CFR Part 306 to Prohibit Bearer Reissues'', received July 6, 1999; to the Committee on Finance.

EC–4210. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Early Referral of Issues to Appeals'' (Revenue Procedure 99–28, 1999–29 I.R.B.), received July 13, 1999; to the Committee on Finance.

EC–4211. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 99–37, Information Reporting for Tuition Tax Credits and Qualified Student Loan Interest'' (Notice 99–37), received July 12, 1999; to the Committee on Finance.

EC–4212. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fosetyl-Al; Pesticide Tolerance for Emergency Exemptions'' (FRL # 6372–3), received July 7, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4213. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide; Pesticide Tolerance'' (FRL # 6088–8), received July 7, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4214. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Pesticide Tolerances for Emergency Exemptions'' (FRL # 6088–3), received July 13, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4215. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Myclobutanil; Pesticide Tolerances for Emergency Exemptions; Correction'' (FRL # 6089–2), received July 13, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4216. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sweet Cherries Grown in Designated Counties in Washington; Change in Pick Requirements'' (Docket No. FV99–923–1 IFR), received July 6, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4217. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of a Provision on Producer Continuance Referenda Under the Cranberry Marketing Order'' (Docket No. FV99–929–1 FIR), received July 6, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4218. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to improving and reforming the administration of Department programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4219. A communication from the Federal Register Liaison Officer, Records Management and Declassification Agency, Department of the Army, transmitting, pursuant to law, the report of a rule entitled ''Manufacture, Sale, Wear, Commercial Use and Quality Control of Heraldic Items'' (32 CFR Part 507), received June 28, 1999; to the Committee on Armed Services.

EC–4220. A communication from the Federal Register Liaison Officer, Records Management and Declassification Agency, Department of the Army, transmitting, pursuant to law, the report of a rule entitled ''Radiation Sources on Army Land'' (32 CFR Part 655), received June 28, 1999; to the Committee on Armed Services.

EC–4221. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation for Critical Habitat for the Rio Grande Silvery Minnow'' (RIN1018–AF72), received June 30, 1999; to the Committee on Environment and Public Works.

EC–4222. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Assets in Single-Employer Plans; Assumptions for Valuing Benefits'', received July 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–4223. A communication from the Secretary of Health and Human Services, transmitting, pursuant to the Low-Income Home Energy Assistance Act of 1981, a report of the allotment of emergency funds to 16 States and the District of Columbia; to the Committee on Health, Education, Labor, and Pensions.

EC–4224. A communication from the Executive Secretary, President's Cancer Panel, transmitting, pursuant to law, a report entitled ''Cancer Care Issues in the United States: Quality of Care, Quality of Life'' for the period January 1, 1997 to December 31, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–4225. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Bank-Specific Harvest Guidelines'' (RIN0648–XA31), received July 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4226. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Bank-Specific Harvest Guidelines'' (RIN0648–AK61), received July 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4227. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Atqasuk, AK; Docket No. 99–AAL–3 (7–7/7–8)'' (RIN2120–AA66) (1999–0218), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4228. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Yakutat, AK; Docket No. 99–AAL–2 (7–7/7–8)'' (RIN2120–AA66) (1999–0220), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4229. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Adak, AK; Docket No. 99–AAK–9 (7–7/7–8)'' (RIN2120–AA66) (1999–0219), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4230. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Palmer, AK; Docket No. 99–AAL–5 (7–7/7–8)'' (RIN2120–AA66) (1999–0217), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4231. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (104); Amdt. No. 1937 (7–1/7–8)'' (RIN2120–AA65) (1999–0032), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4232. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled

''Standard Instrument Approach Procedures; Miscellaneous Amendments (43); Amdt. No. 1938 (7–1/7–8)'' (RIN2120–AA65) (1999–0033), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4233. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland Model EC 135 Helicopters; Request for Comments; Docket No. 99–SW–38 (7–1/7–8)'' (RIN2120–AA64) (1999–0267), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4234. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes; Correction; Docket No. 99–NM–112 (7–7/7–8)'' (RIN2120–AA64) (1999–0266), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4235. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model 2000, 900EX, and Mystere Falcon 900 Series Airplanes; Docket No. 99–NM–63 (7–7/7–8)'' (RIN2120–AA64) (1999–0265), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4236. A communication from the Senior Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalties'' (RIN2127–AH48), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4237. A communication from the Senior Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Importation of Motor Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards'' (RIN2127–AH45), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4238. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Tire Identification Symbols'' (RIN2127–AH10), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4239. A communication from the Senior Attorney, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases (Delay of Effective Date)'' (RIN2105–AC10) (1999–0002), received July 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4240. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments,'' received July 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4241. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure for the Shallow-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska,'' received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4242. A communication from the Legal Counsel, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2 and 15 of the Commission's Rules to Further Ensure That Scanning Receivers Do Not Receive Cellular Radio Signals'' (ET Docket No. 98–76) (FCC 99–58), received July 12, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4243. A communication from the Management Analyst, AMD-Performance Evaluation and Records Management, Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Assessment and Collection of Regulatory Fees for Fiscal Year 1999'' (MD Docket No. 98–200) (FCC 99–146), received July 8, 1999; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–249. A petition from the New York State Legislative Commission on Water Resource Needs of New York and Long Island relative to Methyl tertiary Butyl Ether (MtBE); to the Committee on Environment and Public Works.

POM–250. A resolution adopted by the House of the General Assembly of the State of North Carolina relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

HOUSE RESOLUTION 388

Whereas, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, became an international treaty on September 3, 1981; and

Whereas, as of March 1999, 162 countries had ratified the Conventions and six states had endorsed the United States ratification in their state legislatures; and

Whereas, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based on sex against half the world's population, and the nations in support of the present Convention have agreed to follow Convention prescriptions; and

Whereas, the State of North Carolina shares the goals of the Convention, namely, affirming faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of women; and

Whereas, although women have made major gains in the struggle for equality in social, business, political, legal, educational, and other fields in this century, there is much yet to be accomplished; and

Whereas, the State of North Carolina recognizes the greatly increased interdependence of the people of the world; and

Whereas, it is fitting and appropriate to support ratification of the most important international agreement affecting the lives of women throughout the world; Now, therefore, be it

Resolved by the House of Representatives:

SECTION 1. The House of Representatives urges the citizens of North Carolina to recognize that we are citizens of the world with responsibilities extending beyond the boundaries of our city, State, and nation. The House of Representatives further urges the United States Senate to ratify the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and to support the Convention's continuing goals.

SECTION 2. The Principal Clerk shall transmit certified copies of this resolution to the Secretary of the Senate and to each member of North Carolina's Congressional Delegation.

SECTION 3. This resolution is effective upon adoption.

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. SPECTER (for himself, Mr. HELMS, Mr. BIDEN, Mr. DORGAN, Mr. SCHUMER, and Mr. SESSIONS):

S. 1372. A bill to require the filing of Shippers' Export Declarations through the Automated Export System of the Department of the Treasury with respect to certain transactions of proliferation concern, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FEINGOLD:

S. 1373. A bill to increase monitoring of the use of offsets in international defense trade; to the Committee on Foreign Relations.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1374. A bill to authorize the development and maintenance of a multiagency campus project in the town of Jackson, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. KOHL):

S. 1375. A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in act of genocide and torture abroad; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 1376. A bill to amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce Federal debt and to ensure the solvency of the Social Security System; to the Committee on Finance.

By Mr. BENNETT:

S. 1377. A bill to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, and for other purposes; to the Committee on Energy and Natural Resources..

By Mr. VOINOVICH (for himself and Mrs. LINCOLN):

S. 1378. A bill to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine

the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 1379. A bill to amend the Internal Revenue Code of 1986 to provide broad based tax relief for all taxpaying families, to mitigate the marriage penalty, to expand retirement savings, to phase out gift and estate taxes, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 1380. A bill to provide for a study of long-term care needs in the 21st century; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COCHRAN:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to establish a 5-year recovery period for petroleum storage facilities; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1382. A bill to amend the Public Health Service Act to make grants to carry out certain activities toward promoting adoption counseling, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself, Mr. REID, Mrs. MURRAY, Ms. MIKULSKI, Ms. COLLINS, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. HUTCHISON, Mrs. LINCOLN, Mr. DASCHLE, Mr. CAMPBELL, and Mr. MACK):

S. Res. 141. A resolution to congratulate the United States Women's Soccer Team on winning the 1999 Women's World Cup Championship; considered and agreed to.

By Mr. BOND:

S. Res. 142. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. WARNER:

S. Res. 143. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. HATCH:

S. Res. 144. An original resolution authorizing expenditures by the Committee on the Judiciary; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. McCAIN:

S. Res. 145. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. CHAFEE:

S. Res. 146. An original resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. GRAMM:

S. Res. 147. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. HELMS:

S. Res. 148. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. DOMENICI:

S. Res. 149. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. ROTH:

S. Res. 150. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. SPECTER:

S. Res. 151. An original resolution authorizing expenditures by the Committee on Veterans Affairs; from the Committee on Veterans Affairs; to the Committee on Rules and Administration.

By Mr. McCONNELL:

S. Res. 152. An original resolution authorizing expenditures by the Committee on Rules and Administration; from the Committee on Rules and Administration; placed on the calendar.

By Mr. WELLSTONE:

S. Res. 153. A resolution urging the Parliament of Kuwait when it sits on July 17 to grant women the right to hold office and the right to vote; to the Committee on Foreign Relations.

By Mr. THOMPSON:

S. Res. 154. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. GRASSLEY:

S. Res. 155. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. HELMS, Mr. BIDEN, Mr. DORGAN, and Mr. SCHUMER):

S. 1372. A bill to require the filing of Shippers' Export Declarations through the Automated Export System of the Department of the Treasury with respect to certain transactions of proliferation concern, and for other purposes; to the Committee on Governmental Affairs.

PROLIFERATION PREVENTION ENHANCEMENT ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation that will help the United States achieve important non-proliferation and counter-proliferation goals by improving the process through which export data on shipments of proliferation concern is collected and analyzed. By requiring that export data related to shipments of proliferation concern be filed electronically, this legislation will make it possible for agencies with export control responsibilities to do their job more efficiently and effectively.

To minimize the administrative burden on exporters, my legislation phases in the electronic filing requirement 180 days after the Secretary of Commerce and the Secretary of the Treasury certify that a secure, Internet-based filing system is up and running. There is already an electronic filing system available, but the existing system is being replaced with an Internet-based system that will be easier to access and use. When the new Internet-based system is in place, and that is expected to happen by early next year, my legislation will require that shipments of proliferation concern be reported electronically. The net result of enacting this legislation will be enhanced export control monitoring and enforcement, with minimal burden to shippers and exporters.

Let me take a moment to provide some background information for my colleagues, to make it clear what my legislation does and why. Current law requires shippers, forwarders and exporters to file what is known as a Shipper's Export Declaration, or SED. The SED indicates what is being shipped, where it is going, who it is being shipped to. Most of these are now filed on paper, and it is a time consuming and difficult process to sort through all these paper SEDs to identify shipments of proliferation concern, to track them down and check them out. In 1995, the Customs Service and the Census Bureau created the Automated Export System, or AES, which makes it possible to submit SEDs electronically. With the SED information in electronic form, it is much easier to sort through the data and identify shipments of concern.

About ten percent of SEDs are currently filed in electronic form through AES, and almost ninety percent of the forms are filed on paper. The data from the ninety percent of SEDs that are filed on paper is not as easy to review as it could be, and it is not possible to do the type of cross-checking and analysis that is necessary to zero in on the shipments that export officials need to monitor closely, and in some cases, prevent from being shipped. For example, before the 1991 Persian Gulf War, the Iraqis had a very sophisticated procurement strategy for acquiring weapons of mass destruction. They broke down their purchase requests and instead of asking for everything they wanted from one or two companies, asked for a few items from a large number of suppliers. If the Iraqis had grouped their requests, their orders would have raised eyebrows. Someone would have become suspicious, either the suppliers or export enforcement officers who reviewed the export data. As it was, the Iraqis ordered relatively small quantities of dual use commodities, items that can be used to create

weapons of mass destruction but also have perfectly ordinary commercial uses, and combined them with shipments from other suppliers, sometimes from other countries, to make weapons of mass destruction. If all SEDs on items of proliferation concern had been filed electronically, as they will be when my legislation is enacted, it would have been much easier to detect what the Iraqis were up to and take preventive action.

Not all of the shipments that are being reported on paper rather than electronically are of proliferation concern. Shippers in the United States export literally hundreds of thousands of items each month that do not raise proliferation concerns; agricultural products, toasters, automobiles, and all sorts of completely harmless goods. But there are other items that we have to watch more carefully; items that are on the Department of State's Munitions List or the Commerce Control List. My legislation will make it easier to track shipments of these items by requiring that SEDs be filed electronically for any item that is on the United States Munitions List or the Commerce Control List. With this information available in electronic format, agencies with export control responsibilities will be able to enforce our export control laws more effectively and prevent proliferation of WMD. By limiting mandatory electronic filing to items that raise genuine concerns about proliferation, my legislation will maximize the benefit to our national security without unduly burdening shippers and exporters.

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. 1372

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 ''Proliferation Prevention Enhancement Act of 1999''.

SEC. 2. MANDATORY USE OF THE AUTOMATED EXPORT SYSTEM FOR FILING CERTAIN SHIPPERS' EXPORT DECLARATIONS.

(a) AUTHORITY.—Section 301 of title 13, United States Code, is amended by adding at the end the following new subsection:

''(h) The Secretary is authorized to require the filing of Shippers' Export Declarations under this chapter through an automated and electronic system for the filing of export information established by the Department of the Treasury.''.

(b) IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce and the Secretary of State, shall publish regulations in the Federal Register to require that, upon the effective date of those regulations, exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, file such Declarations through the Automated Export System with respect to exports of items on the United States Munitions List or the Commerce Control List.

(2) ELEMENTS OF THE REGULATIONS.—The regulations referred to in paragraph (1) shall include at a minimum—

(A) provision for the establishment of online assistance services to be available for those individuals who must use the Automated Export System;

(B) provision for ensuring that an individual who is required to use the Automated Export System is able to print out from the System a validated record of the individual's submission, including the date of the submission and a serial number or other unique identifier for the export transaction; and

(C) a requirement that the Department of Commerce print out and maintain on file a paper copy or other acceptable back-up record of the individual's submission at a location selected by the Secretary of Commerce.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations described in subsection (b) shall take effect 180 days after the Secretary of Commerce, the Secretary of the Treasury, and the Director of the National Institute of Standards and Technology jointly certify, by publishing in the Federal Register a notice, that a secure, Internet-based Automated Export System that is capable of handling the expected volume of information required to be filed under subsection (b), plus the anticipated volume from voluntary use of the Automated Export System, has been successfully implemented and tested.

SEC. 3. VOLUNTARY USE OF THE AUTOMATED EXPORT SYSTEM.

It is the sense of Congress that exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, but who are not required under section 2(b) to file such Declarations using the Automated Export System, should do so.

SEC. 4. REPORT TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Energy, and the Director of Central Intelligence, shall submit a report to Congress setting forth—

(1) the advisability and feasibility of mandating electronic filing through the Automated Export System for all Shippers' Export Declarations;

(2) the manner in which data gathered through the Automated Export System can most effectively be used by other automated licensing systems administered by Federal agencies, including—

(A) the Defense Trade Application System of the Department of State;

(B) the Export Control Automated Support System of the Department of Commerce;

(C) the Foreign Disclosure and Technology Information System of the Department of Defense;

(D) the Proliferation Information Network System of the Department of Energy;

(E) the Enforcement Communication System of the Department of the Treasury; and

(F) the Export Control System of the Central Intelligence Agency; and

(3) a proposed timetable for any expansion of information required to be filed through the Automated Export System.

SEC. 5. DEFINITIONS.

In this Act:

(1) AUTOMATED EXPORT SYSTEM.—The term ''Automated Export System'' means the automated and electronic system for filing export information established under chapter 9 of title 13, United States Code, on June 19, 1995 (60 Federal Register 32040).

(2) COMMERCE CONTROL LIST.—The term ''Commerce Control List'' has the meaning given the term in section 774.1 of title 15, Code of Federal Regulations.

(3) SHIPPERS' EXPORT DECLARATION.—The term ''Shippers' Export Declaration'' means the export information filed under chapter 9 of title 13, United States Code, as described in part 30 of title 15, Code of Federal Regulations.

(4) UNITED STATES MUNITIONS LIST.—The term ''United States Munitions List'' means the list of items controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

Mr. BIDEN. Mr. President, there is no greater threat to our country than that posed by weapons of mass destruction. Nuclear, chemical or biological weapons—perhaps delivered by long-range guided missiles—could cause more destruction in a week or even a day than we suffered in all of the Vietnam war.

The United States has many nonproliferation and counterproliferation programs, but there are cracks in our organization for combating this terrible scourge.

The Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction, also know as the ''Deutch Commission,'' has found those cracks.

Yesterday the Commission gave America a blueprint for repairing them. We dare not ignore its analysis, any more than we would ignore termites in our homes.

My colleague and friend from Pennsylvania, Senator ARLEN SPECTER, also deserves special recognition today. The Commission was his idea; he secured its establishment and later ensured its continued existence. As Vice Chairman of the Commission, he worked to ensure that its recommendations would be practical and politically feasible.

Today Senator SPECTER is introducing legislation to implement one of the Deutch Commission recommendations: that we require electronic filing of Shippers' Export Declarations on a secure, Internet-based system.

This legislation will provide more timely and usable data for non-proliferation analysis by executive branch agencies, without causing any significant burden for exporters or endangering the traditional confidentiality of Shippers' Export Declarations.

I am pleased to be an initial cosponsor of this legislation and I am confident that it will be enacted.

Shippers' Export Declarations are already required under chapter 9 of title 13, United States Code. The content of those Declarations is prescribed in part 30 of title 15, Code of Federal Regulations. This legislation will not require

any reporting by industry that is not already mandated under those regulations.

There is also an existing Automated Export System, but its use is voluntary and it has not gained much acceptance. This bill will require that shippers use an Internet-based Automated Export System, once it is certified as being secure and capable of handling the expected volume of information that would be filed.

I want to assure U.S. companies, as I have been assured, that this legislation will not cause difficulties for them. Exporters will have on-line assistance in filing their Declarations and will be able to double-check their Declarations for accuracy after filing them.

In addition, the Director of the National Institute of Standards and Technology, which maintains the security of unclassified Federal Government communications, must join in certifying that the Internet-based Automated Export System is ready for use and has been successfully tested.

That will ensure the continued confidentiality of these Declarations.

This is hardly a revolutionary bill. Rather, it is one discrete, rational measure that is needed to improve our defense against the spread of nuclear, chemical or biological weapons to countries or groups that could otherwise rain chaos and destruction upon our country and the whole world.

We simply must take this step, along with others recommended by the Deutch Commission. For our own sake and for our children's sake as well, we absolutely must respond to the challenge of proliferation.

By Mr. FEINGOLD:

S. 1373. A bill to increase monitoring of the use of offsets in international defense trade; to the Committee on Foreign Relations.

DEFENSE OFFSETS DISCLOSURE ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to introduce a bill that will help clarify the difficult subject of the use of offsets in international defense trade. This little known practice has a potentially tremendous impact on our domestic industry, international trade, and national security, yet is barely understood by either the public or private sectors. My bill, the ''Defense Offsets Disclosure Act of 1999'' seeks to expand the monitoring and reporting of offsets use so that policy makers and the public can better understand the impact on our economy.

Mr. President, what are offsets? Offsets are the entire range of industrial and commercial benefits that are provided to foreign governments as inducements, or conditions, for the purchase of military goods and services. Among techniques used to meet offset requirements are co-production, subcontracting, technology transfers, in-country procurement, marketing and financial assistance, and joint ventures. In other words, they are largely non-cash ''sweeteners'' attached to export sales of large military [and occasionally civilian] products, typically set forth in side agreements and provided to the purchasing country over a period of time.

My legislation would offer several measures to get a handle on the whole range of issues involved in the use of offsets:

First, my bill declares that it is the policy of the United States to pursue better monitoring of offsets, to promote fairness in international trade; and to ensure an appropriate level of foreign participation in the production of United States weapons systems. To fully understand the implications of offsets and the extent of their impact, we must have more information on offset agreements, particularly the indirect offset obligations that are otherwise invisible. While many of my colleagues can cite anecdotal evidence of companies harmed or jobs lost, we must develop a more effective mechanism to accurately quantify the impact of offsets.

Second, my bill expresses the sense of Congress that the Executive Branch should seek trade fairness through transparency and standardization of the use of offsets in international defense trade. In particular, the Secretaries of State and Commerce and the U.S. Trade Representative should raise the issues of transparency and standardization bilaterally at all suitable venues, and our government should initiate discussions on standards for use of offsets through appropriate multilateral fora. While some believe that offsets are a business practice best left to business to handle, the nature of the problem calls out for government-to-government discussion to ensure that an even playing field exists for all stakeholders in the international defense trade.

Third, the bill establishes a new requirement for more detailed information on offsets in Congressional notifications of government-to-government and commercial sales. Current law only requires notification of the existence of an offset agreement, with no details or follow up description of the measures used to fulfill the offset obligation. My bill will require a description of the offset agreement and its dollar value. It also calls for an additional report upon completion of an offset obligation which would identify all measures taken to fulfill the offset agreement identified earlier in its pre-sale Congressional notification. At least one defense contractor already has been willing to provide this information as part of its regular license application and has provided the size of the offset, its direct and indirect components, and a rough estimate of the likely measures it would use to fulfill its offset obligations. My bill should elicit similar useful information on all offset agreements.

Fourth, the bill expands a prohibition on incentive payments that I authored in 1993. That earlier provision prohibited the use of third party incentive payments to secure offset agreements in any sale subject to the Arms Export Control Act. My new bill expands the prohibition to include items ''exported'' or ''licensed''. The previous language addressed only ''sales''. The incentive payments provision in my bill should close any loopholes and clarify that incentive payments are not an acceptable component of any type of offset transaction.

Fifth, the bill requires the Administration to initiate a review to determine the feasibility, and the most effective means, of negotiating multilateral agreements on standards for the use of offsets. It also mandates a report on the Administration's activities in the area. Through international dialogue and coordination we can arrive at multilateral standards for the use of offsets in defense trade agreements. Whether you believe that offsets are merely an annoying, but ordinary, business practice, or hold the view that they pose a major long term threat to our labor force, our industries, and our national security, I believe it is both possible and necessary to develop some common ground for business practices worldwide.

Sixth, the bill requires the President to establish a high-level, nonpartisan commission to review the full range of current practices; the impact of the use of offsets; and the role of offsets in domestic industry, trade competitiveness, national security, and the globalization of the weapons industry. There needs to be broader public awareness and national debate by a range of concerned parties on the implications of offsets. A June 29 hearing on offsets in the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, at which I testified, was a good start, but more still must be done.

Mr. President, I first discovered the murky world of offsets in 1993 when I learned that the Wisconsin-based Beloit Corporation, a subsidiary of Harnischfeger Industries Inc., had been negatively affected by an apparent indirect offset arrangement between the Northrop Corporation and the government of Finland. Beloit was one of only three companies in the world that produced a particular type of large papermaking machine. In its efforts to sell one of these machines to the International Paper Company, Beloit became aware that Northrop had offered International Paper an incentive payment to select instead the machine offered by a Finnish company, Valmet. Northrop was promoting the purchase of the Valmet machinery as part of an

agreement that would provide dollar-for-dollar offset credit on a deal with Finland to purchase sixty-four F–18 aircraft. This type of payment had the flavor of a kickback, distorted the practice of free enterprise, and threatened U.S. jobs. By lowering its bid—barely breaking even on the contract—to take into account the incentive payment offered by Northrop, Beloit did succeed in winning the contract. Nevertheless, the incident demonstrated to me the potential for offset obligations to have an impact on apparently unrelated domestic U.S. industries.

To address some of the immediate concerns raised by Beloit's experience, as I mentioned earlier, in 1993 I offered an amendment (which passed into law in 1994), to the Arms Export Control Act to prohibit incentive payments in the provision of offset credit. I wanted to clarify the Congress' disapproval of an activity that appeared to fall through the cracks of various existing acts. Neither the Anti-Kickback Act nor the Foreign Corrupt Practices Act seemed clearly to address issues raised by the payment being offered to International Paper in the Beloit case. The measure also expanded the requirements for Congressional notification of the existence, and to the extent possible, information on any offset agreement at the time of Congressional notification of a pending arms sale under the Arms Export Control Act. Last year, I offered additional language to expand further the prohibition on incentive payments and enhance the reporting requirement on offsets to include a description of the offset with dollar amounts. While my provisions were incorporated in the Security Assistance Act of 1998 as passed by the Senate Foreign Relations Committee, the legislation never made it to the floor.

Unfortunately, Mr. President, while Congress has tried to address specific problems encountered by companies in our states and districts, efforts to date have barely scratched the surface of the difficult subject of offsets. In fact, neither the legislative nor the executive branches has a full grasp of the breadth and complexity of the issue, although I know many are concerned about the potential impact of the use of offsets. From what we do know, it appears that there are several key areas affected by the practice of using offsets:

The domestic labor force and defense industrial base, particularly in the aerospace industry, impacted by the increasing role of overseas production in the defense industry;

The non-defense industrial sectors unintentionally harmed, as in the Beloit case, when defense contractors engage in indirect offset obligations;

The breadth of the U.S. economy potentially influenced by the growing globalization of the defense industry; and

The national security possibly threatened by joint ventures and growing reliance on foreign defense contractors, a concern recently highlighted in the Cox report on China's technology acquisition.

Mr. President, I believe my bill will allow us to collect better information on the use of offsets, to engage in an informed discussion on both the problem and viable policy options, and to encourage multilateral efforts to find common standards and solutions that will benefit us all. Only through these efforts can we hope to get a clear picture of the complex offset issue and ensure that their use does not produce negative consequences for the American labor force, the domestic industrial base, or our national security.

Mr. President, I ask that the bill be printed in the RECORD.

The bill follows:

S. 1373

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 ''Defense Offsets Disclosure Act of 1999''.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) A fair business environment is necessary to advance international trade, economic stability, and development worldwide, is beneficial for American workers and businesses, and is in the United States national interest.

(2) Mandated offset requirements can cause economic distortions in international defense trade and sabotage fairness and competitiveness, and may cause particular harm to small- and medium-sized businesses.

(3) The stated goal of supporting the national security needs of allied countries by assisting their defense industries through the use of offsets may no longer be sufficient justification for the practice.

(4) The use of offsets may lead to increasing dependence on foreign suppliers for the production of United States weapons systems.

(5) The offset demands required by some purchasing countries, including some of the United States closest allies, equal or exceed the value of the base contract they are intended to offset, mitigating much of the potential economic benefit of the exports.

(6) Offset demands often unduly inflate the prices of defense contracts.

(7) In some cases, United States contractors are required to provide indirect offsets which can negatively impact nondefense industrial sectors.

(8) Unilateral efforts by the United States to prohibit offsets may be impractical in the current era of globalization and would severely hinder the competitiveness of the United States defense industry in the global market.

(9) The development of global standards to manage and restrict demands for offsets would enhance United States efforts to mitigate the negative impact of offsets.

(b) DECLARATION OF POLICY.—Congress declares that the United States policy is to develop a workable system to monitor the use of offsets in the defense industry, to promote fairness in international trade, and to ensure an appropriate level of foreign participation in production of United States weapons systems.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the executive branch should pursue efforts to address trade fairness by making transparent and establishing standards for the use of offsets in international business transactions among United States trading partners and competitors;

(2) the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, or their designees, should raise the need for transparency and other standards bilaterally with other industrialized nations at every suitable venue; and

(3) the United States Government should enter into discussions regarding the establishment of multilateral standards for the control of the use of offsets in international defense trade through the appropriate multilateral fora, including such organizations as the Transatlantic Economic Partnership, the Wassenaar Arrangement, the G-8, and the World Trade Organization.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committees on Commerce of the Senate and the House of Representatives; and

(D) the Committees on Armed Services of the Senate and the House of Representatives.

(2) G–8.—The term ''G–8'' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, Italy, and Russia established to facilitate economic cooperation among the eight major economic powers.

(3) OFFSET.—The term ''offset'' means the entire range of industrial and commercial benefits provided to foreign governments as an inducement or condition to purchase military goods or services, including benefits such as coproduction, licensed production, subcontracting, technology transfer, in-country procurement, marketing and financial assistance, and joint ventures.

(4) TRANSATLANTIC ECONOMIC PARTNERSHIP.—The term ''Transatlantic Economic Partnership'' means the joint commitment made by the United States and the European Union to reinforce their close relationship through an initiative involving the intensification and extension of multilateral and bilateral cooperation and common actions in the areas of trade and investment.

(5) WASSENAAR ARRANGEMENT.—The term ''Wassenaar Arrangement'' means the multilateral export control regime in which the United States participates that seeks to promote transparency and responsibility with regard to transfers of conventional armaments and sensitive dual-use items.

(6) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(7) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

SEC. 5. REPORTING OF OFFSET AGREEMENTS.

(a) INITIAL REPORTING OF OFFSET AGREEMENTS.—

(1) GOVERNMENT-TO-GOVERNMENT SALES.—Section 36(b)(1) of the Arms Export Control Act (22 U.S.C. 2776(b)(1)) is amended—

(A) in the fourth sentence, by striking ''(if known on the date of transmittal of such certification)'' and inserting ''and a description of any offset agreement, including the dollar amount of the agreement''; and

(B) by inserting after the fourth sentence the following: ''Such description shall to the extent possible be available to the public.''.

(2) COMMERCIAL SALES.—Section 36(c)(1) of the Arms Export Control Act (22 U.S.C. 2776(c)(1)) is amended—

(A) in the second sentence, by striking ''(if known on the date of transmittal of such certification)'' and inserting ''and a description of any offset agreement, including the dollar amount of the agreement''; and

(B) by inserting after the fourth sentence the following: ''Such description shall to the extent possible be available to the public.''.

(b) REPORTING UPON COMPLETION OF OFFSET OBLIGATIONS.—Not later than 90 days after the fulfillment of an offset obligation made in conjunction with transactions reported in section 36 (b) or (c) of the Arms Export Control Act, the President shall submit a report to Congress identifying all measures taken to fulfill the offset obligations related to the sale. The report shall contain all the information required in section 36 (b) and (c) of the Arms Export Control Act, as well as any additional information that may not have been available at the time of the initial notification.

SEC. 6. EXPANDED PROHIBITION ON INCENTIVE PAYMENTS.

(a) IN GENERAL.—Section 39A(a) of the Arms Export Control Act (22 U.S.C. 2779a(a)) is amended—

(1) by inserting ''or licensed'' after ''sold''; and

(2) by inserting ''or export'' after ''sale''.

(b) DEFINITION OF UNITED STATES PERSON.—Section 39A(d)(3)(B)(ii) of the Arms Export Control Act (22 U.S.C. 2779a(d)(3)(B)(ii)) is amended by inserting ''or by an entity described in clause (i)'' after ''subparagraph (A)''.

SEC. 7. MULTILATERAL STRATEGY TO COMBAT OFFSETS.

(a) IN GENERAL.—The President shall initiate a review to determine the feasibility of establishing, and the most effective means of negotiating, multilateral agreements on standards for the use of offsets in international defense trade, with a goal of limiting all offset transactions.

(b) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a strategy for United States negotiations of multilateral agreements with designated foreign countries that provide standards for the use of offsets with respect to the sale or licensing of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), and a timetable for entering into such multilateral agreements. One year after the date the report is submitted under the preceding sentence, and annually thereafter for 5 years, the President shall submit to the appropriate congressional committees a report detailing the progress toward reaching such multilateral agreements.

(c) REQUIRED INFORMATION.—The report required by subsection (b) shall include—

(1) a description of the United States efforts to pursue multilateral negotiations on standards for the use of offsets in international defense trade;

(2) an evaluation of existing multilateral fora as appropriate venues for establishing such negotiations;

(3) a description on a country-by-country basis of United States efforts to engage in negotiations to establish bilateral agreements with respect to the use of offsets in international defense trade; and

(4) an evaluation on a country-by-country basis of foreign government efforts to address the use of offsets in international defense trade.

(d) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall monitor and periodically report to Congress on the progress in reaching a multilateral agreement.

SEC. 8. ESTABLISHMENT OF REVIEW COMMISSION.

(a) IN GENERAL.—There is established a National Commission on the Use of Offsets in Defense Trade (in this section referred to as the ''Commission'') to address all aspects of the use of offsets in international defense trade.

(b) COMMISSION MEMBERSHIP.—Not later than 60 days after the date of enactment of this Act, the President, in consultation with Congress, shall appoint 10 people to serve as members of the Commission. Commission membership shall include four representatives from the private sector, including one each from a labor organization, the defense manufacturing sector, academia, and an organization devoted to arms control; four from the executive branch, including one each from the Office of Management and budget, and the Departments of Commerce, Defense, and State; and two from the legislative branch, one each from among members of the Senate and the House of Representatives. The member designated from Office of Management and Budget will serve as Chairperson of the Commission. The President shall ensure that the Commission is nonpartisan and that the full range of perspectives on the subject of offsets in the defense industry is adequately represented.

(c) DUTIES.—The Commission shall be responsible for reviewing and reporting on—

(1) the full range of current practices by foreign governments requiring offsets in purchasing agreements and the extent and nature of offsets offered by United States and foreign defense industry contractors;

(2) the impact of the use of offsets on defense subcontractors and nondefense industrial sectors affected by indirect offsets; and

(3) the role of offsets, both direct and indirect, on domestic industry stability, United States trade competitiveness, national security, and the globalization of the weapons industry.

(d) COMMISSION REPORT.—Not later than 12 months after the Commission is established, the Commission shall submit a report to the appropriate congressional committees. The report shall include—

(1) an analysis of—

(A) the collateral impact of offsets on industry sectors that may be different than those of the contractor providing the offsets, including estimates of contracts and jobs lost as well as an assessment of damage to industrial sectors;

(B) the role of offsets with respect to competitiveness of the United States defense industry in international trade and the potential damage to the ability of United States contractors to compete if offsets were prohibited;

(C) the impact on United States national security of the use of coproduction, subcontracting, and technology transfer with foreign governments or companies that result from fulfilling offset requirements; and

(D) the potential negative effects of the increasing globalization of the weapons industry through the use of offsets and the resultant implications for the United States ability to limit the proliferation of weapons and weapons technology;

(2) proposals for unilateral, bilateral, or multilateral measures aimed at reducing the detrimental effects of offsets; and

(3) an identification of the appropriate executive branch agencies to be responsible for monitoring the use of offsets in international defense trade.

(e) TERMINATION.—The Commission shall terminate not later than the date that is 3 years after the date of enactment of this Act.●

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1374. A bill to authorize the development and maintenance of a multi-agency campus project in the town of Jackson, Wyoming; to the Committee on Energy and Natural Resources.

MULTI-AGENCY VISITOR CAMPUS IN JACKSON, WYOMING

Mr. THOMAS. Mr. President, I am pleased to introduce a bill today to authorize the development and maintenance of a multi-agency campus in the town of Jackson, Wyoming.

The management of our public lands and natural resources is often complicated and requires the coordination of many individuals to accomplish desired objectives. When western folks discuss federal land issues, we do not often have an opportunity to identify proposals that capture this type of consensus and enjoy the support from a wide array of interests; however, the multi-agency campus offers just such a unique prospect. As local, state and federal officials attempt to provide services to the public, they have identified a need to develop a campus in Jackson, Wyoming that offers visitors ''one stop shopping'' service for wildlife, tourism and resource issues.

The multi-agency campus includes a wildlife interpretive center, facilities for public programs, walkways, bike paths, museum space, and office locations for Wyoming Game and Fish, U.S. Forest Service and the local chamber of commerce. There are several entities involved with this effort—U.S. Department of Agriculture, U.S. Forest Service, Wyoming Game and Fish, National Park Service, U.S. Fish and Wildlife, U.S. Department of Interior, Teton County, Town of Jackson, Jackson Chamber of Commerce and the Jackson Hole Historical Society. Project coordinators and involved parties have spent a great deal of time incorporating the concerns of various individuals through public meetings and by presenting their plans to agency and congressional representatives.

This legislation is needed to improve communication between the federal agencies and related entities, and reduce costs to federal, state and local governments as they attempt to address public needs. Specifically, the bill would allow the U.S. Forest Service to transfer a small parcel of their land

within the proposed campus boundaries to the Town of Jackson in exchange for the Town constructing a new administrative facility for the agency.

Mr. President, this bill enjoys the support of many different groups including federal agencies, state organizations and officials, as well as the local community. It is my hope that the Senate will seize this opportunity to improve upon efforts to provide services to the American public.

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. 1374

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 ''Jackson Multi-Agency Campus Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the management of public land and natural resources and the service of the public in the area of Jackson, Wyoming, are responsibilities shared by—

(A) the Department of Agriculture;

(B) the Forest Service;

(C) the Department of the Interior, including—

(i) the National Park Service; and

(ii) the United States Fish and Wildlife Service;

(D) the Game and Fish Commission of the State of Wyoming;

(E) Teton County, Wyoming;

(F) the town of Jackson, Wyoming;

(G) the Jackson Chamber of Commerce; and

(H) the Jackson Hole Historical Society; and

(2) it is desirable to locate the administrative offices of several of the agencies and entities specified in paragraph (1) on 1 site to—

(A) facilitate communication between the agencies and entities;

(B) reduce costs to the Federal, State, and local governments; and

(C) better serve the public.

(b) PURPOSES.—The purposes of this Act are to—

(1) authorize the Federal agencies specified in subsection (a) to—

(A) develop and maintain the Project in Jackson, Wyoming, in cooperation with the other agencies and entities specified in subsection (a); and

(B) provide resources and enter into such agreements as are necessary for the planning, design, construction, operation, maintenance, and fixture modifications of all elements of the Project;

(2) direct the Secretary to convey to the town of Jackson, Wyoming, certain parcels of federally owned land located in Teton County, Wyoming, in exchange for construction of facilities for the Bridger-Teton National Forest by the town of Jackson;

(3) direct the Secretary to convey to the Game and Fish Commission of the State of Wyoming certain parcels of federally owned land in the town of Jackson, Wyoming, in exchange for approximately 1.35 acres of land, also located in the town of Jackson, to be used in the construction of the Project; and

(4) relinquish certain reversionary interests of the United States in order to facilitate the transactions described in paragraphs (1) through (4).

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Game and Fish Commission of the State of Wyoming.

(2) CONSTRUCTION COST.—The term ''construction cost'' means any cost that is—

(A) associated with building improvements to Federal standards and guidelines; and

(B) open to a competitive bidding process approved by the Secretary.

(3) FEDERAL PARCEL.—The term ''Federal parcel'' means the parcel of land, and all appurtenances to the land, comprising approximately 15.3 acres, depicted as ''Bridger-Teton National Forest'' on the Map.

(4) MAP.—The term ''Map'' means the map entitled ''Multi-Agency Campus Project Site'', dated March 31, 1999, and on file in the offices of—

(A) the Bridger-Teton National Forest, in the State of Wyoming; and

(B) the Chief of the Forest Service.

(5) MASTER PLAN.—The term ''master plan'' means the document entitled ''Conceptual Master Plan'', dated July 14, 1998, and on file at the offices of—

(A) the Bridger-Teton National Forest, in the State of Wyoming; and

(B) the Chief of the Forest Service.

(6) PROJECT.—The term ''Project'' means the proposed project for construction of a multi-agency campus, to be carried out by the town of Jackson in cooperation with the other agencies and entities described in section 2(a)(1), to provide, in accordance with the master plan—

(A) administrative facilities for various agencies and entities; and

(B) interpretive, educational, and other facilities for visitors to the greater Yellowstone area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture (including a designee of the Secretary).

(8) STATE PARCEL.—The term ''State parcel'' means the parcel of land comprising approximately 3 acres, depicted as ''Wyoming Game and Fish'' on the Map.

(9) TOWN.—The term ''town'' means the town of Jackson, Wyoming.

SEC. 4. MULTI-AGENCY CAMPUS PROJECT, JACKSON, WYOMING.

(a) CONSTRUCTION OFFERS FOR EXCHANGE OF PROPERTY.—

(1) IN GENERAL.—The town may offer to construct, as part of the Project, an administrative facility for the Bridger-Teton National Forest.

(2) CONVEYANCE.—If the offer described in paragraph (2) is made not later than 5 years after the date of enactment of this Act, the Secretary shall convey the Federal land described in section 5(a)(1) to the town, in exchange for the completed administrative facility described in this paragraph, in accordance with this Act.

(b) OFFER TO CONVEY STATE PARCEL.—

(1) IN GENERAL.—The Commission may offer to convey a portion of the State parcel, depicted on the Map as ''Parcel Three'', to the United States to be used for construction of an administrative facility for the Bridger-Teton National Forest.

(2) CONVEYANCE.—If the offer described in paragraph (2) is made not later than 5 years after the date of enactment of this Act, the Secretary shall convey, through a simultaneous conveyance, the Federal land described in section 5(a)(2) to the Commission, in exchange for the portion of the State parcel described in paragraph (2), in accordance with this Act.

SEC. 5. CONVEYANCE OF FEDERAL LAND.

(a) IN GENERAL.—In exchange for the consideration described in section 3, the Secretary shall convey—

(1) to the town, a portion of the Federal parcel, comprising approximately 9.3 acres, depicted on the Map as ''Parcel Two''; and

(2) to the Commission, a portion of the Federal parcel comprising approximately 3.2 acres, depicted on the Map as ''Parcel One''.

(b) REVERSIONARY INTERESTS.—As additional consideration for acceptance by the United States of any offer described in section 4, the United States shall relinquish all reversionary interests in the State parcel, as set forth in the deed between the United States and the State of Wyoming, dated February 19, 1957, and recorded on October 2, 1967, in Book 14 of Deeds, Page 382, in the records of Teton County, Wyoming.

SEC. 6. EQUAL VALUE OF INTERESTS EXCHANGED.

(a) VALUATION OF LAND TO BE CONVEYED.—

(1) IN GENERAL.—The fair market and improvement values of the land to be exchanged under this Act shall be determined—

(A) by appraisals acceptable to the Secretary, utilizing nationally recognized appraisal standards; and

(B) in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(2) APPRAISAL REPORT.—Each appraisal report shall be written to Federal standards, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

(3) NO EFFECT ON VALUE OF REVERSIONARY INTERESTS.—An appraisal of the State parcel shall not take into consideration any reversionary interest held by the United States in the State parcel as of the date on which the appraisal is conducted.

(b) VALUE OF FEDERAL LAND GREATER THAN CONSTRUCTION COSTS.—If the value of the Federal land to be conveyed to the town under section 5(a)(1) is greater than the construction costs to be paid by the town for the administrative facility described in section 4(a), the Secretary shall reduce the acreage of the Federal land conveyed so that the value of the Federal land conveyed to the town closely approximates the construction costs.

(c) VALUE OF FEDERAL LAND LESS THAN CONSTRUCTION COSTS.—If the value of the Federal land to be conveyed to the town under section 5(a)(1) is less than the construction costs to be paid by the town for the administrative facility described in section 4(a), the Secretary may convey to the town additional Federal land administered by the Secretary for national forest administrative site purposes in Teton County, Wyoming, so that the total value of the Federal land conveyed to the town closely approximates the construction costs.

(d) VALUE OF FEDERAL LAND EQUAL TO VALUE OF STATE PARCEL.—

(1) IN GENERAL.—The value of any Federal land conveyed to the Commission under section 5(a)(2) shall be equal to the value of the State parcel conveyed to the United States under section 4(b).

(2) BOUNDARIES.—The boundaries of the Federal land and the State parcel may be adjusted to equalize values.

(e) PAYMENT OF CASH EQUALIZATION.—Notwithstanding subsections (b) through (d), the values of Federal land and the State parcel may be equalized by payment of cash to the Secretary, the Commission, or the town, as appropriate, in accordance with section

206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), if the values cannot be equalized by adjusting the size of parcels to be conveyed or by conveying additional land, without compromising the design of the Project.

SEC. 7. ADDITIONAL PROVISIONS.

(a) CONSTRUCTION OF FEDERAL FACILITIES.—The construction of facilities on Federal land within the boundaries of the Project shall be—

(1) supervised and managed by the town; and

(2) carried out to standards and specifications approved by the Secretary.

(b) ACCESS.—The town (including contractors and subcontractors of the town) shall have access to the Federal land until completion of construction for all purposes related to construction of facilities under this Act.

(c) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—Land acquired by the United States under this Act shall be governed by all laws applicable to the administration of national forest sites.

(d) WETLAND.—

(1) IN GENERAL.—There shall be no construction of any facility after the date of conveyance of Federal land under this Act within any portion of the Federal parcel delineated on the map as ''wetlands''.

(2) DEEDS AND CONVEYANCE DOCUMENTS.—A deed or other conveyance document executed by the Secretary in carrying out this Act shall contain such reservations as are necessary to preclude development of wetland on any portion of the Federal parcel.

By Mr. LEAHY (for himself and Mr. KOHL):

S. 1375. A bill to amend the Immigration and Nationality Act to provide that aliens who commit act of torture abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in act of genocide and torture abroad; to the Committee on the Judiciary.

THE ANTI-ATROCITY ALIEN DEPORTATION ACT

Mr. LEAHY. Mr. President, the recent events in Kosovo have been a graphic reminder that crimes against humanity did not end with the Second World War. Our treatment of those persecuted by the Nazis has long been regarded as a travesty. Blatant American anti-Semitism led to post-war immigration quotas that virtually shut out Jews coming from concentration camps while embracing German sympathizers.

In contrast to this country's dismal record in accepting Jewish refugees following the last world war, the United States has tried harder and done better in recent years to provide refuge to those persons fleeing homelands that have been ravaged by violence. For example, over the past five years, approximately 83,247 Bosnian refugees have been admitted to this country. During the latest hostilities in Kosovo, the Clinton Administration provided leadership to other nations by pledging to take in as many as 20,000 Kosovar refugees.

Unfortunately, criminals who wielded machetes and guns against innocent civilians in countries like Haiti, Yugoslavia and Rwanda have been able to gain entry to the United States through the same doors that we have opened to deserving refugees. We need to lock that door to those war criminals who seek a safe haven in the United States. And to those war criminals who are already here, we should promptly show them the door out.

Our country has long provided the template and moral leadership for dealing with Nazi war criminals. The Justice Department has a specialized unit, the Offfice of Special Investigations (OSI), which was created to hunt down, prosecute and remove Nazi war criminals who had slipped into the United States among their victims under the Displaced Persons Act. Since the OSI's inception in 1979, 61 Nazi persecutors have been stripped of U.S. citizenship, 49 such individuals have been removed from the United States, and more than 150 have been denied entry.

OSI was created almost 35 years after the end of World War II and it remains authorized only to track Nazi war criminals. Little is being done about the new generation of international war criminals living among us, and these delays are costly. As any prosecutor—or, in my case, former prosecutor—knows instinctively, such delays make documentary and testimonial evidence more difficult to obtain. Stale cases are the hardest to make.

We should not repeat the mistake of waiting decades before tracking down war criminals and human rights abusers who have settled in this country. War criminals should find no sanctuary in loopholes in our current immigration policies and enforcement. No war criminal should ever come to believe that he is going to find safe harbor in the United States.

Too often, once war criminals slip through the immigration nets, they remain in the United States, unpunished for their crimes. In Vermont, news reports indicate that a Bosnian-Muslim man suspected of participating in ethnic cleansing during the Serbian war now is in Burlington. He has been identified by many people, including his own relatives, as a member of a Serbian paramilitary group responsible for the torture, rape, and murder of countless innocent people. We see the possibility that refugees now may encounter their persecutors thousands of miles away from their homeland, walking the streets of America.

This is not an isolated occurrence. The center for Justice and Accountability, a San Francisco human rights group, has identified approximately sixty suspected human rights violators now living in the United States. We have unwittingly sheltered the oppressors along with the oppressed for too long. We should not let this situation continue. We waited too long after the last world war to focus prosecutorial resources and attention on Nazi war criminals who entered this country on false pretenses. We should not repeat that mistake for other aliens who engaged in human rights abuses before coming to the United States. We need to focus the attention of our law enforcement investigators to prosecute and deport those who have committed atrocities abroad and who now enjoy safe harbor in the United States.

Despite U.S. ratification of the United Nations' ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,'' current immigration law provides that those who participated in Nazi war crimes and genocide are inadmissible to and are removable from the United States, yet those who have committed the criminal act of torture are not. This leads to cases like that of Kelbessa Negewo, a member of the military dictatorship ruling Ethiopia in the 1970s, who has been found guilty of torture in a private civil action by an American court but who remains in the United States nonetheless because the Immigration and Naturalization Act does not provide explicit authority to investigate, denaturalize or remove him. The Leahy ''Anti-Atrocity Alien Deportation Act'' would close this loophole and make those who commit torture abroad inadmissible to and deportable from our country.

The ''Anti-Atrocity Alien Deportation Act,'' which I introduce today with Senator KOHL, would amend the Immigration and Nationality Act to expand the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad. ''Torture'' is already defined in the Federal criminal code, 18 U.S.C. §2340, in a law passed as part of the implementing legislation for the ''Convention Against Torture.'' Under this Convention, the United States has an affirmative duty to prosecute torturers within its boundaries regardless of their respective nationalities. 18 U.S.C. §2340A (1994).

This legislation would also provide statutory authorization for OSI, which currently owes its existence to an Attorney General order, and would expand its jurisdiction to authorize investigations, prosecutions, and removal of any alien who participated in torture and genocide abroad—not just Nazis. The success of OSI is hunting Nazi war criminals demonstrates the effectiveness of centralized resources and expertise in these cases. OSI has worked, and it is time to update its mission.

The knowledge of the people, politics and pathologies of particular regimes engaged in genocide and human rights abuses is often necessary for effective prosecutions of these cases and may

best be accomplished by the concentrated efforts of a single office, rather than in piecemeal litigation around the country or in offices that have more diverse missions.

Unquestionably, the need to bring Nazi war criminals to justice remains a matter of great importance. Funds would not be derived from the OSI's current mission. Additional resources are authorized in the bill for OSI's expanded duties.

I have for many years sought to advance the search for war criminals who have clandestinely immigrated to our country. In 1996, the moving testimony of esteemed individuals like Rabbi Marvin Hier (the dean and founder of the Simon Wisenthal Center) led me to work closely on the drafting of the Nazi War Crimes Disclosure Act. More recently, I helped to ensure that the OSI would be able to further its efforts in investigating and denaturalizing Nazi war criminals with a budget increase of two million dollars for 1999, and I am attempting to do the same for the Year 2000.

I have also supported a strong and effective War Crimes Tribunal—with the necessary funds and authority to fully apprehend and prosecute war criminals. Expanding the mission of OSI, combined with a vigorous War Crimes Tribunal, represents a full-scale, two-prong assault on war criminals, wherever they may hide.

We must honor and respect the unique experiences of those who were victims in the darkest moment in world history. The Anti-Defamation League has expressed its support for my bill. We may help honor the memories of the victims of the Holocaust by pursuing all war criminals who enter our country. By so doing, the United States can provide moral leadership and show that we will not tolerate perpetrators of genocide and torture, least of all here.

In sum, the Anti-Atrocity Alien Deportation Act would:

Bar admission into the United States and authorize the deportation of aliens who have engaged in acts of torture abroad.

Provide statutory authorization for and expand the jurisdiction of the Office of Special Investigations (so-called "Nazi war criminal hunters") with the Department of Justice to investigate, prosecute and remove any alien who participated in torture and genocide abroad—not just Nazis; and

Authorize additional funding to ensure that OSI has adequate resources to fulfill its current mission of hunting Nazi war criminals.

I ask unanimous consent that the text of the bill and a sectional analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1375

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 "Anti-Atrocity Alien Deportation Act".

SEC. 2. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended by adding at the end the following:

"(iii) COMMISSION OF ACTS OF TORTURE.—Any alien who, outside the United States, has committed any act of torture, as defined in section 2340 of title 18, United States Code, is inadmissible.".

(b) REMOVABILITY.—Section 237(a)(4)(D) of that Act (8 U.S.C. 1227(a)(4)(D)) is amended by striking "clause (i) or (ii)" and inserting "clause (i), (ii), or (iii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 3. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

"(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize, or prosecute any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E).".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice for the fiscal year 2000 such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SECTIONAL ANALYSIS OF LEAHY ANTI-ATROCITY ALIEN DEPORTATION ACT

Summary: This bill would make two significant changes in our country's enforcement capability against those who have committed atrocities abroad and then entered the United States. First, the bill would amend the Immigration and Nationality Act to expand the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture, as defined in 18 U.S.C. §2340, abroad. Second, the bill would direct the Attorney General to establish the Office of Special Investigations (OSI) within the Criminal Division and expand the current OSI's authority to investigate, prosecute, and remove any alien who participated in torture and genocide abroad, not just Nazi war criminals.

Sec. 1. Short Title. The Act may be cited as the "Anti-Atrocity Alien Deportation Act."

Sec. 2. Admissibility and Removability of Aliens Who Have Committed Acts of Torture Abroad. Currently, the Immigration and Nationality Act provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissable to the United States and deportable. *See* 8 U.S.C. §1182(a)(3)(E)(i) and §1227(a)(4)(D). The bill would amend these sections of the Immigration and Nationality Act by expanding the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad. The United Nations' "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" entered into force with respect to the United States on November 20, 1994. This Convention, and the implementing legislation, the Torture Victims Protection Act, 18 U.S.C. §§2340 *et seq.*, includes the definition of "torture" incorporated in the bill and imposed an affirmative duty on the United States to prosecute tortures within its jurisdiction.

Sec. 3. Establishment of the Office of Special Investigations. Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all "investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliatated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion." (Att'y Gen. Order No. 851–79). The OSI's mission continues to be limited by that Attorney General Order.

This section would amend the Immigration and Nationality Act, 8 U.S.C. §1103, by directing the Attorney General to establish an Office of Special Investigations within the Department of Justice with authorization to investigate, remove, denaturalize, or prosecute any alien who has participated in torture or genocide abroad. This would expand OSI's current authorized mission. Additional funds are authorized for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.

By Mr. HOLLINGS:

S. 1376. A bill to amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce Federal debt and to ensure the solvency of the Social Security System; to the Committee on Finance.

DEFICIT AND DEBT REDUCTION AND SOCIAL SECURITY SOLVENCY ACT OF 1999

• Mr. HOLLINGS. Mr. President, this charade has gone far enough. The economy gives indications of overheating causing the Federal Reserve to increase interest rates, and now both the President and the Congress are in a foot race to cut taxes to make sure the economy catches fire. Rather than a surplus, the President's OMB Mid-Session Review on page 42 projects an increase in the debt each year for five years, and on page 43, by computation, an increase in the debt of $1.883.4 trillion over fifteen years. Some suggest cutting spending; others downsizing the government. The Democrats did both in 1993 and lost the Congress in 1994. Now, neither Republicans nor Democrats will vote to make substantial cuts and what's really needed is a tax increase. When Lyndon Johnson last balanced the budget the national

debt was less than $1 trillion and interest costs of $16 billion. Now, CBO projects a deficit this year of $5.6 trillion with interest costs of $356 billion. We have increased spending since President Johnson's time $340 billion each year for nothing. A fiscal cancer. To excise this fiscal cancer, to put government on a pay-as-you-go basis, spending cuts and a tax increase will be necessary. A value added tax of 5 percent dedicated to eliminating the debt and stabilizing Social Security is in order. It would promote a very much needed paradigm of saving. More than that, it would eliminate a substantial disadvantage in international trade. The deficit in the balance of trade nears $300 billion this year. Every industrial country except the United States has a VAT which is rebated at the port of departure. Articles produced in Europe enter the United States market with a 15 percent rebated advantage, and from Korea 25 percent. All this talk of surpluses and tax cuts misleads the American public. What we really should be doing in good times is paying down the National Debt. This bill that I am introducing today will do the trick.●

By Mr. BENNETT:

S. 1377. A bill to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, and for other purposes; to the Committee on Energy and Natural Resources.

CENTRAL UTAH PROJECT COMPLETION AMENDMENT OF 1999

Mr. BENNETT. Mr. President, I am pleased to introduce legislation which amends the Central Utah Project Completion Act. This is a simple bill and I hope my colleagues will support it.

My father was elected to the Senate in 1950 and it was during that time that legislation was passed that created the Central Utah Project. During his 24 years in the Senate, my father fought to win the initial authorizations as well as provide the annual appropriations for the various projects. Were it not for the foresight of planners in the 1950s, Utah would be grappling with severe water shortages for both agricultural and municipal purposes today.

In 1992, the Central Utah Project was reauthorized with the passage of the Central Utah Project Completion Act of 1992 (CUPCA). As part of the 1992 Act, CUPCA provided strict authorization levels for each project and program. Seven years after the passage of the reauthorization bill, planning has neared completion on these projects. During that time, we have learned several things. First, we are pleased that the District and the Bureau have saved money on other projects authorized under CUPCA. At the same time, many of us were surprised how successful the water conservation activities have been. They have been so successful that it appears we are on track to reach the authorized funding in the near future. We have also learned that the acquisition of water rights and instream flows are inadequate in other areas.

Recognizing that there are shortfalls in some areas and significant savings achieved in other areas, this legislation simply amends the current law to permit the use of savings achieved in certain areas to be spent on other projects and programs where needed. By doing so, we can ensure that the projects can be completed in a timely and cost-effective manner.

By passing this legislation we can continue the progress made in completing the Central Utah Project. I hope my colleagues will support this bill and I look forward to working with the members of the Energy Committee to bring it to the floor for consideration.

By Mr. VOINOVICH (for himself and Mrs. LINCOLN):

S. 1378. A bill to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes; to the Committee on Governmental Affairs.

THE SMALL BUSINESS PAPERWORK REDUCTION ACT

Mr. VOINOVICH. Mr. President, I rise today to introduce the Small Business Paperwork Reduction Act, legislation that will give small businesses across the nation the time they need to correct first-time paperwork violations before federal fines are assessed When enacted, the provisions of this law would apply as long as the violations do not cause serious harm or threaten public health or safety. I am pleased to be joined in this effort by my colleague from Arkansas, Senator BLANCHE LAMBERT-LINCOLN.

To own one's business is, for many, the epitome of the American dream, knowing that you are your own boss and that you alone are responsible for the success of your business. It's what motivates thousands of individuals each week to take that initial leap of faith and it is their effort and their perseverance to succeed that constitute the economic and entrepreneurial backbone of this country.

Small business owners are reponsible for the employment of millions of individuals, providing the roots for families to settle in small towns and large cities all across America. Through their payroll contributions and their tax base, small businesses—whether it's a shoe store in Cleveland, Ohio or a diner in Arkadelphia, Arkansas—make up the final nucleus of many a community.

However, even with their many contributions, small business owners face a number of obstacles to success. One of the larger obstacles they face is the daunting task of meeting federal paperwork requirements. Small business owners spend an inordinate amount of their time filling out various forms to comply with a myriad of government requirements. In fact, small business owners spend about $229 billion per year on compliance costs and some 6.7 billion hours are used annually to fill out the expected paperwork.

In addition, according to the National Federation of Independent Business (NFIB), small business owners are subjected to 63% of the nation's regulatory burden, and the paperwork regulations they are subjected to cost more than $2,000 per employee.

I believe whatever we can do to relieve the burden on the small business men and women of our nation will help increase productivity, save money and create more jobs. Obviously, to obtain these benefits necessitates a review of our paperwork requirements on our nation's small businesses.

When Congress passed the Paperwork Reduction Act of 1995, many small business owners believed they would finally obtain relief from the blizzard of paper to which they are subjected. Unfortunately, it has done too little to stem the tide of Federal paperwork requirements. In 1996, the Act was supposed to reduce the amount of paper by 10%. Instead, it was only a 2.6% * * * .

When Congress passed the Paperwork Reduction Act of 1995, many small business owners believed they would finally obtain relief from the blizzard of paper to which they are subjected. Unfortunately, it has done too little to stem the tide of federal paperwork requirements. In 1996, the Act was supposed to reduce the amount of paper by 10%. Instead, it was only 2.6% reduction. In 1997, the Act was supposed to provide another 10% reduction in the amount of paper. Instead, there was a 2.3% increase. In 1998, the Act was supposed to provide another 5% reduction in the amount of paper. Instead, there was another 1% increase.

In addition, under the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, federal agencies were required to submit plans to Congress by March of 1998 for waiving and/or reducing fines as deemed appropriate for small business. However, a large majority of federal agencies, including at least half-a-dozen cabinet departments, did not even submit their plans by the March 1998 deadline. In addition, of the plans submitted, most are settlement policies, which force small businesses into negotiations to reduce or eliminate penalties rather than to help small businesses comply with paperwork reductions.

Mr. President, even with all the forms that they are required to fill out,

and all the time it takes to complete them, small business owners want to comply with the laws of our nation. Their biggest concern, though, is the Sword of Damocles that hangs over them should they send in an incorrect form, or worse, not send one in at all. In the latter instance, it is almost always because they didn't know that they were supposed to fill out any paperwork, and unfortunately, it is such situations that generally bring about hefty fines for small business owners.

Clearly, we have an opportunity to help these business owners, and, in turn, help continue the growth of our strong U.S. economy, maintain stable and productive jobs and create new jobs and opportunities.

The legislation that Senator LINCOLN and I are introducing, the Small Business Paperwork Reduction Act, is a companion bill to H.R. 391, which passed the House on February 11, 1999 by a vote of 274–151. Like the House-passed bill, our legislation will give small business owners a ''grace period'' to make amends for first-time paperwork violations before fines are assessed. The only exceptions would be for violations that cause harm, affect internal revenue laws or involve criminal activity. If a violation threatens public health or safety, each affected agency of jurisdiction would have the discretion to levy a fine as usual, or provide a 24-hour window to correct the infraction.

In addition, our bill would establish a multi-agency task force to study how to streamline reporting requirements for small business; establish a point of contact at each federal agency that small businesses could contact regarding paperwork requirements; and require an annual comprehensive list of all federal paperwork requirements for small business to be placed on the Internet.

So there is no confusion—our bill does not give small business owners carte blanch to skip their record keeping and reporting requirements. Thus, firefighters will not be threatened with injury on the job because a business doesn't have records of the toxic substances it has on its premises, or an elderly patient in a nursing home will be secure in the knowledge that their medical records will be maintained.

As I stated earlier, the men and women of America who own small businesses do not embark on a course of flagrantly violating the laws of our nation. If they did, they would soon be out of business and probably in jail. They just want an opportunity to make up what they didn't do or correct what they've done wrong.

Mr. President, compliance through cooperation should be the way our federal agencies do business, however, in many instances, federal agencies are all too eager to ''fine first, ask questions later.'' This legislation will give our nation's small business owners the time they need to correct small, non-threatening paperwork mistakes without having to pay a penalty that could jeopardize their very business.

Our legislation is a sensible approach that has the support of the National Federation of Independent Business (NFIB), the voice of small business owners across the country, who have written to me in support of this legislation. I urge my colleagues to co-sponsor our bill and I encourage the Senate to act expeditiously.

I ask unanimous consent that the letter from the NFIB in support of this legislation be inserted into the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, July 15, 1999.

Hon. GEORGE VOINOVICH,
U.S. Senate, Washington, DC.

DEAR SENATOR VOINOVICH: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I want to thank you and Senator Lincoln for your leadership in introducing the Small Business Paperwork Reduction Act Amendments of 1999.

The federal paperwork burden consistently ranks among the top small business concerns in the NFIB ''Small Business Problems and Priorities'' survey. In fact, the burden of regulatory compliance is as much as 50 percent more for small businesses than their larger counterparts. In addition, it is estimated that paperwork alone accounts for one-third of regulatory compliance costs. Small businesses spent approximately 7 billion hours filling out federal paperwork in 1998, with the total paperwork burden estimated at $229 billion. It is clear that the burden of government paperwork hinders the ability of small businesses to grow and create new jobs.

The Voinovich-Lincoln bill will provide small businesses with a penalty waiver for a first-time paperwork violation, provided that it does not threaten public health, safety or the environment. This waiver is only applicable if the business owner corrects the violation in a reasonable time period. The bill would also establish a task force of agency representatives to study streamlining reporting requirements for small businesses.

We believe that this incremental and responsible bill can be signed into law this year. A similar bill was passed by a bipartisan majority in the House, laying the groundwork for Senate action. We look forward to working with you for Senate passage and enactment of this bill.

Sincerely,

DAN DANNER,
Vice President, Federal Public Policy.

Mrs. LINCOLN. Would my colleague from Ohio kindly answer a few questions regarding this bill?

Mr. VOINOVICH. I would be happy to discuss the bill with my distinguished colleague.

Mrs. LINCOLN. Thank you. I have heard some concerns voiced about this bill, namely how it could impact nursing homes and fire fighters. I hope you can clarify for me how regulations applicable to these groups would be impacted by the Small Business Paperwork Reduction Act, if at all.

Mr. VOINOVICH. Certainly, I would be happy to clear up the misconceptions that this bill might endanger firefighters and nursing home patients.

Some have claimed that this bill would encourage fraud or abuse of elderly nursing home patients by allowing a penalty waiver for those who violate rules regulating their care. Still others have claimed that the bill would threaten the lives of firefighters by allowing a waiver for businesses that violate rules regulating hazardous substances in the workplace. Neither of these claims is substantiated.

Like the Senator from Arkansas, I care very much about the health and safety of all Americans and would not dream of putting seniors or firefighters in obvious jeopardy. Clearly, this is not the kind of negligent misbehavior this bill aims to reward with a civil penalty waiver for a first-time paperwork violation. And this is not the kind of violation covered by this bill.

Mrs. LINCOLN. How can my colleague be certain that this kind of tragedy is not protected from civil penalty under this bill?

Mr. VOINOVICH. Allow me to explain. Nursing homes that do not keep proper medical and treatment records for their patients are clearly endangering human health and safety. Small businesses that do not keep the required records of hazardous chemicals are also endangering human health and safety. As such, neither is covered by this bill.

Mrs. LINCOLN. So what my colleague is saying is that any violation that causes actual danger to human health and safety is exempted from coverage by this bill.

Mr. VOINOVICH. This bill goes even further than that. The language states that any violation that has ''the potential to cause serious harm to the public interest'' is exempt from this bill and cannot receive a penalty waiver. Where there is a potential to cause serious harm to the public, the agencies will be able to impose, in addition to all of their other remedies, an appropriate civil fine.

Mrs. LINCOLN. As the Senator from Ohio knows, he and I are working together on another piece of legislation that would protect the powers of states and impose accountability for Federal preemption of state and local laws. Does this bill preempt state laws?

Mr. VOINOVICH. My colleague raises a good point. This bill does not preempt state laws regarding collection of information. What it does say is that states my not impose a civil penalty on small businesses for a first-time violation under Federal laws that the State may administer.

Again—I want to make clear—this bill does not preempt state laws. Instead it provides consistency that a

small business will not be fined under Federal laws whether the laws are being carried out by Federal or State government.

Mrs. LINCOLN. I thank my colleague for these clarifications. I am pleased to hear that this bill will help reduce the paperwork burden from our nation's small businesses while protecting the health and safety of our nursing home and firefighter communities, and I look forward to working with him to pass this bill.

By Mr. DOMENICI:

S. 1379. A bill to amend the Internal Revenue Code of 1986 to provide broad based tax relief for all taxpaying families, to mitigate the marriage penalty, to expand retirement savings, to phase out gift and estate taxes, and for other purposes; to the Committee on Finance.

Mr. DOMENICI. Mr. President, I am going to send to the desk a tax reduction bill. Everybody has ideas around here. I thought I would work with some people who think like I think and put together what I choose to call the Share the Surplus Tax Reduction and Simplification Act. It uses up the $780 billion over 10 years. I am introducing it tonight, and tomorrow I will speak on it. I hope some Senators will look at it from the standpoint of a balanced approach to moving toward some simplification and, at the same time, doing some of the things that will be fair, equitable, and good for our economy.

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. 1379

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 ''Share the Surplus Tax Reduction and Simplification Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX RELIEF

Sec. 11. Broad based tax relief for all taxpaying families.
Sec. 12. Marriage penalty mitigation and tax burden reduction.

TITLE II—SAVING AND INVESTMENT PROVISIONS

Sec. 21. Dividend and interest tax relief.
Sec. 22. Long-term capital gains deduction for individuals.
Sec. 23. Increase in contribution limits for traditional IRAs.

TITLE III—BUSINESS INVESTMENT PROVISIONS

Sec. 31. Repeal of alternative minimum tax on corporations.
Sec. 32. Increase in limit for expensing certain business assets.

TITLE IV—ESTATE AND GIFT TAX RELIEF

Sec. 41. Phaseout of estate and gift taxes.

TITLE V—RESEARCH CREDIT EXTENSION AND MODIFICATION

Sec. 51. Purpose.
Sec. 52. Permanent extension of research credit.
Sec. 53. Improved alternative incremental credit.
Sec. 54. Modifications to credit for basic research.
Sec. 55. Credit for expenses attributable to certain collaborative research consortia.
Sec. 56. Improvement to credit for small businesses and research partnerships.

TITLE VI—ENERGY INDEPENDENCE

Sec. 61. Purposes.
Sec. 62. Tax credit for marginal domestic oil and natural gas well production.
Sec. 63. 10-year carryback for unused minimum tax credit.
Sec. 64. 10-year net operating loss carryback for losses attributable to oil servicing companies and mineral interests of oil and gas producers.
Sec. 65. Waiver of limitations.
Sec. 66. Election to expense geological and geophysical expenditures and delay rental payments.

TITLE VII—REVENUE PROVISION

Sec. 71. 4-year averaging for conversion of traditional IRA to Roth IRA.

TITLE I—TAX RELIEF

SEC. 11. BROAD BASED TAX RELIEF FOR ALL TAXPAYING FAMILIES.

(a) PURPOSE.—The purpose of this section is to cut taxes for 120,000,000 taxpaying families by lowering the 15 percent tax rate.

(b) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended—

(1) by striking ''15%'' each place it appears in the tables in subsections (a) through (e) and inserting ''The applicable rate'', and

(2) by adding at the end the following:

''(i) APPLICABLE RATE.—For purposes of this section, the applicable rate for any taxable year shall be determined in accordance with the following table:

''In the case of any taxable year beginning in—	**The applicable rate is:**
	Percent
2002	14.9
2003	14.8
2004	14.7
2005	14.1
2006 and thereafter	13.5.''

(b) CONFORMING AMENDMENTS.—

(1) Section 1(f)(2) of the Internal Revenue Code of 1986 is amended—

(A) by inserting ''except as provided in subsection (i),'' before ''by not changing'' in subparagraph (B), and

(B) by inserting ''and the adjustment in rates under subsection (i)'' after ''rate brackets'' in subparagraph (C).

(2) Section 1(g)(7)(B)(ii)(II) of such Code is amended by striking ''15 percent'' and inserting ''the applicable rate''.

(3) Section 3402(p)(2) of such Code is amended by striking ''15 percent'' and inserting ''the applicable rate in effect under section 1(i) for the taxable year''.

(c) NEW TABLES.—Not later than 15 days after the date of enactment of this Act, the Secretary of the Treasury—

(1) shall prescribe tables for taxable years beginning in 2002 which shall reflect the amendments made by this section and which shall apply in lieu of the tables prescribed under sections 1(f)(1) and 3(a) of the Internal Revenue Code of 1986 for such taxable years, and

(2) shall modify the withholding tables and procedures for such taxable years under section 3402(a)(1) of such Code to take effect as if the reduction in the rate of tax under section 1 of such Code (as amended by this section) was attributable to such a reduction effective on such date of enactment.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 12. MARRIAGE PENALTY MITIGATION AND TAX BURDEN REDUCTION.

(a) PURPOSE.—The purposes of this section are to return 7,000,000 taxpaying families to the 15 percent tax bracket and to cut taxes for 35,000,000 taxpaying families who will benefit from a tax cut of up to $1,300 per family by eliminating or mitigating the marriage penalty for many middle class taxpaying families.

(b) IN GENERAL.—Section 1(f) of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D),

(B) by inserting after subparagraph (A) the following:

''(B) in the case of the tables contained in subsections (a), (b), (c), and (d), by increasing the maximum taxable income level for the lowest rate bracket and the minimum taxable income level for the 28 percent rate bracket otherwise determined under subparagraph (A) for taxable years beginning in any calendar year after 2001, by the applicable dollar amount for such calendar year,'', and

(C) by striking ''subparagraph (A)'' in subparagraph (C) (as so redesignated) and inserting ''subparagraphs (A) and (B)'', and

(2) by adding at the end the following:

''(8) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2)(B), the applicable dollar amount for any calendar year shall be determined as follows:

''(A) JOINT RETURNS AND SURVIVING SPOUSES.—In the case of the table contained in subsection (a)—

''Calendar year:	**Applicable Dollar Amount:**
2002	$2,000
2003	$4,000
2004	$6,000
2005	$8,000
2006 and thereafter	$10,000.

''(B) OTHER TABLES.—In the case of the table contained in subsection (b), (c), or (d)—

''Calendar year:	**Applicable Dollar Amount:**
2002	$1,000
2003	$2,000
2004	$3,000
2005	$4,000
2006 and thereafter	$5,000.''.

SEC. 13. REPEAL OF ALTERNATIVE MINIMUM TAX ON INDIVIDUALS.

(a) PURPOSES.—The purposes of this section are—

(1) to simplify the tax code so that millions of Americans will no longer be required to calculate their income taxes under 2 systems; and

(2) to recognize that tax credits should not be denied to individuals who are eligible for such credit.

(b) IN GENERAL.—Subsection (a) of section 55 of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''For purposes of this title, the tentative minimum tax on any taxpayer other than a corporation for any taxable year beginning after December 31, 2009, shall be zero.''

(c) REDUCTION OF TAX ON INDIVIDUALS PRIOR TO REPEAL.—Section 55 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) PHASEOUT OF TAX ON INDIVIDUALS.—

''(1) IN GENERAL.—The tax imposed by this section on a taxpayer other than a corporation for any taxable year beginning after December 31, 2004, and before January 1, 2010, shall be the applicable percentage of the tax which would be imposed but for this subsection.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2005	80
2006	70
2007	60
2008 or 2009	50.''

(d) NONREFUNDABLE PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY.—

(1) IN GENERAL.—Subsection (a) of section 26 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended to read as follows:

''(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's regular tax liability for the taxable year.''

(2) CHILD CREDIT.—Subsection (d) of section 24 of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(e) LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Subsection (c) of section 53 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) LIMITATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

''(B) the tentative minimum tax for the taxable year.

''(2) TAXABLE YEARS BEGINNING AFTER 2009.—In the case of any taxable year beginning after 2009, the credit allowable under subsection (a) to a taxpayer other than a corporation for any taxable year shall not exceed 90 percent of the excess (if any) of—

''(A) regular tax liability of the taxpayer for such taxable year, over

''(B) the sum of the credits allowable under subparts A, B, D, E, and F of this part.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

TITLE II—SAVING AND INVESTMENT PROVISIONS

SEC. 21. DIVIDEND AND INTEREST TAX RELIEF.

(a) PURPOSES.—The purposes of this section are—

(1) to provide an incremental step toward taxing income that is consumed rather than income that is earned and saved;

(2) to simplify the tax code by eliminating 67,000,000 hours spent on tax preparation;

(3) to eliminate all income tax on savings for more than 30,000,000 middle class families;

(4) to reduce income taxes on savings for 37,000,000 individuals; and

(5) to allow a $10,000 nest egg to grow tax-free and let individuals experience the miracle of compound interest.

(b) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by inserting after section 115 the following new section:

''SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

''(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

''(1) dividends from domestic corporations, or

''(2) interest.

''(b) LIMITATIONS.—

''(1) MAXIMUM AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $250 ($500 in the case of a joint return).

''(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organization) or section 521 (relating to farmers' cooperative associations).

''(c) INTEREST.—For purposes of this section, the term 'interest' means—

''(1) interest on deposits with a bank (as defined in section 581),

''(2) amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

''(A) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

''(B) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

''(3) interest on—

''(A) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

''(B) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

''(4) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

''(5) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to distributions by—

''(A) regulated investment companies to the extent provided in section 854(c), and

''(B) real estate investment trusts to the extent provided in section 857(c).

''(2) DISTRIBUTIONS BY A TRUST.—For purposes of subsection (a), the amount of dividends and interest properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends and interest were received by the estate or trust.

''(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

''(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

''(B) in determining the tax imposed for the taxable year pursuant to section 877(b).''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 115 the following:

''Sec. 116. Partial exclusion of dividends and interest received by individuals.''.

(2) Paragraph (2) of section 265(a) of such Code is amended by inserting before the period at the end the following: '', or to purchase or carry obligations or shares, or to make deposits, to the extent the interest thereon is excludable from gross income under section 116''.

(3) Subsection (c) of section 584 of such Code is amended by adding at the end the following new flush sentence:

''The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant.''.

(4) Subsection (a) of section 643 of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following:

''(7) DIVIDENDS OR INTEREST.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116.''.

(5) Section 854 of such Code is amended by adding at the end the following:

''(c) TREATMENT UNDER SECTION 116.—

''(1) IN GENERAL.—For purposes of section 116, in the case of any dividend (other than a dividend described in subsection (a)) received from a regulated investment company which meets the requirements of section 852 for the taxable year in which it paid the dividend—

''(A) the entire amount of such dividend shall be treated as a dividend if the sum of the aggregate dividends and the aggregate interest received by such company during the taxable year equals or exceeds 75 percent of its gross income, or

''(B) if subparagraph (A) does not apply, there shall be taken into account under section 116 only the portion of such dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income.

For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year

as does not exceed aggregate interest received for the taxable year.

''(2) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) GROSS INCOME.—The term 'gross income' does not include gain from the sale or other disposition of stock or securities.

''(B) AGGREGATE DIVIDENDS.—The term 'aggregate dividends' includes only dividends received from domestic corporations other than dividends described in section 116(b)(2). In determining the amount of any dividend for purposes of this subparagraph, the rules provided in section 116(d)(1) (relating to certain distributions) shall apply.

''(C) INTEREST.—The term 'interest' has the meaning given such term by section 116(c).''.

(6) Subsection (c) of section 857 of such Code is amended to read as follows:

''(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

''(1) IN GENERAL.—For purposes of section 116 (relating to an exclusion for dividends and interest received by individuals) and section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

''(2) TREATMENT AS INTEREST.—For purposes of section 116, in the case of a dividend (other than a capital gain dividend, as defined in subsection (b)(3)(C)) received from a real estate investment trust which meets the requirements of this part for the taxable year in which it paid the dividend—

''(A) such dividend shall be treated as interest if the aggregate interest received by the real estate investment trust for the taxable year equals or exceeds 75 percent of its gross income, or

''(B) if subparagraph (A) does not apply, the portion of such dividend which bears the same ratio to the amount of such dividend as the aggregate interest received bears to gross income shall be treated as interest.

''(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

''(A) gross income does not include the net capital gain,

''(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received by the taxable year, and

''(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

''(4) INTEREST.—The term 'interest' has the meaning given such term by section 116(c).

''(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as interest for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 22. LONG-TERM CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

(a) PURPOSES.—The purposes of this section are—

(1) to provide an incremental step toward shifting the Internal Revenue Code away from taxing savings and investment,

(2) to lower the cost of capital so that prosperity, better paying jobs, and innovation will continue in the United States,

(3) to eliminate capital gain taxes for 10,000,000 families, 75 percent of whom have annual incomes of $75,000 or less, and

(4) to simplify the tax code and thereby eliminate 70,000,000 hours of tax preparation.

(b) GENERAL RULE.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following:

''SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

''(1) the net capital gain of the taxpayer for the taxable year, or

''(2) $5,000.

''(b) SALES BETWEEN RELATED PARTIES.—Gains from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)) shall not be taken into account in determining net capital gain.

''(c) SPECIAL RULE FOR SECTION 1250 PROPERTY.—Solely for purposes of this section, in applying section 1250 to any disposition of section 1250 property, all depreciation adjustments in respect of the property shall be treated as additional depreciation.

''(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

''(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

''(2) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

''(3) an estate or trust.

''(e) SPECIAL RULE FOR PASS-THRU ENTITIES.—

''(1) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

''(2) PASS-THRU ENTITY DEFINED.—For purposes of paragraph (1), the term 'pass-thru entity' means—

''(A) a regulated investment company,

''(B) a real estate investment trust,

''(C) an S corporation,

''(D) a partnership,

''(E) an estate or trust, and

''(F) a common trust fund.''.

(c) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Paragraph (3) of section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

''(3) COORDINATION WITH OTHER PROVISIONS.—For purposes of this subsection, the amount of the net capital gain shall be reduced (but not below zero) by the sum of—

''(A) the amount of the net capital gain taken into account under section 1202(a) for the taxable year, plus

''(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''.

(d) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (17) the following:

''(18) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.''.

(e) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 of the Internal Revenue Code of 1986 (relating to other terms relating to capital gains and losses) is amended by inserting after paragraph (11) the following:

''(12) SPECIAL RULE FOR COLLECTIBLES.—

''(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

''(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

''(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).''.

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) of such Code is amended by adding at the end the following: ''For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).''.

(B) Clause (iv) of section 170(b)(1)(C) of such Code is amended by inserting before the period at the end the following: ''and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)''.

(f) CONFORMING AMENDMENTS.—

(1) Section 57(a)(7) of the Internal Revenue Code of 1986 is amended by striking ''1202'' and inserting ''1203''.

(2) Clause (iii) of section 163(d)(4)(B) of such Code is amended to read as follows:

''(iii) the sum of—

''(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

''(II) so much of the gain described in subclause (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause.''.

(3) Subparagraph (B) of section 172(d)(2) of such Code is amended to read as follows:

''(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed.''.

(4) Section 642(c)(4) of such Code is amended by striking ''1202'' and inserting ''1203''.

(5) Section 643(a)(3) of such Code is amended by striking ''1202'' and inserting ''1203''.

(6) Paragraph (4) of section 691(c) of such Code is amended inserting ''1203,'' after ''1202,''.

(7) The second sentence of section 871(a)(2) of such Code is amended by inserting ''or 1203'' after ''section 1202''.

(8) The last sentence of section 1044(d) of such Code is amended by striking ''1202'' and inserting ''1203''.

(9) Paragraph (1) of section 1402(i) of such Code is amended by inserting '', and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply'' before the period at the end.

(10) Section 121 of such Code is amended by adding at the end the following:

''(h) CROSS REFERENCE.—

''For treatment of eligible gain not excluded under subsection (a), see section 1202.''.

(11) Section 1203 of such Code, as redesignated by subsection (a), is amended by adding at the end the following:

''(1) CROSS REFERENCE.—

''For treatment of eligible gain not excluded under subsection (a), see section 1202.''.

(12) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following:

''Sec. 1202. Capital gains deduction.

''Sec. 1203. 50-percent exclusion for gain from certain small business stock.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) COLLECTIBLES.—The amendments made by subsection (d) shall apply to sales and exchanges after December 31, 2000.

SEC. 23. INCREASE IN CONTRIBUTION LIMITS FOR TRADITIONAL IRAS.

(a) PURPOSES.—The purposes of this section are—

(1) to increase the savings rate for all Americans by reforming the tax system to favorably treat income that is invested for retirement, and

(2) to provide targeted incentives to middle class families to increase their retirement savings in a traditional IRA by $1,000 per working member of the family per taxable year.

(b) INCREASE IN CONTRIBUTION LIMIT.—Paragraph (1)(A) of section 219(b) of the Internal Revenue Code of 1986 (relating to maximum amount of deduction) is amended by striking ''$2,000'' and inserting ''$3,000''.

(c) INFLATION ADJUSTMENT.—Section 219 of the Internal Revenue Code of 1986 (relating to deduction for retirement savings) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) COST-OF-LIVING ADJUSTMENT.—

''(1) DEDUCTIBLE AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2009, the $3,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING RULES.—If any amount after adjustment under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lower multiple of $100.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''in excess of $2,000 on behalf of any individual'' and inserting ''on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)''.

(2) Section 408(b)(2)(B) of such Code is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(3) Section 408(b) of such Code is amended by striking ''$2,000'' in the matter following paragraph (4) and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(4) Section 408(j) of such Code is amended by striking ''$2,000''.

(5) Section 408(p)(8) of such Code is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(6) Section 408A(c)(2)(A) of such Code is amended to read as follows:

''(A) $2,000, over''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE III—BUSINESS INVESTMENT PROVISIONS

SEC. 31. REPEAL OF ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

(a) PURPOSE.—The purpose of this section is to eliminate one of the most misguided, anti-growth, anti-investment tax schemes ever devised.

(b) IN GENERAL.—The last sentence of section 55(a) of the Internal Revenue Code of 1986, as amended by section 13, is amended by striking ''on any taxpayer other than a corporation''.

(c) REPEAL OF 90 PERCENT LIMITATION ON FOREIGN TAX CREDIT.—

(1) IN GENERAL.—Section 59(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENT.—Section 53(d)(1)(B)(i)(II) of such Code is amended by striking ''and if section 59(a)(2) did not apply''.

(d) LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—

(1) IN GENERAL.—Subsection (c) of section 53 of the Internal Revenue Code of 1986, as amended by section 13, is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) CORPORATIONS FOR TAXABLE YEARS BEGINNING AFTER 2004.—In the case of corporation for any taxable year beginning after 2004 and before 2010, the limitation under paragraph (1) shall be increased by the applicable percentage (determined in accordance with the following table) of the tentative minimum tax for the taxable year.

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005	20
2006	30
2007	40
2008 or 2009	50.

In no event shall the limitation determined under this paragraph be greater than the sum of the tax imposed by section 55 and the regular tax reduced by the sum of the credits allowed under subparts A, B, D, E, and F of this part.''

(2) CONFORMING AMENDMENTS.—

(A) Section 55(e) of such Code is amended by striking paragraph (5).

(B) Paragraph (3) of section 53(c) of such Code, as redesignated by paragraph (1), is amended by striking ''to a taxpayer other than a corporation''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) REPEAL OF 90 PERCENT LIMITATION ON FOREIGN TAX CREDIT.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2003.

(3) SUBSECTION (d)(2)(A).—The amendment made by subsection (d)(2)(A) shall apply to taxable years beginning after December 31, 2009.

SEC. 32. INCREASE IN LIMIT FOR ELECTION TO EXPENSE CERTAIN BUSINESS ASSETS.

(a) IN GENERAL.—Section 179(b)(1) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking the last item in the table and inserting the following new items:

''2003 or 2004 25,000

''2005 or thereafter ..... 250,000.''

(b) INDEX.—Section 179(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENT.—In the case of a taxable year beginning after 2005, the $25,000 amount under paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.''

(c) INCREASE IN LIMITATION ON COST OF PROPERTY PLACED IN SERVICE.—Section 179(b)(2) of the Internal Revenue Code of 1986 (relating to reduction in limitation) is amended by striking ''$200,000'' and inserting ''$4,000,000''.

TITLE IV—ESTATE AND GIFT TAX RELIEF

SEC. 41. PHASEOUT OF ESTATE AND GIFT TAXES.

(a) PURPOSE.—The purpose of this section is to begin phasing out the confiscatory gift and estate tax by reducing the rate of tax.

(b) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2009.

(c) PHASEOUT OF TAX.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended by adding at the end the following:

''(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 1999 and before 2010—

''(A) IN GENERAL.—The tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

''(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

''(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

''(B) PERCENTAGE POINTS OF REDUCTION.—

''For calendar year:	**The number of percentage points is:**
2001	1

"For calendar year:	The number of percentage points is:
2002	2
2003	3
2004	4
2005	5
2006	7
2007	9
2008	11
2009	15.

''(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) shall be applied by reducing the 55 percent percentage contained therein by the number of percentage points determined for such calendar year under subparagraph (B).

''(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the number of percentage points referred to in subparagraph (A)(i) shall be determined under the following table:

"For calendar year:	The number of percentage points is:
2001	1
2002	2
2003	3
2004	4
2005	5
2006	7
2007	9
2008	11
2009	15.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2000.

TITLE V—RESEARCH CREDIT EXTENSION AND MODIFICATION

SEC. 51. PURPOSE.

The purpose of this title is to make the research credit permanent and make certain modifications to the credit.

SEC. 52. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2000.

SEC. 53. IMPROVED ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities), as amended by section 52, is amended by adding at the end the following:

''(h) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

''(1) IN GENERAL.—At the election of the taxpayer, the credit under subsection (a)(1) shall be determined under this section by taking into account the modifications provided by this subsection.

''(2) DETERMINATION OF BASE AMOUNT.—

''(A) IN GENERAL.—In computing the base amount under subsection (c)—

''(i) notwithstanding subsection (c)(3), the fixed-base percentage shall be equal to 80 percent of the percentage which the aggregate qualified research expenses of the taxpayer for the base period is of the aggregate gross receipts of the taxpayer for the base period, and

''(ii) the minimum base amount under subsection (c)(2) shall not apply.

''(B) START-UP AND SMALL TAXPAYERS.—In computing the base amount under subsection (c), the gross receipts of a taxpayer for any taxable year in the base period shall be treated as at least equal to $1,000,000.

''(C) BASE PERIOD.—For purposes of this subsection, the base period is the 8-taxable year period preceding the taxable year (or, if shorter, the period the taxpayer (and any predecessor) has been in existence).

''(3) ELECTION.—An election under this subsection shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''.

(b) CONFORMING AMENDMENT.—Section 41(c) of the Internal Revenue Code of 1986 is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 54. MODIFICATIONS TO CREDIT FOR BASIC RESEARCH.

(a) ELIMINATION OF INCREMENTAL REQUIREMENT.—

(1) IN GENERAL.—Paragraph (1) of section 41(e) of the Internal Revenue Code of 1986 (relating to credit allowable with respect to certain payments to qualified organizations for basic research) is amended to read as follows:

''(1) IN GENERAL.—The amount of basic research payments taken into account under subsection (a)(2) shall be determined in accordance with this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 41(a)(2) of the Internal Revenue Code of 1986 is amended by striking ''determined under subsection (e)(1)(A)'' and inserting ''for the taxable year''.

(B) Section 41(e) of such Code is amended by striking paragraphs (3), (4), and (5) and by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively.

(C) Section 41(e)(4) of such Code, as redesignated by subparagraph (B), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) Clause (i) of section 170(e)(4)(B) of such Code is amended by striking ''section 41(e)(6)'' and inserting ''section 41(e)(3)''.

(b) BASIC RESEARCH.—

(1) SPECIFIC COMMERCIAL OBJECTIVE.—Section 41(e)(4) of the Internal Revenue Code of 1986 (relating to definitions and special rules), as redesignated by subsection (a)(2)(B), is amended by adding at the end the following:

''(E) SPECIFIC COMMERCIAL OBJECTIVE.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if the results of such research are to be published in a timely manner as to be available to the general public prior to their use for a commercial purpose.''.

(2) EXCLUSIONS FROM BASIC RESEARCH.—Clause (ii) of section 41(e)(4)(A) of such Code (relating to definitions and special rules), as redesignated by subsection (a), is amended to read as follows:

''(ii) basic research in the arts and humanities.''.

(c) EXPANSION OF CREDIT TO RESEARCH DONE AT FEDERAL LABORATORIES.—Section 41(e)(3) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by adding at the end the following new subparagraph:

''(E) FEDERAL LABORATORIES.—Any organization which is a Federal laboratory (as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 55. CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—Subsection (a) of section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking ''and'' at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting '', and '', and by adding at the end the following:

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a qualified research consortium.''.

(b) QUALIFIED RESEARCH CONSORTIUM DEFINED.—Subsection (f) of section 41 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization—

''(A) which is—

''(i) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct scientific or engineering research, or

''(ii) organized and operated primarily to conduct scientific or engineering research in the public interest (within the meaning of section 501(c)(3)),

''(B) which is not a private foundation,

''(C) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for scientific or engineering research, and

''(D) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for scientific or engineering research.

All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (C) and as a single person for purposes of subparagraph (D).''.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 41(b) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 56. IMPROVEMENT TO CREDIT FOR SMALL BUSINESSES AND RESEARCH PARTNERSHIPS.

(a) ASSISTANCE TO SMALL AND START-UP BUSINESSES.—The Secretary of the Treasury or the Secretary's delegate shall take such actions as are appropriate to—

(1) provide assistance to small and start-up businesses in complying with the requirements of section 41 of the Internal Revenue Code of 1986, and

(2) reduce the costs of such compliance.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) of the Internal Revenue Code of 1986, as amended by section 55(c), is amended by adding at the end the following:

''(C) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to an eligible small business, an institution of higher education (as defined in section 3304(f)), or an organization which is a Federal laboratory (as defined in subsection (e)(3)(E)), subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.''.

(c) CREDIT FOR PATENT FILING FEES.—Section 41(a) of the Internal Revenue Code of 1986, as amended by section 55(a), is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) 20 percent of the patent filing fees paid or incurred by a small business (as defined in subsection (b)(3)(C)(iii)) to the United States or to any foreign government in carrying on any trade or business.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE VI—ENERGY INDEPENDENCE

SEC. 61. PURPOSES.

The purposes of this title are—

(1) to prevent the abandonment of marginal oil and gas wells owned and operated by independent oil and gas producers, which are responsible for half of the United States' domestic production, and

(2) to transform earned tax credits and other benefits into working capital for the cash-strapped domestic oil and gas producers and service companies.

SEC. 62. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following:

''SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '1999' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following:

''(13) the marginal oil and gas well production credit determined under section 45D(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

''(3) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45D(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the marginal oil and gas well production credit'' after ''employment credit''.

(d) CARRYBACK.—Subsection (a) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (B) thereof.''.

(e) COORDINATION WITH SECTION 29.—Section 29(a) of the Internal Revenue Code of 1986 is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''45D. Credit for producing oil and gas from marginal wells.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2000.

SEC. 63. 10-YEAR CARRYBACK FOR UNUSED MINIMUM TAX CREDIT.

(a) IN GENERAL.—Section 53(c) of the Internal Revenue Code of 1986 (relating to limitation) is amended by adding at the end the following:

''(2) SPECIAL RULE FOR TAXPAYERS WITH UNUSED ENERGY MINIMUM TAX CREDITS.—

''(A) IN GENERAL.—If, during the 10-taxable year period ending with the current taxable year, a taxpayer has an unused energy minimum tax credit for any taxable year in such period (determined without regard to the application of this paragraph to the current taxable year)—

''(i) paragraph (1) shall not apply to each of the taxable years in such period for which the taxpayer has an unused energy minimum tax credit (as so determined), and

''(ii) the credit allowable under subsection (a) for each of such taxable years shall be equal to the excess (if any) of—

''(I) the sum of the regular tax liability and the net minimum tax for such taxable year, over

''(II) the sum of the credits allowable under subparts A, B, D, E, and F of this part.

''(B) ENERGY MINIMUM TAX CREDIT.—For purposes of this paragraph, the term 'energy minimum tax credit' means the minimum tax credit which would be computed with respect to any taxable year if the adjusted net minimum tax were computed by only taking into account items attributable to—

''(i) the taxpayer's mineral interests in oil and gas property, and

''(ii) the taxpayer's active conduct of a trade or business of providing tools, products, personnel, and technical solutions on a contractual basis to persons engaged in oil and gas exploration and production.''.

(b) CONFORMING AMENDMENTS.—Section 53(c) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (a)) is amended—

(1) by striking ''The'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), the '', and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000, and to any taxable year beginning on or before such date to the extent necessary to apply section 53(c)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)).

SEC. 64. 10-YEAR NET OPERATING LOSS CARRYBACK FOR LOSSES ATTRIBUTABLE TO OIL SERVICING COMPANIES AND MINERAL INTERESTS OF OIL AND GAS PRODUCERS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended by adding at the end the following:

''(H) LOSSES ON OPERATING MINERAL INTERESTS OF OIL AND GAS PRODUCERS AND OILFIELD SERVICING COMPANIES.—In the case of a taxpayer which has an eligible oil and gas loss (as defined in subsection (j)) for a taxable year, such eligible oil and gas loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.''.

(b) ELIGIBLE OIL AND GAS LOSS.—Section 172 of the Internal Revenue Code of 1986 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following:

''(j) ELIGIBLE OIL AND GAS LOSS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible oil and gas loss' means the lesser of—

''(A) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to—

''(i) mineral interests in oil and gas wells, and

''(ii) the active conduct of a trade or business of providing tools, products, personnel, and technical solutions on a contractual basis to persons engaged in oil and gas exploration and production,

are taken into account, and

''(B) the amount of the net operating loss for such taxable year.

''(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), an eligible oil and gas loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

''(3) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1999, and to any taxable year beginning on or before such date to the extent necessary to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as added by subsection (a)).

SEC. 65. WAIVER OF LIMITATIONS.

If refund or credit of any overpayment of tax resulting from the application of the amendments made by sections 63 and 64 is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 66. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES AND DELAY RENTAL PAYMENTS.

(a) PURPOSE.—The purpose of this section is to recognize that geological and geophysical expenditures and delay rentals are ordinary and necessary business expenses that should be deducted in the year the expense is incurred.

(b) ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

(1) IN GENERAL.—Section 263 of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by adding at the end the following:

''(j) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''.

(2) CONFORMING AMENDMENT.—Section 263A(c)(3) of such Code is amended by inserting ''263(j),'' after ''263(i),''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to expenses paid or incurred after December 31, 2000.

(B) TRANSITION RULE.—In the case of any expenses described in section 263(j) of the Internal Revenue Code of 1986, as added by this subsection, which were paid or incurred on or before December 31, 2000, the taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the unamortized portion of such expenses over the 36-month period beginning with the month of January, 2001. For purposes of this subparagraph, the unamortized portion of any expense is the amount remaining unamortized as of the first day of the 36-month period.

(c) ELECTION TO EXPENSE DELAY RENTAL PAYMENTS.—

(1) IN GENERAL.—Section 263 of the Internal Revenue Code of 1986 (relating to capital expenditures), as amended by subsection (b)(1), is amended by adding at the end the following:

''(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well.''.

(2) CONFORMING AMENDMENT.—Section 263A(c)(3) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), is amended by inserting ''263(k),'' after ''263(j),''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to payments made or incurred after December 31, 2000.

(B) TRANSITION RULE.—In the case of any payments described in section 263(k) of the Internal Revenue Code of 1986, as added by this subsection, which were made or incurred on or before December 31, 2000, the taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the unamortized portion of such payments over the 36-month period beginning with the month of January, 2001. For purposes of this subparagraph, the unamortized portion of any payment is the amount remaining unamortized as of the first day of the 36-month period.

TITLE VII—REVENUE PROVISION

SEC. 71. 4-YEAR AVERAGING FOR CONVERSION OF TRADITIONAL IRA TO ROTH IRA.

(a) IN GENERAL.—Section 408A(d)(3)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2004,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions made after December 31, 2000.

ADDITIONAL COSPONSORS

S. 253

At the request of Mr. MURKOWSKI, the name of the Senator from Idaho (Mr. CRAIG) was withdrawn as a cosponsor of S. 253, a bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

S. 309

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 409

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 409, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 424

At the request of Mr. COVERDELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 514

At the request of Mr. COCHRAN, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 514, a bill to improve the National Writing Project.

S. 632

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 800

At the request of Mr. BURNS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 800, a bill to promote and enhance public safety through the use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

S. 820

At the request of Mr. BREAUX, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 872

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 872, a bill to impose certain limits on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

S. 882

At the request of Mr. MURKOWSKI, the names of the Senator from Mississippi (Mr. COCHRAN), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 882, a bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.

S. 984

At the request of Ms. COLLINS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 984, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources.

S. 1029

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1029, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 1038

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1038, a bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap.

S. 1053

At the request of Mr. BOND, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1070

At the request of Mr. BOND, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1070, a bill to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard, regulation or guideline on ergonomics.

S. 1139

At the request of Mr. REID, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1139, a bill to amend title 49, United States Code, relating to civil penalties for unruly passengers of air carriers and to provide for the protection of employees providing air safety information, and for other purposes.

S. 1193

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1193, a bill to improve the safety of animals transported on aircraft, and for other purposes.

S. 1196

At the request of Mr. COVERDELL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1196, a bill to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes.

S. 1266

At the request of Mr. GORTON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1266, a bill to allow a State to combine certain funds to improve the academic achievement of all its students.

S. 1318

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1318, a bill to authorize the Secretary of Housing and Urban Development to award grants to States to supplement State and local assistance for the preservation and promotion of affordable housing opportunities for low-income families.

S. 1345

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1345, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 141—TO CONGRATULATE THE UNITED STATES WOMEN'S SOCCER TEAM ON WINNING THE 1999 WOMEN'S WORLD CUP CHAMPIONSHIP

Ms. SNOWE (for herself, Mr. REID, Mrs. MURRAY, Ms. MIKULSKI, Ms. COLLINS, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. HUTCHISON, Mrs. LINCOLN, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 141

Whereas the Americans blanked Germany in the second half of the quarter finals, before winning 3 to 2, shut out Brazil in the semifinals, 2 to 0, and then stymied China for 120 minutes Saturday, July 10, 1999;

Whereas the Americans, after playing the final match through heat, exhaustion, and tension throughout regulation play and two sudden-death 15-minute overtime periods, out-shot China 5–4 on penalty kicks;

Whereas the Team has brought excitement and pride to the United States with its outstanding play and selfless teamwork throughout the entire World Cup tournament;

Whereas the Americans inspired young women throughout the country to participate in soccer and other competitive sports that can enhance self-esteem and physical fitness;

Whereas the Team has helped to highlight the importance and positive results of title IX of the Education Amendments of 1972 (20 U.S.C. 1681), a law enacted to eliminate sex discrimination in education in the United States and to expand sports participation by girls and women;

Whereas the Team became the first team representing a country hosting the Women's World Cup tournament to win the tournament;

Whereas the popularity of the Team is evidenced by the facts that more fans watched the United States defeat Denmark in the World Cup opener held at Giants Stadium in New Jersey on June 19, 1999, than have ever watched a Giants or Jets National Football League game at that stadium, and over 90,000 people attended the final match in Pasadena, California, the largest attendance ever for a sporting event in which the only competitors were women;

Whereas the United States becomes the first women's team to simultaneously reign as both Olympic and World Cup champions;

Whereas five Americans, forward Mia Hamm, midfielder Michelle Akers, goalkeeper Briana Scurry, and defenders Brandi Chastain and Carla Overbeck, were chosen for the elite 1999 Women's World Cup All-Star team;

Whereas all the members of the 1999 U.S. women's World Cup team—defenders Brandi Chastain, Christie Pearce, Lorrie Fair, Joy Fawcett, Carla Overbeck, and Kate Sobrero; forwards Danielle Fotopoulos, Mia Hamm, Shannon MacMillian, Cindy Parlow, Kristine Lilly, and Tiffeny Milbrett; goalkeepers Tracy Ducar, Briana Scurry, and Saskia Webber; and midfielders Michelle Akers, Julie Foudy, Tiffany Roberts, Tisha Venturini, and Sara Whalen; and coach Tony DiCicco—both on the playing field and on the practice field, demonstrated their devotion to the team and played an important part in the team's success; and

Whereas the Americans will now set their sights on defending their Olympic title in Sydney 2000: Now, therefore, be it

Resolved, That the Senate congratulates the United States Women's Soccer Team on winning the 1999 Women's World Cup Championship.

Mrs. MURRAY. Mr. President, I am very pleased to join Senators SNOWE and REID as a cosponsor of the resolution congratulating the U.S. Women's Soccer Team on their wonderful performance in the 1999 World Cup tournament. Through hard work and dedication, they have achieved the ultimate goal and placed first in the world. This is truly a feat that will inspire women throughout our country to strive to their highest aspirations.

The U.S. Women's Soccer Team will surely have an impact on America's already rising numbers of young women and girls playing sports. They have created a wave of excitement and pride throughout the country, in men and women, boys and girls. All of the women who participated in the World Cup tournament are inspirations throughout the world, to women in their own countries and to women worldwide. Many young women share the dreams the women on the U.S. Women's Soccer Team had. The fact that they were able to accomplish their dreams is an inspiration to all of us. Their win shows that if girls truly believe in themselves and their abilities, their dreams too can come true.

This U.S. Women's Soccer Team also embodies the success of Title IX, a law enacted in 1972 to eliminate sexual discrimination in American education and expand sports participation by girls and women. Without Title IX, it is possible that such a success would never have occurred. It is possible that these women would never have had the chance to play soccer. It is possible that their talent would never have been realized. Title IX gave them a chance. The success of Title IX was made especially vivid in our team's victory.

Young women need positive role models as they are growing up. The U.S. Women's Soccer Team embodies such positive role models. They are women who do not work just for themselves but rather for each other and for their team. Their success shows that women can achieve anything they sincerely put their hearts and minds into. The U.S. Women's Soccer Team has proven to young women that they can prevail not only in athletics, but in anything and everything through hard work and dedication. Such role models are invaluable.

So, yes, the 1999 U.S. Women's Soccer Team joins the ranks of the landmark role models. They will go down in history as the first U.S. women's soccer team to win the World Cup. They will be remembered in the same light as other women who have had a tremendous impact on our society. Their success will not be forgotten, but will live on in its inspiration of many young women and girls throughout our country and world.

I am honored to recognize the U.S. Women's Soccer Team for its glorious victory. These talented, strong, and committed women have done a wonderful job and set a very positive example for all people, but especially for girls and women of all ages.

SENATE RESOLUTION 142—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. BOND, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 142

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $1,330,794, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $567,472, of which amount (1) not to

exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services or (7) for payment of franked mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000 through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 143—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. WARNER, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 143

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,796,030, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,568,418, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 144—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 144

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $4,845,263.00 of which amount (1) not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946.)

(b) For the period of October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $2,068,258.00 of which amount (1) not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946.)

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 145—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, reported the following original

resolution; which was referred to the Committee on Rules and Administration:

S. RES. 145

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,823,318, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,631,426, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 146—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAFEE, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 146

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $2,688,097, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,146,192, of which amount (1) not to exceed $3,333 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $833 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 147—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIR

Mr. GRAMM from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 147

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorize from October 1, 1999 through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period of October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,160,739 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,348,349 of which amount (1) not to exceed $8,333 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $354 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United Stats Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 148—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 148

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,158,449, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,347,981, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 149—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. DOMENICI, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 149

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,449,315, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,472,442, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 150—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. ROTH, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 150

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department

or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $3,762,517, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $1,604,978, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than September 30, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 151—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 151

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $1,246,174, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(I) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $531,794, of which amount (1) not to exceed $21,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(I) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,100 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendation for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be requried for (1) the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 152—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 152

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $1,647,719, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $703,526, of which amount (1) not to exceed $21,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,200 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 4. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through

September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 153—URGING THE PARLIAMENT OF KUWAIT WHEN IT SITS ON JULY 17 TO GRANT WOMEN THE RIGHT TO HOLD OFFICE AND THE RIGHT TO VOTE

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 153

Whereas, His Highness, Sheikh Jaber al-Sabah, the Amir of Kuwait, issued a decree in May granting Kuwaiti women the right to vote and to hold office in 2003;

Whereas, Amiri decrees in Kuwait must be approved by the fifty member Kuwaiti national Parliament;

Whereas, the Kuwaiti people elected a new Parliament on July 3;

Whereas, the new Parliament will convene on July 17 and consider legislation to grant women the right to hold office and the right to vote;

Whereas, the United States of America embraces democratic principles and the importance of women's rights;

Whereas, the United States is strongly committed to advancing the political rights of women, and democratic principles throughout the Middle East; Now therefore, be it

Resolved by the Senate, that the Congress—

(1) comments His Highness, Sheikh Jaber al-Sabah, for issuing his decree granting suffrage and the right to hold office to Kuwaiti women,

(2) commends the women of Kuwait for their great strides and continuing struggle toward political equality; and

(3) calls on the Kuwaiti Parliament to affirm women's suffrage and the right to hold office of women in Kuwait.

• Mr. WELLSTONE. Mr. President, I rise to submit a resolution that urges the Parliament of Kuwait, sometime during its upcoming session, to grant women the right to hold office and the right to vote. Real progress has been made in support of the democratic ideal of fuller participation for women in the political process there. The women of Kuwait enjoy many social and economic benefits, but have historically lacked one fundamental right: the right of political participation in their own country's emerging democracy.

I am proud to commend the Amir of Kuwait, His Highness, Sheikh Jaber al-Sabah, for his historic decision to issue a decree on May 16 to grant Kuwait women the right to vote and to hold office starting in 2003. Today in Kuwait, women lack the right to vote and to hold public office. All of this could change in the coming weeks when a newly-elected Parliament will vote to confirm or reject the Amir's decision.

Mr. President, the decision of the Amir, though it will be granted great weight by the Parliament, is not final. Such royal decrees must be confirmed by a parliamentary vote. Recently, the Amir dismissed Parliament in Kuwait for inactivity and on July 3 Kuwait voted for new leaders. Now the men Parliament will vote on whether to confirm the right to vote and to hold office for Kuwaiti women in the coming weeks.

I am also proud to say that a woman named Fatima al-Abdali, a courageous and passionate champion for women's rights in Kuwait, recently became one of the first women to announce that she is running for office in 2003. She is now one of at least seven women there who have announced that they will run for office for the first time. She has spent the last decade of her life fighting for the right to hold office and to vote. Her efforts have finally paid off with the Amir's recognition, as he has remarked, of ''the role played by Kuwaiti women in building and developing Kuwait society.''

This is a truly historic moment in the Middle East.

It is only fitting, Mr. President, that Americans should be moved by the struggle of Kuwaiti women. The United States has been defined by great struggles for basic political rights: for the freedoms embodied in the Declaration of Independence and the Emancipation Proclamation; the freedom central to the major civil rights legislation of this century, and to the struggle of women in our own country to achieve the right to vote and the right to hold public office. Sojourner Truth and Susan B. Anthony were great heroines of this nation. They fought the fight in this country that is currently being waged in Kuwait. In memory of these crusaders for justice, I stand in strong support of Kuwaiti women. I know I speak for my home state of Minnesota and the entire country when I support the struggle being waged by the women of Kuwait.

Some people in the region are arguing that under Islamic tradition women should not have such political rights. Contrary to this opinion, many experts believe that Islam does not prohibit the right for women to vote and to hold public office. In fact, Islamic history is filled with prominent female figures.

Women in Kuwait are making great strides in business, government, education, and the media. A woman is the Rector of Kuwait University. The Under Secretary for Higher Education is a woman. A woman is the head of the Kuwait news agency.

Now we are seeing women move forward and make significant political strides as well. Armed with this Amiri decree, the women in Kuwait are becoming prepared to seize the opportunity they have fought for. They are announcing campaigns for office in 2003. I ask that the members of the new Parliament not turn their backs on history and vote against the Amiri decree allowing voting rights and the right to hold office.

I join the with leaders from across the world, including Egypt, Iran, Pakistan, and Indonesia in my admiration and respect for the importance of this development. I hope Kuwait's new Parliament will have the courage to take the historic step of affirming this decree.•

SENATE RESOLUTION 154—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMPSON, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 154

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion (1) to make expenditures from the contingent fund of the Senate; (2) to employ personnel; and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $5,026,582, of which amount (1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended; and (2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $2,144,819, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee,

except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

INVESTIGATIONS

SEC. 6. (1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate

(a) the efficiency and economy of operations of all branches of the Government, including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(b) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(c) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(d) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(e) the efficiency and economy of operations of all branches and functions of the Government with particular reference to

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a memeber; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(f) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(g) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, is authorized, in its, his, or their discretion.

(a) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(b) to hold hearings;

(c) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(d) to administer oaths; and

(e) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 49, agreed to February 24, 1999 (106th Congress) are authorized to continue.

SENATE RESOLUTION 155—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 155

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period October 1, 1999, through September 30, 2000, under this resolution shall not exceed $1,459,827, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period October 1, 2000, through February 28, 2001, expenses of the committee under this resolution shall not exceed $622,709, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2000, and February 28, 2001, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(6) for the payment of Senate Recording and Photographic Services, or

(7) for the payment of franked and mass mail costs by the Office of the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from October 1, 1999, through September 30, 2000, and October 1, 2000, through February 28, 2001, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''.

AMENDMENTS SUBMITTED

PATIENTS' BILL OF RIGHTS ACT OF 1999

GREGG AMENDMENT NO. 1250

Mr. GREGG proposed an amendment to amendment No. 1243 proposed by Ms. COLLINS to the bill (S. 1344) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; as follows:

At the end of the amendment add the following:

SEC. . PROTECTING PATIENTS AND ACCELERATING THEIR TREATMENT AND CARE.

(a) FINDINGS.—The Senate makes the following findings with respect to the expansion of medical malpractice liability lawsuits in Senate bill 6 (106th Congress):

(1) The expansion of liability in S. 6 (106th Congress) would not benefit patients and will not improve health care quality.

(2) Expanding the scope of medical malpractice liability to health plans and employers will force higher costs on American families and their employers as a result of increased litigation, attorneys' fees, administrative costs, the costs of defensive coverage determinations, liability insurance premium increases, and unlimited jury verdicts.

(3) Legal liability for health plans and employers is the largest expansion of medical malpractice in history and the most expensive provision of S. 6 (106th Congress), and would increase costs ''on average, about 1.4 percent of the premiums of all employer-sponsored plans,'' according to the Congressional Budget Office.

(4) The expansion of medical malpractice lawsuits would force employers to drop health coverage altogether, rather than take the risk of jeopardizing the solvency of their companies over lawsuits involving health claims.

(5) Seven out of 10 employers in the United States have less than 10 employees, and only 26 percent of employees in these small businesses have health insurance. Such businesses already struggle to provide this coverage, and would be devastated by one lawsuit, and thus, would be discouraged from offering health insurance altogether.

(6) According to a Chamber of Commerce survey in July of 1998, 57 percent of small employers would be likely to drop coverage if exposed to increased lawsuits. Other studies have indicated that for every 1 percent real increase in premiums, small business sponsorship of health insurance drops by 2.6 percent.

(7) There are currently 43,000,000 Americans who are uninsured, and the expansion of medical malpractice lawsuits for health plans and employers would result in millions of additional Americans losing their health insurance coverage and being unable to provide health insurance for their families.

(8) Exposing health plans and employers to greater liability would increase defensive medicine and the delivery of unnecessary services that do not benefit patients, and result in decisions being based not on best practice protocols but on the latest jury verdicts and court decisions.

(9) In order to minimize their liability risk and the liability risk for the actions of providers, health plans and employers would constrict their provider networks, and micro manage hospitals and doctors. This result is the opposite of the very goal sought by S. 6 (106th Congress).

(10) The expansion of medical malpractice liability also would reduce consumer choice because it would drive from the marketplace many of the innovative and hybrid care delivery systems that are popular today with American families.

(11) The provisions of S. 6 (106th Congress) that greatly increase medical malpractice lawsuits against private health programs and employers are an ineffective means of compensating for injury or loss given that patients ultimately receive less than one-half of the total award and the rest goes to trial lawyers and court costs.

(12) Medical malpractice claims will not help patients get timely access to the care that they need because such claims take years to resolve and the payout is usually made over multiple years. Trial lawyers usually receive their fees up front and which can be between one-third and one-half of any total award.

(13) Expanding liability lawsuits is inconsistent with the recommendations of President Clinton's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, which specifically rejected expanded lawsuits for health plans and employers because they believed it would have serious consequences on the entire health industry.

(14) At the State level, legislatures in 24 States have rejected the expansion of medical malpractice lawsuits against health plans and employers, and instead 26 States have adopted external grievance and appeals laws to protect patients.

(15) At a time when the tort system of the United States has been criticized as inefficient, expensive and of little benefit to the injured, S. 6 (106th Congress) would be bad medicine for American families, workers and employers, driving up premiums and rewarding more lawyers than patients.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that—

(1) Americans families want and deserve quality health care;

(2) patients need health care before they are harmed rather than compensation provided long after an injury has occurred;

(3) the expansion of medical malpractice liability lawsuits would divert precious resources away from patient care and into the pockets of trial lawyers;

(4) health care reform should not result in higher costs for health insurance and fewer insured Americans; and

(5) providing a fast, fair, efficient, and independent grievances and appeals process will improve quality of care, patient access to care, and is the key to an efficient and innovative health care system in the 21st Century.

(c) NULLIFICATION OF PROVISION.—Notwithstanding any other provision of this Act, Section 302 of this Act shall be null, void, and have no effect.

WYDEN (AND OTHERS) AMENDMENT NO. 1251

Mr. WYDEN (for himself, Mr. REED, Mr. HARKIN, Mr. WELLSTONE, and Mr. BINGAMAN) proposed an amendment to amendment No. 1232 proposed by Mr. DASCHLE to the bill, S. 1344, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROTECTING THE RELATIONSHIP BETWEEN HEALTH CARE PROFESSIONALS AND THEIR PATIENTS.

(a) ERISA.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added by section 101(a)(2) of this Act, is amended by adding at the end the following:

''SEC. 730A. 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 a health insurance issuer in connection with group 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 a health insurance issuer in connection with group health insurance coverage, 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 or 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. 730B. 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, or a health insurance issuer in connection with group 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 or a group health plan, or a health insurance issuer in connection with group health insurance coverage, respectively, and a participant or beneficiary with the plan or enrollee with the issuer respectively.

''(c) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS IN UTILIZATION REVIEW PROGRAMS.—A utilization review program maintained by a group health plan, or a health insurance issuer in connection with group health insurance coverage, 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—

''(1) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

''(2) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

''(d) PROHIBITION OF CONFLICTS.—A program described in subsection (c) 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.

''SEC. 730C. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

''(a) PROCEDURES.—Insofar as a group health plan, or a health insurance issuer in connection with group 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, or a health insurance issuer in connection with group 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. 730D. PROTECTION FOR PATIENT ADVOCACY.

''(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, or a health insurance issuer in connection with group 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 part.

''(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

''(1) IN GENERAL.—A group health plan, or a health insurance issuer in connection with group health insurance coverage, 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 or beneficiaries of the plan or enrollees under health insurance coverage 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 or 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 or 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, or a health insurance issuer in connection with group health insurance coverage, 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 or 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 coverage; 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.

''SEC. 730E. PROCESS FOR SELECTION OF PROVIDERS.

''(a) IN GENERAL.—A group health plan, or a health insurance issuer in connection with group 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 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. 730F. 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 a health insurance issuer in connection with group health insurance coverage, 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, or enrollee under health insurance coverage, if the plan or issuer offers the participant or enrollee—

''(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 coverage, 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 group 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.

''(e) APPLICATION OF SECTION.—This section and sections 730A, 730B, 730C, 730D, and 730E shall supersede any provision of this subpart that conflicts with a provision of this section or section 730A, 730B, 730C, 730D, or 730E.

''(f) 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.

''(g) APPLICABILITY.—The provisions of this section and sections 730A, 730B, 730C, 730D, and 730E 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.

''(h) NONAPPLICATION OF CERTAIN PROVISION.—Only for purposes of applying the requirements of this section and sections 730A, 730B, 730C, 730D, and 730E under section 714 of the Employee Retirement Income Security Act of 1974 (as added by section 301 of this Act), sections 2707 and 2753 of the Public Health Service Act (as added by sections 201 and 202 of this Act), and section 9813 of the Internal Revenue Code of 1986 (as added by section 401 of this Act)—

''(1) section 2721(b)(2) of the Public Health Service Act and section 9831(a)(1) of the Internal Revenue Code of 1986 shall not apply to the provisions of this section and sections 730A, 730B, 730C, 730D, and 730E; and

''(2) with respect to limited scope dental benefits, subparagraph (A) of section 733(c)(2) of the Employee Retirement Income Security Act of 1974, subparagraph (A) of section 2791(c)(2) of the Public Health Service Act, and subparagraph (A) of section 9832(c)(2) of the Internal Revenue Code of 1986 shall not apply to the provisions of this section and sections 730A, 730B, 730C, 730D, and 730E.

''(i) 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.''.

(b) 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.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to group health plans for plan years beginning after, and to health insurance issuers for coverage offered or sold after, October 1, 2000.''.

SEC. . 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 of Health and Human Services 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.

(e) DEFINITIONS.—The definitions in section 2791 of the Public Health Services Act (42 U.S.C. 300gg–91) shall apply to this section.

SEC. . INFORMATION REQUIREMENTS.

(a) 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).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

SEC. . MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (1)(2).''

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

ASHCROFT (AND OTHERS) AMENDMENT NO. 1252

Mr. FRIST (for Mr. ASHCROFT (for himself, Mr. KYL, Mr. MACK, Mr. FRIST, Mr. SESSIONS, Ms. COLLINS, Mr. CRAPO, Mr. ABRAHAM, Mr. JEFFORDS, Mr. ENZI, Mr. DEWINE, Mr. GRASSLEY, Mr. HATCH, and Mr. HELMS) proposed an amendment to amendment No. 1251 proposed by Mr. WYDEN to the bill, S. 1344, supra; as follows:

Strike section 121 of the amendment, and insert the following:

SEC. . AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended to read as follows:

''SEC. 503. CLAIMS PROCEDURE, COVERAGE DETERMINATION, GRIEVANCES AND APPEALS.

''(a) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every employee benefit plan shall—

''(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant; and

''(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

''(b) COVERAGE DETERMINATIONS UNDER GROUP HEALTH PLANS.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—A group health plan or health insurance issuer conducting utilization review shall ensure that procedures are in place for—

''(i) making determinations regarding whether a participant or beneficiary is eligible to receive a payment or coverage for health services under the plan or coverage involved and any cost-sharing amount that the participant or beneficiary is required to pay with respect to such service;

''(ii) notifying a covered participant or beneficiary (or the authorized representative of such participant or beneficiary) and the treating health care professionals involved regarding determinations made under the plan or issuer and any additional payments that the participant or beneficiary may be required to make with respect to such service; and

''(iii) responding to requests, either written or oral, for coverage determinations or for internal appeals from a participant or beneficiary (or the authorized representative of such participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary.

''(B) ORAL REQUESTS.—With respect to an oral request described in subparagraph (A)(iii), a group health plan or health insurance issuer may require that the requesting individual provide written evidence of such request.

''(2) TIMELINE FOR MAKING DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—A group health plan or a health insurance issuer shall maintain procedures to ensure that prior authorization determinations concerning the provision of non-emergency items or services are made within 30 days from the date on which the request for a determination is submitted, except that such period may be extended where certain circumstances exist that are determined by the Secretary to be beyond control of the plan or issuer.

''(B) EXPEDITED DETERMINATION.—

''(i) IN GENERAL.—A prior authorization determination under this subsection shall be made within 72 hours, in accordance with the medical exigencies of the case, after a request is received by the plan or issuer under clause (ii) or (iii).

''(ii) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(iii) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies, that a determination under the procedures described in subparagraph (A) could seriously jeopardize the life or health of the participant or beneficiary.

''(C) CONCURRENT DETERMINATIONS.—A plan or issuer shall maintain procedures to certify or deny coverage of an extended stay or additional services.

''(D) RETROSPECTIVE DETERMINATION.—A plan or issuer shall maintain procedures to ensure that, with respect to the retrospective review of a determination made under paragraph (1), the determination shall be made within 30 working days of the date on which the plan or issuer receives necessary information.

''(3) NOTICE OF DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(A), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and, consistent with the medical exigencies of the case, to the treating health care professional involved not later than 2 working days after the date on which the determination is made.

''(B) EXPEDITED DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(B), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary), and consistent with the medical exigencies of the case, to the treating health care professional involved within the 72 hour period described in paragraph (2)(B).

''(C) CONCURRENT REVIEWS.—With respect to the determination under a plan or issuer under paragraph (2)(C) to certify or deny coverage of an extended stay or additional services, the plan or issuer shall issue notice of such determination to the treating health care professional and to the participant or beneficiary involved (or the authorized representative of the participant or beneficiary) within 1 working day of the determination.

''(D) RETROSPECTIVE REVIEWS.—With respect to the retrospective review under a plan or issuer of a determination made under paragraph (2)(D), the plan or issuer shall issue written notice of an approval or disapproval of a determination under this subparagraph to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and health care provider involved within 5 working days of the date on which such determination is made.

''(E) REQUIREMENTS OF NOTICE OF ADVERSE COVERAGE DETERMINATIONS.—A written notice of an adverse coverage determination under this subsection, or of an expedited adverse coverage determination under paragraph (2)(B), shall be provided to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and treating health care professional (if any) involved and shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (d).

''(c) GRIEVANCES.—A group health plan or a health insurance issuer shall have written procedures for addressing grievances between the plan or issuer offering health insurance coverage in connection with a group health plan and a participant or beneficiary. Determinations under such procedures shall be non-appealable.

''(d) INTERNAL APPEAL OF COVERAGE DETERMINATIONS.—

''(1) RIGHT TO APPEAL.—

''(A) IN GENERAL.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary), may appeal any adverse coverage determination under subsection (b) under the procedures described in this subsection.

''(B) TIME FOR APPEAL.—A plan or issuer shall ensure that a participant or beneficiary has a period of not less than 180 days beginning on the date of an adverse coverage determination under subsection (b) in which to appeal such determination under this subsection.

''(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination under subsection (b) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to internal review under this subsection.

''(2) RECORDS.—A group health plan and a health insurance issuer shall maintain written records, for at least 6 years, with respect to any appeal under this subsection for purposes of internal quality assurance and improvement. Nothing in the preceding sentence shall be construed as preventing a plan and issuer from entering into an agreement under which the issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) ROUTINE DETERMINATIONS.—A group health plan or a health insurance issuer shall complete the consideration of an appeal of an adverse routine determination under this subsection not later than 30 working days after the date on which a request for such appeal is received.

''(4) EXPEDITED DETERMINATION.—

''(A) IN GENERAL.—An expedited determination with respect to an appeal under this subsection shall be made in accordance with the medical exigencies of the case, but in no case more than 72 hours after the request for such appeal is received by the plan or issuer under subparagraph (B) or (C).

''(B) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(C) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies of the case that a determination under the procedures described in paragraph (2) could seriously jeopardize the life or health of the participant or beneficiary.

''(5) CONDUCT OF REVIEW.—A review of an adverse coverage determination under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

''(6) LACK OF MEDICAL NECESSITY.—A review of an appeal under this subsection relating to a determination to deny coverage based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, shall be made only by a physician with appropriate expertise, including age-appropriate expertise,

who was not involved in the initial determination.

''(7) NOTICE.—

''(A) IN GENERAL.—Written notice of a determination made under an internal review process shall be issued to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the treating health care professional not later than 2 working days after the completion of the review (or within the 72-hour period referred to in paragraph (4) if applicable).

''(B) ADVERSE COVERAGE DETERMINATIONS.—With respect to an adverse coverage determination made under this subsection, the notice described in subparagraph (A) shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to an independent external review under subsection (e) and instructions on how to initiate such a review.

''(e) INDEPENDENT EXTERNAL REVIEW.—

''(1) ACCESS TO REVIEW.—

''(A) IN GENERAL.—A group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan shall have written procedures to permit a participant or beneficiary (or the authorized representative of the participant or beneficiary) access to an independent external review with respect to an adverse coverage determination concerning a particular item or service (including a circumstance treated as an adverse coverage determination under subparagraph (B)) where—

''(i) the particular item or service involved—

''(I)(aa) would be a covered benefit, when medically necessary and appropriate under the terms and conditions of the plan, and the item or service has been determined not to be medically necessary and appropriate under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(bb)(AA) the amount of such item or service involved exceeds a significant financial threshold; or

''(BB) there is a significant risk of placing the life or health of the participant or beneficiary in jeopardy; or

''(II) would be a covered benefit, when not considered experimental or investigational under the terms and conditions of the plan, and the item or service has been determined to be experimental or investigational under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(ii) the participant or beneficiary has completed the internal appeals process under subsection (d) with respect to such determination.

''(B) FAILURE TO ACT.—The failure of a plan or issuer to issue a coverage determination under subsection (d)(6) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to independent external review under this subsection.

''(2) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

''(A) FILING OF REQUEST.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) who desires to have an independent external review conducted under this subsection shall file a written request for such a review with the plan or issuer involved not later than 30 working days after the receipt of a final denial of a claim under subsection (d). Any such request shall include the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary) for the release of medical information and records to independent external reviewers regarding the participant or beneficiary.

''(B) TIMEFRAME FOR SELECTION OF APPEALS ENTITY.—Not later than 5 working days after the receipt of a request under subparagraph (A), or earlier in accordance with the medical exigencies of the case, the plan or issuer involved shall—

''(i) select an external appeals entity under paragraph (3)(A) that shall be responsible for designating an independent external reviewer under paragraph (3)(B); and

''(ii) provide notice of such selection to the participant or beneficiary (which shall include the name and address of the entity).

''(C) PROVISION OF INFORMATION.—Not later than 5 working days after the plan or issuer provides the notice required under subparagraph (B)(ii), or earlier in accordance with the medical exigencies of the case, the plan, issuer, participant, beneficiary or physician (of the participant or beneficiary) involved shall forward necessary information (including, only in the case of a plan or issuer, medical records, any relevant review criteria, the clinical rationale consistent with the terms and conditions of the contract between the plan or issuer and the participant or beneficiary for the coverage denial, and evidence of the coverage of the participant or beneficiary) to the qualified external appeals entity designated under paragraph (3)(A).

''(D) FOLLOW-UP WRITTEN NOTIFICATION.—The plan or issuer involved shall send a follow-up written notification, in a timely manner, to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the plan administrator, indicating that an independent external review has been initiated.

''(3) CONDUCT OF INDEPENDENT EXTERNAL REVIEW.—

''(A) DESIGNATION OF EXTERNAL APPEALS ENTITY BY PLAN OR ISSUER.—

''(i) IN GENERAL.—A plan or issuer that receives a request for an independent external review under paragraph (2)(A) shall designate a qualified entity described in clause (ii), in a manner designed to ensure that the entity so designated will make a decision in an unbiased manner, to serve as the external appeals entity.

''(ii) QUALIFIED ENTITIES.—A qualified entity shall be—

''(I) an independent external review entity licensed or credentialed by a State;

''(II) a State agency established for the purpose of conducting independent external reviews;

''(III) any entity under contract with the Federal Government to provide independent external review services;

''(IV) any entity accredited as an independent external review entity by an accrediting body recognized by the Secretary for such purpose; or

''(V) any other entity meeting criteria established by the Secretary for purposes of this subparagraph.

''(B) DESIGNATION OF INDEPENDENT EXTERNAL REVIEWER BY EXTERNAL APPEALS ENTITY.—The external appeals entity designated under subparagraph (A) shall, not later than 30 days after the date on which such entity is designated under subparagraph (A), or earlier in accordance with the medical exigencies of the case, designate one or more individuals to serve as independent external reviewers with respect to a request received under paragraph (2)(A). Such reviewers shall be independent medical experts who shall—

''(i) be appropriately credentialed or licensed in any State to deliver health care services;

''(ii) not have any material, professional, familial, or financial affiliation with the case under review, the participant or beneficiary involved, the treating health care professional, the institution where the treatment would take place, or the manufacturer of any drug, device, procedure, or other therapy proposed for the participant or beneficiary whose treatment is under review;

''(iii) have expertise (including age-appropriate expertise) in the diagnosis or treatment under review and be a physician of the same specialty, when reasonably available, as the physician treating the participant or beneficiary or recommending or prescribing the treatment in question;

''(iv) receive only reasonable and customary compensation from the group health plan or health insurance issuer in connection with the independent external review that is not contingent on the decision rendered by the reviewer; and

''(v) not be held liable for decisions regarding medical determinations (but may be held liable for actions that are arbitrary and capricious).

''(4) STANDARD OF REVIEW.—

''(A) IN GENERAL.—An independent external reviewer shall—

''(i) make an independent determination based on the valid, relevant, scientific and clinical evidence to determine the medical necessity, appropriateness, experimental or investigational nature of the proposed treatment; and

''(ii) take into consideration appropriate and available information, including any evidence-based decision making or clinical practice guidelines used by the group health plan or health insurance issuer; timely evidence or information submitted by the plan, issuer, patient or patient's physician; the patient's medical record; expert consensus including both generally accepted medical practice and recognized best practice; medical literature as defined in section 556(5) of the Federal Food, Drug, and Cosmetic Act; the following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; and findings, studies, or research conducted by or under the auspices of Federal Government agencies and nationally recognized Federal research institutes including the Agency for Healthcare Research and Quality, National Institutes of Health, National Academy of Sciences, Health Care Financing Administration, and any national board recognized by the National Institutes of Health for the purposes of evaluating the medical value of health services.

''(B) NOTICE.—The plan or issuer involved shall ensure that the participant or beneficiary receives notice, within 30 days after the determination of the independent medical expert, regarding the actions of the plan or issuer with respect to the determination

of such expert under the independent external review.

''(5) TIMEFRAME FOR REVIEW.—

''(A) IN GENERAL.—The independent external reviewer shall complete a review of an adverse coverage determination in accordance with the medical exigencies of the case.

''(B) EXPEDITED REVIEW.—Notwithstanding subparagraph (A), a review described in such subparagraph shall be completed not later than 72 hours after the later of—

''(i) the date on which such reviewer is designated; or

''(ii) the date on which all information necessary to completing such review is received;

if the completion of such review in a period of time in excess of 72 hours would seriously jeopardize the life or health of the participant or beneficiary.

''(C) LIMITATION.—Notwithstanding subparagraph (A), and except as provided in subparagraph (B), a review described in subparagraph (A) shall be completed not later than 30 working days after the later of—

''(i) the date on which such reviewer is designated; or

''(ii) the date on which all information necessary to completing such review is received.

''(6) BINDING DETERMINATION AND ACCESS TO CARE.—

''(A) IN GENERAL.—The determination of an independent external reviewer under this subsection shall be binding upon the plan or issuer if the provisions of this subsection or the procedures implemented under such provisions were complied with by the independent external reviewer.

''(B) TIMETABLE FOR COMMENCEMENT OF CARE.—Where an independent external reviewer determines that the participant or beneficiary is entitled to coverage of the items or services that were the subject of the review, the reviewer shall establish a timeframe, in accordance with the medical exigencies of the case, during which the plan or issuer shall begin providing for the coverage of such items or services.

''(C) FAILURE TO COMPLY.—If a plan or issuer fails to comply with the timeframe established under subparagraph (B) with respect to a participant or beneficiary, the participant or beneficiary may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

''(D) REIMBURSEMENT.—

''(i) IN GENERAL.—Where a participant or beneficiary obtains items or services in accordance with subparagraph (C), the plan or issuer involved shall provide for reimbursement of the costs of such items of services. Such reimbursement shall be made to the treating provider or to the participant or beneficiary (in the case of a participant or beneficiary who pays for the costs of such items or services).

''(ii) AMOUNT.—The plan or issuer shall fully reimburse a provider, participant or beneficiary under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items of services) so long as—

''(I) the items or services would have been covered under the terms of the plan or coverage if provided by the plan or issuer; and

''(II) the items or services were provided in a manner consistent with the determination of the independent external reviewer.

''(E) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a provider, participant or beneficiary in accordance with this paragraph, the provider, participant or beneficiary may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is unpaid and any necessary legal costs or expenses (including attorneys' fees) incurred in recovering such reimbursement.

''(7) STUDY.—Not later than 2 years after the date of enactment of this section, the General Accounting Office shall conduct a study of a statistically appropriate sample of completed independent external reviews. Such study shall include an assessment of the process involved during an independent external review and the basis of decision-making by the independent external reviewer. The results of such study shall be submitted to the appropriate committees of Congress.

''(8) EFFECT ON CERTAIN PROVISIONS.—Nothing in this section shall be construed as affecting or modifying section 514 of this Act with respect to a group health plan.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a plan administrator or plan fiduciary or health plan medical director from requesting an independent external review by an independent external reviewer without first completing the internal review process.

''(g) DEFINITIONS.—In this section:

''(1) ADVERSE COVERAGE DETERMINATION.—The term 'adverse coverage determination' means a coverage determination under the plan which results in a denial of coverage or reimbursement.

''(2) COVERAGE DETERMINATION.—The term 'coverage determination' means with respect to items and services for which coverage may be provided under a health plan, a determination of whether or not such items and services are covered or reimbursable under the coverage and terms of the contract.

''(3) GRIEVANCE.—The term 'grievance' means any complaint made by a participant or beneficiary that does not involve a coverage determination.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(7) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a coverage determination prior to the provision of the items and services as a condition of coverage of the items and services under the coverage.

''(8) TREATING HEALTH CARE PROFESSIONAL.—The term 'treating health care professional' with respect to a group health plan, health insurance issuer or provider sponsored organization means a physician (medical doctor or doctor of osteopathy) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

''(9) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review.''

(b) ENFORCEMENT.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

''(8) The Secretary may assess a civil penalty against any plan of up to $10,000 for the plan's failure or refusal to comply with any timeline applicable under section 503(e) or any determination under such section, except that in any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant or beneficiary involved.''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 503 and inserting the following new item:

''Sec. 503. Claims procedures, coverage determination, grievances and appeals.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 1 year after the date of enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

SEC. ____. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan (other than a fully insured group health plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsections (b), (c), and (d) 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 participant's or beneficiaries 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 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 and who meets the following conditions:

(1)(A) The individual has been diagnosed with cancer 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 or beneficiary 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 (other than a fully insured group health plan) 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 to be paid for by the sponsors of an approved clinical trial.

(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans must meet under this section.

(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

(i) quality of patient care;

(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

(C) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this paragraph, the Secretary, after consultation with organizations representing cancer patients, health care practitioners, medical researchers, employers, group health plans, manufacturers of drugs, biologics and medical devices, medical economists, hospitals, and other interested parties, shall publish notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

(D) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C), and for purposes of this paragraph, the ''target date for publication'' (referred to in section 564(a)(5) of such title 5) shall be June 30, 2000.

(E) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title 5 under this paragraph, ''15 days'' shall be substituted for ''30 days''.

(F) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

(i) the appointment of a negotiated rulemaking committee under section 565(a) of such title 5 by not later than 30 days after the end of the comment period provided for under section 564(c) of such title 5 (as shortened under subparagraph (E)), and

(ii) the nomination of a facilitator under section 566(c) of such title 5 by not later than 10 days after the date of appointment of the committee.

(G) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under subparagraph (F) shall report to the Secretary, by not later than March 29, 2000, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this paragraph through such other methods as the Secretary may provide.

(H) FINAL COMMITTEE REPORT.—If the committee is not terminated under subparagraph (G), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

(I) FINAL EFFECT.—The Secretary shall publish a rule under this paragraph in the Federal Register by not later than the target date of publication.

(J) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

(K) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans (other than a fully insured group health plan) for plan years beginning on or after January 1, 2001.

(3) 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 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 cancer clinical research study or cancer 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 coverage with respect to clinical trials.

(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

(1) IN GENERAL.—For purposes of this section, 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 requirements of this section 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.

(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(g) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall study the impact on group health plans for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved cancer clinical trial program.

(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains an assessment of—

(A) any incremental cost to group health plans resulting from the provisions of this section;

(B) a projection of expenditures to such plans resulting from this section; and

(C) any impact on premiums resulting from this section.

(h) APPLICATION OF PROVISIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of this section shall only apply to group health plans (other than fully insured group health plans).

(2) FULLY INSURED GROUP HEALTH PLAN.—In this section, the term ''fully insured group health plan'' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.

SEC. ___. OFFERING OF CHOICE OF COVERAGE OPTIONS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan 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 and at such other times as the plan offers the participant a choice of coverage options.

(2) EXCEPTION IN CASE OF LACK OF AVAILABILITY.—Paragraph (1) shall not apply with respect to a group health plan (other than a fully insured group health plan) if care relating to the point-of-service coverage would not be available and accessible to the participant with reasonable promptness (consistent with section 1301(b)(4) of the Public Health Service Act (42 U.S.C. 300e(b)(4))).

(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 (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

(c) SMALL EMPLOYER EXEMPTION.—

(1) IN GENERAL.—This section shall not apply to any group health plan (other than a

fully insured group health plan) of a small employer.

(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term ''small employer'' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) of the Employee Retirement Income Security Act of 1974 shall apply in determining employer size.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care professional;

(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;

(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

(e) APPLICATION OF PROVISIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of this section shall only apply to group health plans (other than fully insured group health plans).

(2) FULLY INSURED GROUP HEALTH PLAN.—In this section, the term ''fully insured group health plan'' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.

SEC. ___. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a health care provider is terminated (as defined in paragraph (2)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such group health plan, and an individual who is a participant or beneficiary in the plan is undergoing a course of treatment from the provider at the time of such termination, the plan shall—

(A) notify the individual on a timely basis of such termination;

(B) provide the individual with an opportunity to notify the plan of a need for transitional care; and

(C) in the case of termination described in paragraph (2), (3), or (4) of subsection (b), and subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider's consent during a transitional period (as provided under subsection (b)).

(2) TERMINATED.—In this section, the term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

(3) CONTRACTS.—For purposes of this section, the term ''contract between a group health plan (other than a fully insured group health plan) and a health care provider'' shall include a contract between such a plan and an organized network of providers.

(b) TRANSITIONAL PERIOD.—

(1) GENERAL RULE.—Except as provided in paragraph (3), the transitional period under this subsection shall permit the participant or beneficiary to extend the coverage involved for up to 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—Subject to paragraph (1), 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.—Notwithstanding paragraph (1), if—

(A) a participant or beneficiary 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 the 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.—Subject to paragraph (1), if—

(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) prior to 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 be for care directly related to the treatment of the terminal illness and shall extend for the remainder of the individual's life for such care.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under subsection (a)(1)(C) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan 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 at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) 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 responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan'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.

(d) RULE OF 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.

(e) DEFINITION.—In this section, the term ''health care provider'' or ''provider'' means—

(1) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(2) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(f) APPLICATION OF PROVISIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of this section shall only apply to group health plans (other than fully insured group health plans).

(2) FULLY INSURED GROUP HEALTH PLAN.—In this section, the term ''fully insured group health plan'' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.

(g) COMPREHENSIVE STUDY OF COST, QUALITY AND COORDINATION OF COVERAGE FOR PATIENTS AT THE END OF LIFE.—

(1) STUDY BY THE MEDICARE PAYMENT ADVISORY COMMISSION.—The Medicare Payment Advisory Commission shall conduct a study of the costs and patterns of care for persons with serious and complex conditions and the possibilities of improving upon that care to the degree it is triggered by the current category of terminally ill as such term is used for purposes of section 1861(dd) of the Social Security Act (relating to hospice benefits) or of utilizing care in other payment settings in Medicare.

(2) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—The Agency for Health Care Policy and Research shall conduct studies of the possible thresholds for major conditions causing serious and complex illness, their administrative parameters and feasibility, and their impact upon costs and quality.

(3) HEALTH CARE FINANCING ADMINISTRATION.—The Health Care Financing Administration shall conduct studies of the merits of applying similar thresholds in Medicare+Choice programs, including adapting risk adjustment methods to account for this category.

(4) INITIAL REPORT.—

(A) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Medicare Payment Advisory Commission and the Agency for Health Care Policy and Research shall each prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the results of the studies conducted under paragraphs (1) and (2), respectively.

(B) COPY TO SECRETARY.—Concurrent with the submission of the reports under subparagraph (A), the Medicare Payment Advisory Commission and the Agency for health Care Policy and Research shall transmit a copy of

the reports under such subparagraph to the Secretary.

(5) FINAL REPORT.—

(A) CONTRACT WITH INSTITUTE OF MEDICINE.—Not later than 1 year after the submission of the reports under paragraph (4), the Secretary of Health and Human Services shall contract with the Institute of Medicine to conduct a study of the practices and their effects arising from the utilization of the category ''serious and complex'' illness.

(B) REPORT.—Not later than 1 year after the date of the execution of the contract referred to in subparagraph (A), the Institute of Medicine shall prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the study conducted pursuant to such contract.

(6) FUNDING.—From funds appropriated to the Department of Health and Human Services, the Secretary of Health and Human Services shall make available such funds as the Secretary determines is necessary to carry out this subsection.

SEC. ___. PROHIBITING DISCRIMINATION AGAINST PROVIDERS.

(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) 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. This subsection shall not be construed as requiring the coverage under a plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants and beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

(b) NO REQUIREMENT FOR ANY WILLING PROVIDER.—Nothing in this section shall be construed as requiring a group health plan that offers network coverage to include for participation every willing provider or health professional who meets the terms and conditions of the plan.

(c) APPLICATION OF PROVISIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of this section shall only apply to group health plans (other than fully insured group health plans).

(2) FULLY INSURED GROUP HEALTH PLAN.—In this section, the term ''fully insured group health plan'' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.

KERREY (AND OTHERS) AMENDMENT NO. 1253

Mr. KERREY (for himself, Ms. MIKULSKI, Mr. SCHUMER, Mr. GRAHAM, Mr. KENNEDY, Mrs. MURRAY, Mr. DASCHLE, Mr. DURBIN, Mr. ROCKEFELLER, and Mr. TORRICELLI) proposed an amendment to amendment No. 1251 proposed by Mr. WYDEN to the bill, S. 1344, supra; as follows:

At the appropriate place insert the following:

SEC. ___. CONTINUITY OF CARE.

(a) ERISA.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added by section 101(a)(2) of this Act, is amended by adding at the end the following:

''SEC. 730A. 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 group health insurance coverage, and a health care provider is terminated (as defined in paragraph (2)), 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 or health insurance coverage, 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 a health insurance issuer in connection with group health insurance coverage, 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 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.

''(e) APPLICATION OF SECTION.—This section shall supersede the provisions of section 726 and section 726 shall have no effect.

''(f) REVIEW.—Failure to meet the requirements of this section shall constitute an appealable decision under this Act.

''(g) 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.

''(h) 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.

''(i) NONAPPLICATION OF CERTAIN PROVISION.—Only for purposes of applying the requirements of this section under section 714 of the Employee Retirement Income Security Act of 1974 (as added by section 301 of this Act), sections 2707 and 2753 of the Public Health Service Act (as added by sections 201 and 202 of this Act), and section 9813 of the Internal Revenue Code of 1986 (as added by section 401 of this Act)—

''(1) section 2721(b)(2) of the Public Health Service Act and section 9831(a)(1) of the Internal Revenue Code of 1986 shall not apply to the provisions of this section; and

''(2) with respect to limited scope dental benefits, subparagraph (A) of section 733(c)(2) of the Employee Retirement Income Security Act of 1974, subparagraph (A) of section 2791(c)(2) of the Public Health Service Act, and subparagraph (A) of section 9832(c)(2) of the Internal Revenue Code of 1986 shall not apply to the provisions of this section.

''(j) 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.

''(k) EFFECTIVE DATE.—The provisions of this section shall apply to group health plans for plan years beginning after, and to health insurance issuers 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) LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.—

(1) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) of the Internal Revenue Code of 1986 (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) of such Act (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.

LOTT (AND NICKLES) AMENDMENT NO. 1254

Mr. LOTT (for himself and Mr. NICKLES) proposed an amendment to amendment No. 1232 proposed by Mr. DASCHLE to the bill, S. 1344, supra; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Patients' Bill of Rights Plus Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

Sec. 101. Patient right to medical advice and care.

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Patient access to emergency medical care.

''Sec. 722. Offering of choice of coverage options.

''Sec. 723. Patient access to obstetric and gynecological care.

''Sec. 724. Patient access to pediatric care.

''Sec. 725. Timely access to specialists.

''Sec. 726. Continuity of care.

''Sec. 727. Protection of patient-provider communications.

''Sec. 728. Patient's right to prescription drugs.

''Sec. 729. Self-payment for behavioral health care services.

''Sec. 730. Coverage for individuals participating in approved cancer clinical trials.

''Sec. 730A. Prohibiting discrimination against providers.

''Sec. 730B. Generally applicable provision.

Sec. 102. Conforming amendment to the Internal Revenue Code of 1986.

''Sec. 9821. Patient access to emergency medical care.

''Sec. 9822. Offering of choice of coverage options.

''Sec. 9823. Patient access to obstetric and gynecological care.

''Sec. 9824. Patient access to pediatric care.

''Sec. 9825. Timely access to specialists.

''Sec. 9826. Continuity of care.

''Sec. 9827. Protection of patient-provider communications.
''Sec. 9828. Patient's right to prescription drugs.
''Sec. 9829. Self-payment for behavioral health care services.
''Sec. 9830. Coverage for individuals participating in approved cancer clinical trials.
''Sec. 9830A. Prohibiting discrimination against providers.
''Sec. 9830B. Generally applicable provision.
Sec. 103. Effective date and related rules.
Subtitle B—Right to Information About Plans and Providers
Sec. 111. Information about plans.
Sec. 112. Information about providers.
Subtitle C—Right to Hold Health Plans Accountable
Sec. 121. Amendment to Employee Retirement Income Security Act of 1974.
TITLE II—WOMEN'S HEALTH AND CANCER RIGHTS
Sec. 201. Women's health and cancer rights.
TITLE III—GENETIC INFORMATION AND SERVICES
Sec. 301. Short title.
Sec. 302. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 303. Amendments to the Public Health Service Act.
Sec. 304. Amendments to the Internal Revenue Code of 1986.
TITLE IV—HEALTHCARE RESEARCH AND QUALITY
Sec. 401. Short title.
Sec. 402. Amendment to the Public Health Service Act.
''TITLE IX—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY
''PART A—ESTABLISHMENT AND GENERAL DUTIES
''Sec. 901. Mission and duties.
''Sec. 902. General authorities.
''PART B—HEALTHCARE IMPROVEMENT RESEARCH
''Sec. 911. Healthcare outcome improvement research.
''Sec. 912. Private-public partnerships to improve organization and delivery.
''Sec. 913. Information on quality and cost of care.
''Sec. 914. Information systems for healthcare improvement.
''Sec. 915. Research supporting primary care and access in underserved areas.
''Sec. 916. Clinical practice and technology innovation.
''Sec. 917. Coordination of Federal government quality improvement efforts.
''PART C—GENERAL PROVISIONS
''Sec. 921. Advisory Council for Healthcare Research and Quality.
''Sec. 922. Peer review with respect to grants and contracts.
''Sec. 923. Certain provisions with respect to development, collection, and dissemination of data.
''Sec. 924. Dissemination of information.
''Sec. 925. Additional provisions with respect to grants and contracts.
''Sec. 926. Certain administrative authorities.
''Sec. 927. Funding.
''Sec. 928. Definitions.
Sec. 403. References.
TITLE V—ENHANCED ACCESS TO HEALTH INSURANCE COVERAGE
Sec. 501. Full deduction of health insurance costs for self-employed individuals.
Sec. 502. Full availability of medical savings accounts.
Sec. 503. Permitting contribution towards medical savings account through Federal employees health benefits program (FEHBP).
Sec. 504. Carryover of unused benefits from cafeteria plans, flexible spending arrangements, and health flexible spending accounts.
TITLE VI—PROVISIONS RELATING TO LONG-TERM CARE INSURANCE
Sec. 601. Inclusion of qualified long-term care insurance contracts in cafeteria plans, flexible spending arrangements, and health flexible spending accounts.
Sec. 602. Deduction for premiums for long-term care insurance.
Sec. 603. Study of long-term care needs in the 21st century.
TITLE VII—INDIVIDUAL RETIREMENT PLANS
Sec. 701. Modification of income limits on contributions and rollovers to Roth IRAs.
TITLE VIII—REVENUE PROVISIONS
Sec. 801. Modification to foreign tax credit carryback and carryover periods.
Sec. 802. Limitation on use of non-accrual experience method of accounting.
Sec. 803. Returns relating to cancellations of indebtedness by organizations lending money.
Sec. 804. Extension of Internal Revenue Service user fees.
Sec. 805. Property subject to a liability treated in same manner as assumption of liability.
Sec. 806. Charitable split-dollar life insurance, annuity, and endowment contracts.
Sec. 807. Transfer of excess defined benefit plan assets for retiree health benefits.
Sec. 808. Limitations on welfare benefit funds of 10 or more employer plans.
Sec. 809. Modification of installment method and repeal of installment method for accrual method taxpayers.
Sec. 810. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines.
TITLE IX—MISCELLANEOUS PROVISIONS
Sec. 901. Medicare competitive pricing demonstration project.

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

SEC. 101. PATIENT RIGHT TO MEDICAL ADVICE AND CARE.

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B the following:

"Subpart C—Patient Right to Medical Advice and Care

"SEC. 721. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.

''(a) COVERAGE OF EMERGENCY CARE.—

''(1) IN GENERAL.—To the extent that the group health plan (other than a fully insured group health plan) provides coverage for benefits consisting of emergency medical care (as defined in subsection (c)) or emergency ambulance services, except for items or services specifically excluded—

''(A) the plan shall provide coverage for benefits, without requiring preauthorization, for emergency medical screening examinations or emergency ambulance services, to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations or emergency ambulance services to be necessary to determine whether emergency medical care (as so defined) is necessary; and

''(B) the plan shall provide coverage for benefits, without requiring preauthorization, for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary under subparagraph (A)), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

''(2) REIMBURSEMENT FOR CARE TO MAINTAIN MEDICAL STABILITY.—

''(A) IN GENERAL.—In the case of services provided to a participant or beneficiary by a nonparticipating provider in order to maintain the medical stability of the participant or beneficiary, the group health plan involved shall provide for reimbursement with respect to such services if—

''(i) coverage for services of the type furnished is available under the group health plan;

''(ii) the services were provided for care related to an emergency medical condition and in an emergency department in order to maintain the medical stability of the participant or beneficiary; and

''(iii) the nonparticipating provider contacted the plan regarding approval for such services.

''(B) FAILURE TO RESPOND.—If a group health plan fails to respond within 1 hours of being contacted in accordance with subparagraph (A)(iii), then the plan shall be liable for the cost of services provided by the nonparticipating provider in order to maintain the stability of the participant or beneficiary.

''(C) LIMITATION.—The liability of a group health plan to provide reimbursement under subparagraph (A) shall terminate when the plan has contacted the nonparticipating provider to arrange for discharge or transfer.

''(D) LIABILITY OF PARTICIPANT.—A participant or beneficiary shall not be liable for the costs of services to which subparagraph (A) in an amount that exceeds the amount of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan.

''(b) IN-NETWORK UNIFORM COSTS-SHARING AND OUT-OF-NETWORK CARE.—

''(1) IN-NETWORK UNIFORM COST-SHARING.—Nothing in this section shall be construed as preventing a group health plan (other than a fully insured group health plan) from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to coverage for benefits described in subsection (a), if such

form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in subsection (c)) provided to such similarly situated participants and beneficiaries under the plan, and such cost-sharing is disclosed in accordance with section 714.

''(2) OUT-OF-NETWORK CARE.—If a group health plan (other than a fully insured group health plan) provides any benefits with respect to emergency medical care (as defined in subsection (c)), the plan shall cover emergency medical care under the plan in a manner so that, if such care is provided to a participant or beneficiary by a nonparticipating health care provider, the participant or beneficiary is not liable for amounts that exceed any form of cost-sharing (including co-insurance, co-payments, deductibles, and any other charges) that would be incurred if the services were provided by a participating provider.

''(c) DEFINITION OF EMERGENCY MEDICAL CARE.—In this section:

''(1) IN GENERAL.—The term 'emergency medical care' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), covered inpatient and outpatient services that—

''(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such services; and

''(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd)(e)(3)) an emergency medical condition (as defined in paragraph (2)).

''(2) EMERGENCY MEDICAL CONDITION.—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) placing the health of the participant or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

"SEC. 722. OFFERING OF CHOICE OF COVERAGE OPTIONS.

''(a) REQUIREMENT.—

''(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan 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 and at such other times as the plan offers the participant a choice of coverage options.

''(2) EXCEPTION IN CASE OF LACK OF AVAILABILITY.—Paragraph (1) shall not apply with respect to a group health plan (other than a fully insured group health plan) if care relating to the point-of-service coverage would not be available and accessible to the participant with reasonable promptness (consistent with section 1301(b)(4) of the Public Health Service Act (42 U.S.C. 300e(b)(4))).

''(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 (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (other than a fully insured group health plan) of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) shall apply in determining employer size.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring coverage for benefits for a particular type of health care professional;

''(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;

''(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

''(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

"SEC. 723. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

''(a) GENERAL RIGHTS.—

''(1) WAIVER OF PLAN REFERRAL REQUIREMENT.—If a group health plan described in subsection (b) requires a referral to obtain coverage for specialty care, the plan shall waive the referral requirement in the case of a female participant or beneficiary who seeks coverage for obstetrical care and related follow-up obstetrical care or routine gynecological care (such as preventive gynecological care).

''(2) RELATED ROUTINE CARE.—With respect to a participant or beneficiary described in paragraph (1), a group health plan described in subsection (b) shall treat the ordering of other routine care that is related to routine gynecologic care, by a physician who specializes in obstetrics and gynecology as the authorization of the primary care provider for such other care.

''(b) APPLICATION OF SECTION.—A group health plan described in this subsection is a group health plan (other than a fully insured group health plan), that—

''(1) provides coverage for obstetric care (such as pregnancy-related services) or routine gynecologic care (such as preventive women's health examinations); and

''(2) requires the designation by a participant or beneficiary of a participating primary care provider who is not a physician who specializes in obstetrics or gynecology.

''(c) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of obstetric or gynecologic care described in subsection (a);

''(2) to preclude the plan from requiring that the physician who specializes in obstetrics or gynecology notify the designated primary care provider or the plan of treatment decisions;

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine obstetric or routine gynecologic care; or

''(4) to preclude a group health plan from permitting a physician who specializes in obstetrics and gynecology from being a primary care provider under the plan.

"SEC. 724. PATIENT ACCESS TO PEDIATRIC CARE.

''(a) IN GENERAL.—In the case of a group health plan (other than a fully insured group health plan) that provides coverage for routine pediatric care and that requires the designation by a participant or beneficiary of a participating primary care provider, if the designated primary care provider is not a physician who specializes in pediatrics—

''(1) the plan may not require authorization or referral by the primary care provider in order for a participant or beneficiary to obtain coverage for routine pediatric care; and

''(2) the plan shall treat the ordering of other routine care related to routine pediatric care by such a specialist as having been authorized by the designated primary care provider.

''(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of any pediatric care provided to, or ordered for, a participant or beneficiary;

''(2) to preclude a group health plan from requiring that a specialist described in subsection (a) notify the designated primary care provider or the plan of treatment decisions; or

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine pediatric care.

"SEC. 725. TIMELY ACCESS TO SPECIALISTS.

''(a) TIMELY ACCESS.—

''(1) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall ensure that participants and beneficiaries have timely, in accordance with the medical exigencies of the case, access to primary and specialty health care professionals who are appropriate to the condition of the participant or beneficiary, when such care is covered under the plan. Such access may be provided through contractual arrangements with specialized providers outside of the network of the plan.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

''(A) to require the coverage under a group health plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan; or

''(B) to override any State licensure or scope-of-practice law.

''(b) TREATMENT PLANS.—

''(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

''(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant or beneficiary;

''(B) approved by the plan in a timely manner in accordance with the medical exigencies of the case; and

''(C) in accordance with the applicable quality assurance and utilization review standards of the plan.

''(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan from requiring the specialist to provide the case manager or primary care provider with regular updates on the specialty care provided, as well as all other necessary medical information.

''(c) REFERRALS.—Nothing in this section shall be construed to prohibit a plan from requiring an authorization by the case manager or primary care provider of the participant or beneficiary in order to obtain coverage for specialty services so long as such authorization is for an adequate number of referrals.

''(d) SPECIALTY CARE DEFINED.—For purposes of this subsection, the term 'specialty care' means, with respect to a condition, care and treatment provided by a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

''SEC. 726. CONTINUITY OF CARE.

''(a) IN GENERAL.—

''(1) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a health care provider is terminated (as defined in paragraph (2)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such group health plan, and an individual who is a participant or beneficiary in the plan is undergoing a course of treatment from the provider at the time of such termination, the plan shall—

''(A) notify the individual on a timely basis of such termination;

''(B) provide the individual with an opportunity to notify the plan of a need for transitional care; and

''(C) in the case of termination described in paragraph (2), (3), or (4) of subsection (b), and subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider's consent during a transitional period (as provided under subsection (b)).

''(2) TERMINATED.—In this section, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

''(3) CONTRACTS.—For purposes of this section, the term 'contract between a group health plan (other than a fully insured group health plan) and a health care provider' shall include a contract between such a plan and an organized network of providers.

''(b) TRANSITIONAL PERIOD.—

''(1) GENERAL RULE.—Except as provided in paragraph (3), the transitional period under this subsection shall permit the participant or beneficiary to extend the coverage involved for up to 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

''(2) INSTITUTIONAL CARE.—Subject to paragraph (1), 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.—Notwithstanding paragraph (1), if—

''(A) a participant or beneficiary 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 the 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.—Notwithstanding paragraph (1), if—

''(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) prior to 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 be for care directly related to the treatment of the terminal illness and shall extend for the remainder of the individual's life for such care.

''(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under subsection (a)(1)(C) upon the provider agreeing to the following terms and conditions:

''(1) The provider agrees to accept reimbursement from the plan 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 at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) 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 responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

''(3) The provider agrees otherwise to adhere to such plan'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.

''(d) RULE OF 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.

''(e) DEFINITION.—In this section, the term 'health care provider' or 'provider' means—

''(1) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

''(2) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

''(f) COMPREHENSIVE STUDY OF COST, QUALITY AND COORDINATION OF COVERAGE FOR PATIENTS AT THE END OF LIFE.—

''(1) STUDY BY THE MEDICARE PAYMENT ADVISORY COMMISSION.—The Medicare Payment Advisory Commission shall conduct a study of the costs and patterns of care for persons with serious and complex conditions and the possibilities of improving upon that care to the degree it is triggered by the current category of terminally ill as such term is used for purposes of section 1861(dd) of the Social Security Act (relating to hospice benefits) or of utilizing care in other payment settings in Medicare.

''(2) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—The Agency for Health Care Policy and Research shall conduct studies of the possible thresholds for major conditions causing serious and complex illness, their administrative parameters and feasibility, and their impact upon costs and quality.

''(3) HEALTH CARE FINANCING ADMINISTRATION.—The Health Care Financing Administration shall conduct studies of the merits of applying similar thresholds in Medicare+Choice programs, including adapting risk adjustment methods to account for this category.

''(4) INITIAL REPORT.—

''(A) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Medicare Payment Advisory Commission and the Agency for Health Care Policy and Research shall each prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the results of the studies conducted under paragraphs (1) and (2), respectively.

''(B) COPY TO SECRETARY.—Concurrent with the submission of the reports under subparagraph (A), the Medicare Payment Advisory Commission and the Agency for health Care Policy and Research shall transmit a copy of the reports under such subparagraph to the Secretary.

''(5) FINAL REPORT.—

''(A) CONTRACT WITH INSTITUTE OF MEDICINE.—Not later than 1 year after the submission of the reports under paragraph (4), the Secretary of Health and Human Services shall contract with the Institute of Medicine to conduct a study of the practices and their effects arising from the utilization of the category ''serious and complex'' illness.

''(B) REPORT.—Not later than 1 year after the date of the execution of the contract referred to in subparagraph (A), the Institute of Medicine shall prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the study conducted pursuant to such contract.

''(6) FUNDING.—From funds appropriated to the Department of Health and Human Services, the Secretary of Health and Human Services shall make available such funds as the Secretary determines is necessary to carry out this subsection.

''SEC. 727. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (other than a fully insured group health plan and in relation to a participant or beneficiary) shall not prohibit or otherwise restrict a health care professional from advising such a participant or

beneficiary who is a patient of the professional about the health status of the participant or beneficiary or medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan (other than a fully insured group health plan) to provide specific benefits under the terms of such plan.

''SEC. 728. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

''To the extent that a group health plan (other than a fully insured group health plan) provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan shall—

''(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

''(2) in accordance with the applicable quality assurance and utilization review standards of the plan, provide for exceptions from the formulary limitation when a nonformulary alternative is medically necessary and appropriate.

''SEC. 729. SELF-PAYMENT FOR BEHAVIORAL HEALTH CARE SERVICES.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) may not—

''(1) prohibit or otherwise discourage a participant or beneficiary from self-paying for behavioral health care services once the plan has denied coverage for such services; or

''(2) terminate a health care provider because such provider permits participants or beneficiaries to self-pay for behavioral health care services—

''(A) that are not otherwise covered under the plan; or

''(B) for which the group health plan provides limited coverage, to the extent that the group health plan denies coverage of the services.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall be construed as prohibiting a group health plan from terminating a contract with a health care provider for failure to meet applicable quality standards or for fraud.

''SEC. 730. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

''(a) COVERAGE.—

''(1) IN GENERAL.—If a group health plan (other than a fully insured group health plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan—

''(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

''(B) subject to subsections (b), (c), and (d) 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 participant's or beneficiaries 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 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 and who meets the following conditions:

''(1)(A) The individual has been diagnosed with cancer 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 or beneficiary 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 (other than a fully insured group health plan) 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 to be paid for by the sponsors of an approved clinical trial.

''(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

''(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans must meet under this section.

''(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

''(i) quality of patient care;

''(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

''(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

''(C) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this paragraph, the Secretary, after consultation with organizations representing cancer patients, health care practitioners, medical researchers, employers, group health plans, manufacturers of drugs, biologics and medical devices, medical economists, hospitals, and other interested parties, shall publish notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

''(D) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C), and for purposes of this paragraph, the 'target date for publication' (referred to in section 564(a)(5) of such title 5) shall be June 30, 2000.

''(E) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title 5 under this paragraph, '15 days' shall be substituted for '30 days'.

''(F) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

''(i) the appointment of a negotiated rulemaking committee under section 565(a) of such title 5 by not later than 30 days after the end of the comment period provided for under section 564(c) of such title 5 (as shortened under subparagraph (E)), and

''(ii) the nomination of a facilitator under section 566(c) of such title 5 by not later than 10 days after the date of appointment of the committee.

''(G) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under subparagraph (F) shall report to the Secretary, by not later than March 29, 2000, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this paragraph through such other methods as the Secretary may provide.

''(H) FINAL COMMITTEE REPORT.—If the committee is not terminated under subparagraph (G), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

''(I) FINAL EFFECT.—The Secretary shall publish a rule under this paragraph in the Federal Register by not later than the target date of publication.

''(J) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

''(K) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans (other than a fully insured group health plan) for plan years beginning on or after January 1, 2001.

''(3) 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 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 cancer clinical research study or cancer 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 coverage with respect to clinical trials.

''(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

''(1) IN GENERAL.—For purposes of this section, 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 requirements of this section 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.

''(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(g) STUDY AND REPORT.—

''(1) STUDY.—The Secretary shall study the impact on group health plans for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved cancer clinical trial program.

''(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains an assessment of—

''(A) any incremental cost to group health plans resulting from the provisions of this section;

''(B) a projection of expenditures to such plans resulting from this section; and

''(C) any impact on premiums resulting from this section.

''SEC. 730A. PROHIBITING DISCRIMINATION AGAINST PROVIDERS.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) 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. This subsection shall not be construed as requiring the coverage under a plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants and beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

''(b) NO REQUIREMENT FOR ANY WILLING PROVIDER.—Nothing in this section shall be construed as requiring a group health plan that offers network coverage to include for participation every willing provider or health professional who meets the terms and conditions of the plan.

''SEC. 730B. GENERALLY APPLICABLE PROVISION.

''In the case of a group health plan that provides benefits under 2 or more coverage options, the requirements of this subpart shall apply separately with respect to each coverage option.''.

(b) RULE WITH RESPECT TO CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, health insurance issuers may offer, and eligible individuals may purchase, high deductible health plans described in section 220(c)(2)(A) of the Internal Revenue Code of 1986. Effective for the 4-year period beginning on the date of the enactment of this Act, such health plans shall not be required to provide payment for any health care items or services that are exempt from the plan's deductible.

(2) EXISTING STATE LAWS.—A State law relating to payment for health care items and services in effect on the date of enactment of this Act that is preempted under paragraph (1), shall not apply to high deductible health plans after the expiration of the 4-year period described in such paragraph unless the State reenacts such law after such period.

(c) DEFINITION.—Section 733(a) of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1191(a)) is amended by adding at the end the following:

''(3) FULLY INSURED GROUP HEALTH PLAN.—The term 'fully insured group health plan' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.''.

(d) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended—

(1) in the item relating to subpart C, by striking ''Subpart C'' and inserting ''Subpart D''; and

(2) by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new items:

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Patient access to emergency medical care.
''Sec. 722. Offering of choice of coverage options.
''Sec. 723. Patient access to obstetric and gynecological care.
''Sec. 724. Patient access to pediatric care.
''Sec. 725. Timely access to specialists.
''Sec. 726. Continuity of care.
''Sec. 727. Protection of patient-provider communications.
''Sec. 728. Patient's right to prescription drugs.
''Sec. 729. Self-payment for behavioral health care services.
''Sec. 730. Coverage for individuals participating in approved cancer clinical trials.
''Sec. 730A. Prohibiting discrimination against providers.
''Sec. 730B. Generally applicable provision.

SEC. 102. CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subchapter C as subchapter D; and

(2) by inserting after subchapter B the following:

''Subchapter C—Patient Right to Medical Advice and Care

''Sec. 9821. Patient access to emergency medical care.
''Sec. 9822. Offering of choice of coverage options.
''Sec. 9823. Patient access to obstetric and gynecological care.
''Sec. 9824. Patient access to pediatric care.
''Sec. 9825. Timely access to specialists.
''Sec. 9826. Continuity of care.
''Sec. 9827. Protection of patient-provider communications.
''Sec. 9828. Patient's right to prescription drugs.
''Sec. 9829. Self-payment for behavioral health care services.
''Sec. 9830. Coverage for individuals participating in approved cancer clinical trials.
''Sec. 9830A. Prohibiting discrimination against providers.
''Sec. 9830B. Generally applicable provision.

''SEC. 9821. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.

''(a) COVERAGE OF EMERGENCY CARE.—

''(1) IN GENERAL.—To the extent that the group health plan (other than a fully insured group health plan) provides coverage for benefits consisting of emergency medical care (as defined in subsection (c)) or emergency ambulance services, except for items or services specifically excluded—

''(A) the plan shall provide coverage for benefits, without requiring preauthorization, for emergency medical screening examinations or emergency ambulance services, to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations or emergency ambulance services to be necessary to determine whether emergency medical care (as so defined) is necessary; and

''(B) the plan shall provide coverage for benefits, without requiring preauthorization, for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary under subparagraph (A)), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

''(2) REIMBURSEMENT FOR CARE TO MAINTAIN MEDICAL STABILITY.—

''(A) IN GENERAL.—In the case of services provided to a participant or beneficiary by a nonparticipating provider in order to maintain the medical stability of the participant or beneficiary, the group health plan involved shall provide for reimbursement with respect to such services if—

''(i) coverage for services of the type furnished is available under the group health plan;

''(ii) the services were provided for care related to an emergency medical condition and in an emergency department in order to maintain the medical stability of the participant or beneficiary; and

''(iii) the nonparticipating provider contacted the plan regarding approval for such services.

''(B) FAILURE TO RESPOND.—If a group health plan fails to respond within 1 hours of being contacted in accordance with subparagraph (A)(iii), then the plan shall be liable for the cost of services provided by the nonparticipating provider in order to maintain the stability of the participant or beneficiary.

''(C) LIMITATION.—The liability of a group health plan to provide reimbursement under subparagraph (A) shall terminate when the plan has contacted the nonparticipating provider to arrange for discharge or transfer.

''(D) LIABILITY OF PARTICIPANT.—A participant or beneficiary shall not be liable for the costs of services to which subparagraph (A) in an amount that exceeds the amount of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan.

''(b) IN-NETWORK UNIFORM COSTS-SHARING AND OUT-OF-NETWORK CARE.—

''(1) IN-NETWORK UNIFORM COST-SHARING.—Nothing in this section shall be construed as preventing a group health plan (other than a

fully insured group health plan) from imposing any form of cost-sharing applicable to any participant or beneficiary (including co-insurance, copayments, deductibles, and any other charges) in relation to coverage for benefits described in subsection (a), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in subsection (c)) provided to such similarly situated participants and beneficiaries under the plan, and such cost-sharing is disclosed in accordance with section 9814.

''(2) OUT-OF-NETWORK CARE.—If a group health plan (other than a fully insured group health plan) provides any benefits with respect to emergency medical care (as defined in subsection (c)), the plan shall cover emergency medical care under the plan in a manner so that, if such care is provided to a participant or beneficiary by a nonparticipating health care provider, the participant or beneficiary is not liable for amounts that exceed any form of cost-sharing (including co-insurance, co-payments, deductibles, and any other charges) that would be incurred if the services were provided by a participating provider.

''(c) DEFINITION OF EMERGENCY MEDICAL CARE.—In this section:

''(1) IN GENERAL.—The term 'emergency medical care' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), covered inpatient and outpatient services that—

''(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such services; and

''(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd)(e)(3)) an emergency medical condition (as defined in paragraph (2)).

''(2) EMERGENCY MEDICAL CONDITION.—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) placing the health of the participant or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''SEC. 9822. OFFERING OF CHOICE OF COVERAGE OPTIONS.

''(a) REQUIREMENT.—

''(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan 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 and at such other times as the plan offers the participant a choice of coverage options.

''(2) EXCEPTION IN CASE OF LACK OF AVAILABILITY.—Paragraph (1) shall not apply with respect to a group health plan (other than a fully insured group health plan) if care relating to the point-of-service coverage would not be available and accessible to the participant with reasonable promptness (consistent with section 1301(b)(4) of the Public Health Service Act (42 U.S.C. 300e(b)(4))).

''(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 (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (other than a fully insured group health plan) of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 4980D(d)(2) shall apply in determining employer size.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring coverage for benefits for a particular type of health care professional;

''(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;

''(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

''(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

''SEC. 9823. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

''(a) GENERAL RIGHTS.—

''(1) WAIVER OF PLAN REFERRAL REQUIREMENT.—If a group health plan described in subsection (b) requires a referral to obtain coverage for specialty care, the plan shall waive the referral requirement in the case of a female participant or beneficiary who seeks coverage for obstetrical care and related follow-up obstetrical care or routine gynecological care (such as preventive gynecological care).

''(2) RELATED ROUTINE CARE.—With respect to a participant or beneficiary described in paragraph (1), a group health plan described in subsection (b) shall treat the ordering of other routine care that is related to routine gynecologic care, by a physician who specializes in obstetrics and gynecology as the authorization of the primary care provider for such other care.

''(b) APPLICATION OF SECTION.—A group health plan described in this subsection is a group health plan (other than a fully insured group health plan), that—

''(1) provides coverage for obstetric care (such as pregnancy-related services) or routine gynecologic care (such as preventive women's health examinations); and

''(2) requires the designation by a participant or beneficiary of a participating primary care provider who is not a physician who specializes in obstetrics or gynecology.

''(c) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of obstetric or gynecologic care described in subsection (a);

''(2) to preclude the plan from requiring that the physician who specializes in obstetrics or gynecology notify the designated primary care provider or the plan of treatment decisions;

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine obstetric or routine gynecologic care; or

''(4) to preclude a group health plan from permitting a physician who specializes in obstetrics and gynecology from being a primary care provider under the plan.

''SEC. 9824. PATIENT ACCESS TO PEDIATRIC CARE.

''(a) IN GENERAL.—In the case of a group health plan (other than a fully insured group health plan) that provides coverage for routine pediatric care and that requires the designation by a participant or beneficiary of a participating primary care provider, if the designated primary care provider is not a physician who specializes in pediatrics—

''(1) the plan may not require authorization or referral by the primary care provider in order for a participant or beneficiary to obtain coverage for routine pediatric care; and

''(2) the plan shall treat the ordering of other routine care related to routine pediatric care by such a specialist as having been authorized by the designated primary care provider.

''(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of any pediatric care provided to, or ordered for, a participant or beneficiary;

''(2) to preclude a group health plan from requiring that a specialist described in subsection (a) notify the designated primary care provider or the plan of treatment decisions; or

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine pediatric care.

''SEC. 9825. TIMELY ACCESS TO SPECIALISTS.

''(a) TIMELY ACCESS.—

''(1) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall ensure that participants and beneficiaries have timely, in accordance with the medical exigencies of the case, access to primary and specialty health care professionals who are appropriate to the condition of the participant or beneficiary, when such care is covered under the plan. Such access may be provided through contractual arrangements with specialized providers outside of the network of the plan.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

''(A) to require the coverage under a group health plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan; or

''(B) to override any State licensure or scope-of-practice law.

''(b) TREATMENT PLANS.—

''(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

''(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant or beneficiary;

''(B) approved by the plan in a timely manner in accordance with the medical exigencies of the case; and

''(C) in accordance with the applicable quality assurance and utilization review standards of the plan.

''(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan from requiring the specialist to provide the case manager or primary care provider with regular updates on the specialty care provided, as well as all other necessary medical information.

''(c) REFERRALS.—Nothing in this section shall be construed to prohibit a plan from requiring an authorization by the case manager or primary care provider of the participant or beneficiary in order to obtain coverage for specialty services so long as such authorization is for an adequate number of referrals.

''(d) SPECIALTY CARE DEFINED.—For purposes of this subsection, the term 'specialty care' means, with respect to a condition, care and treatment provided by a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

''SEC. 9826. CONTINUITY OF CARE.

''(a) IN GENERAL.—

''(1) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a health care provider is terminated (as defined in paragraph (2)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such group health plan, and an individual who is a participant or beneficiary in the plan is undergoing a course of treatment from the provider at the time of such termination, the plan shall—

''(A) notify the individual on a timely basis of such termination;

''(B) provide the individual with an opportunity to notify the plan of a need for transitional care; and

''(C) in the case of termination described in paragraph (2), (3), or (4) of subsection (b), and subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider's consent during a transitional period (as provided under subsection (b)).

''(2) TERMINATED.—In this section, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

''(3) CONTRACTS.—For purposes of this section, the term 'contract between a group health plan (other than a fully insured group health plan) and a health care provider' shall include a contract between such a plan and an organized network of providers.

''(b) TRANSITIONAL PERIOD.—

''(1) GENERAL RULE.—Except as provided in paragraph (3), the transitional period under this subsection shall permit the participant or beneficiary to extend the coverage involved for up to 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

''(2) INSTITUTIONAL CARE.—Subject to paragraph (1), 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.—Notwithstanding paragraph (1), if—

''(A) a participant or beneficiary 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 the 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.—Notwithstanding paragraph (1), if—

''(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) prior to 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 be for care directly related to the treatment of the terminal illness and shall extend for the remainder of the individual's life for such care.

''(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under subsection (a)(1)(C) upon the provider agreeing to the following terms and conditions:

''(1) The provider agrees to accept reimbursement from the plan 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 at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) 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 responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

''(3) The provider agrees otherwise to adhere to such plan'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.

''(d) RULE OF 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.

''(e) DEFINITION.—In this section, the term 'health care provider' or 'provider' means—

''(1) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

''(2) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

''(f) COMPREHENSIVE STUDY OF COST, QUALITY AND COORDINATION OF COVERAGE FOR PATIENTS AT THE END OF LIFE.—

''(1) STUDY BY THE MEDICARE PAYMENT ADVISORY COMMISSION.—The Medicare Payment Advisory Commission shall conduct a study of the costs and patterns of care for persons with serious and complex conditions and the possibilities of improving upon that care to the degree it is triggered by the current category of terminally ill as such term is used for purposes of section 1861(dd) of the Social Security Act (relating to hospice benefits) or of utilizing care in other payment settings in Medicare.

''(2) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—The Agency for Health Care Policy and Research shall conduct studies of the possible thresholds for major conditions causing serious and complex illness, their administrative parameters and feasibility, and their impact upon costs and quality.

''(3) HEALTH CARE FINANCING ADMINISTRATION.—The Health Care Financing Administration shall conduct studies of the merits of applying similar thresholds in Medicare+Choice programs, including adapting risk adjustment methods to account for this category.

''(4) INITIAL REPORT.—

''(A) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Medicare Payment Advisory Commission and the Agency for Health Care Policy and Research shall each prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the results of the studies conducted under paragraphs (1) and (2), respectively.

''(B) COPY TO SECRETARY.—Concurrent with the submission of the reports under subparagraph (A), the Medicare Payment Advisory Commission and the Agency for health Care Policy and Research shall transmit a copy of the reports under such subparagraph to the Secretary.

''(5) FINAL REPORT.—

''(A) CONTRACT WITH INSTITUTE OF MEDICINE.—Not later than 1 year after the submission of the reports under paragraph (4), the Secretary of Health and Human Services shall contract with the Institute of Medicine to conduct a study of the practices and their effects arising from the utilization of the category ''serious and complex'' illness.

''(B) REPORT.—Not later than 1 year after the date of the execution of the contract referred to in subparagraph (A), the Institute of Medicine shall prepare and submit to the Committee on Health, Education, Labor and Pensions of the Senate a report concerning the study conducted pursuant to such contract.

''(6) FUNDING.—From funds appropriated to the Department of Health and Human Services, the Secretary of Health and Human Services shall make available such funds as the Secretary determines is necessary to carry out this subsection.

"SEC. 9827. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (other than a fully insured group health plan and in relation to a participant or beneficiary) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the participant or beneficiary or medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan (other than a fully insured group health plan) to provide specific benefits under the terms of such plan.

"SEC. 9828. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

''To the extent that a group health plan (other than a fully insured group health plan) provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan shall—

''(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

''(2) in accordance with the applicable quality assurance and utilization review standards of the plan, provide for exceptions from the formulary limitation when a nonformulary alternative is medically necessary and appropriate.

"SEC. 9829. SELF-PAYMENT FOR BEHAVIORAL HEALTH CARE SERVICES.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) may not—

''(1) prohibit or otherwise discourage a participant or beneficiary from self-paying for behavioral health care services once the plan has denied coverage for such services; or

''(2) terminate a health care provider because such provider permits participants or beneficiaries to self-pay for behavioral health care services—

''(A) that are not otherwise covered under the plan; or

''(B) for which the group health plan provides limited coverage, to the extent that the group health plan denies coverage of the services.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall be construed as prohibiting a group health plan from terminating a contract with a health care provider for failure to meet applicable quality standards or for fraud.

"SEC. 9830. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

''(a) COVERAGE.—

''(1) IN GENERAL.—If a group health plan (other than a fully insured group health plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan—

''(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

''(B) subject to subsections (b), (c), and (d) 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 participant's or beneficiaries 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 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 and who meets the following conditions:

''(1)(A) The individual has been diagnosed with cancer 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 or beneficiary 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 (other than a fully insured group health plan) 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 to be paid for by the sponsors of an approved clinical trial.

''(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

''(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans must meet under this section.

''(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

''(i) quality of patient care;

''(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

''(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

''(C) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this paragraph, the Secretary, after consultation with organizations representing cancer patients, health care practitioners, medical researchers, employers, group health plans, manufacturers of drugs, biologics and medical devices, medical economists, hospitals, and other interested parties, shall publish notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

''(D) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C), and for purposes of this paragraph, the 'target date for publication' (referred to in section 564(a)(5) of such title 5) shall be June 30, 2000.

''(E) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title 5 under this paragraph, '15 days' shall be substituted for '30 days'.

''(F) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

''(i) the appointment of a negotiated rulemaking committee under section 565(a) of such title 5 by not later than 30 days after the end of the comment period provided for under section 564(c) of such title 5 (as shortened under subparagraph (E)), and

''(ii) the nomination of a facilitator under section 566(c) of such title 5 by not later than 10 days after the date of appointment of the committee.

''(G) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under subparagraph (F) shall report to the Secretary, by not later than March 29, 2000, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this paragraph through such other methods as the Secretary may provide.

''(H) FINAL COMMITTEE REPORT.—If the committee is not terminated under subparagraph (G), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

''(I) FINAL EFFECT.—The Secretary shall publish a rule under this paragraph in the Federal Register by not later than the target date of publication.

''(J) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

''(K) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans (other than a fully insured group health plan) for plan years beginning on or after January 1, 2001.

''(3) 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 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 cancer clinical research study or cancer 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 coverage with respect to clinical trials.

''(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

''(1) IN GENERAL.—For purposes of this section, 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 requirements of this section 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.

''(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(g) STUDY AND REPORT.—

''(1) STUDY.—The Secretary shall study the impact on group health plans for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved cancer clinical trial program.

''(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains an assessment of—

''(A) any incremental cost to group health plans resulting from the provisions of this section;

''(B) a projection of expenditures to such plans resulting from this section; and

''(C) any impact on premiums resulting from this section.

''SEC. 9830A. PROHIBITING DISCRIMINATION AGAINST PROVIDERS.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) 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. This subsection shall not be construed as requiring the coverage under a plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants and beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

''(b) NO REQUIREMENT FOR ANY WILLING PROVIDER.—Nothing in this section shall be construed as requiring a group health plan that offers network coverage to include for participation every willing provider or health professional who meets the terms and conditions of the plan.

''SEC. 9830B. GENERALLY APPLICABLE PROVISION.

''In the case of a group health plan that provides benefits under 2 or more coverage options, the requirements of this subchapter shall apply separately with respect to each coverage option.''.

(b) DEFINITION.—Section 9832(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(4) FULLY INSURED GROUP HEALTH PLAN.—The term 'fully insured group health plan' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.''.

(c) CONFORMING AMENDMENT.—Chapter 98 of the Internal Revenue Code of 1986 is amended in the table of subchapters in the item relating to subchapter C, by striking ''Subchapter C'' and inserting ''Subchapter D''.

SEC. 103. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle B—Right to Information About Plans and Providers

SEC. 111. INFORMATION ABOUT PLANS.

(a) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) 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. HEALTH PLAN COMPARATIVE INFORMATION.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with group health insurance coverage, shall, not later than 12 months after the date of enactment of this section, and at least annually thereafter, provide for the disclosure, in a clear and accurate form to each participant and each beneficiary who does not reside at the same address as the participant, or upon request to an individual eligible for coverage under the plan, of the information described in subsection (b).

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a plan or issuer from entering into any agreement under which the issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the address maintained by the plan or issuer with respect to such participants or beneficiaries.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each package option available under a group health plan the following:

''(1) A description of the covered items and services under each such plan and any in- and out-of-network features of each such plan, including a summary description of the specific exclusions from coverage under the plan.

''(2) A description of any cost-sharing, including premiums, deductibles, coinsurance, and copayment amounts, for which the participant or beneficiary will be responsible, including any annual or lifetime limits on benefits, for each such plan.

''(3) A description of any optional supplemental benefits offered by each such plan and the terms and conditions (including premiums or cost-sharing) for such supplemental coverage.

''(4) A description of any restrictions on payments for services furnished to a participant or beneficiary by a health care professional that is not a participating professional and the liability of the participant or beneficiary for additional payments for these services.

''(5) A description of the service area of each such plan, including the provision of any out-of-area coverage.

''(6) A description of the extent to which participants and beneficiaries may select the primary care provider of their choice, including providers both within the network and outside the network of each such plan (if the plan permits out-of-network services).

''(7) A description of the procedures for advance directives and organ donation decisions if the plan maintains such procedures.

''(8) A description of the requirements and procedures to be used to obtain preauthorization for health services (including telephone numbers and mailing addresses), including referrals for specialty care.

''(9) A description of the definition of medical necessity used in making coverage determinations by each such plan.

''(10) A summary of the rules and methods for appealing coverage decisions and filing grievances (including telephone numbers and mailing addresses), as well as other available remedies.

''(11) A summary description of any provisions for obtaining off-formulary medications if the plan utilizes a defined formulary for providing specific prescription medications.

''(12) A summary of the rules for access to emergency room care. Also, any available educational material regarding proper use of emergency services.

''(13) A description of whether or not coverage is provided for experimental treatments, investigational treatments, or clinical trials and the circumstances under which access to such treatments or trials is made available.

''(14) A description of the specific preventative services covered under the plan if such services are covered.

''(15) A statement regarding—

''(A) the manner in which a participant or beneficiary may access an obstetrician, gynecologist, or pediatrician in accordance with section 723 or 724; and

''(B) the manner in which a participant or beneficiary obtains continuity of care as provided for in section 726.

''(16) A statement that the following information, and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request:

''(A) The names, addresses, telephone numbers, and State licensure status of the plan's

participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

''(B) A summary description of the methods used for compensating participating health care professionals, such as capitation, fee-for-service, salary, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(C) A summary description of the methods used for compensating health care facilities, including per diem, fee-for-service, capitation, bundled payments, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(D) A summary description of the procedures used for utilization review.

''(E) The list of the specific prescription medications included in the formulary of the plan, if the plan uses a defined formulary.

''(F) A description of the specific exclusions from coverage under the plan.

''(G) Any available information related to the availability of translation or interpretation services for non-English speakers and people with communication disabilities, including the availability of audio tapes or information in Braille.

''(H) Any information that is made public by accrediting organizations in the process of accreditation if the plan is accredited, or any additional quality indicators that the plan makes available.

''(c) MANNER OF DISTRIBUTION.—The information described in this section shall be distributed in an accessible format that is understandable to an average plan participant or beneficiary.

''(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a group health plan, or health insurance issuer in connection with group health insurance coverage, from distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants and beneficiaries or upon request potential participants and beneficiaries in the selection of a health plan or from providing information under subsection (b)(15) as part of the required information.

''(e) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under part 1, to reduce duplication with respect to any information that is required to be provided under any such requirements.

''(f) HEALTH CARE PROFESSIONAL.—In this section, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the health plan involved for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711, and inserting ''sections 711 and 714''.

(B) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713, the following:

''Sec. 714. Health plan comparative information.''.

(b) INTERNAL REVENUE CODE OF 1986.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Health plan comparative information.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. HEALTH PLAN COMPARATIVE INFORMATION.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—A group health plan shall, not later than 12 months after the date of enactment of this section, and at least annually thereafter, provide for the disclosure, in a clear and accurate form to each participant and each beneficiary who does not reside at the same address as the participant, or upon request to an individual eligible for coverage under the plan, of the information described in subsection (b).

''(2) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a plan from entering into any agreement under which a health insurance issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the address maintained by the plan with respect to such participants or beneficiaries.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each package option available under a group health plan the following:

''(1) A description of the covered items and services under each such plan and any in- and out-of-network features of each such plan, including a summary description of the specific exclusions from coverage under the plan.

''(2) A description of any cost-sharing, including premiums, deductibles, coinsurance, and copayment amounts, for which the participant or beneficiary will be responsible, including any annual or lifetime limits on benefits, for each such plan.

''(3) A description of any optional supplemental benefits offered by each such plan and the terms and conditions (including premiums or cost-sharing) for such supplemental coverage.

''(4) A description of any restrictions on payments for services furnished to a participant or beneficiary by a health care professional that is not a participating professional and the liability of the participant or beneficiary for additional payments for these services.

''(5) A description of the service area of each such plan, including the provision of any out-of-area coverage.

''(6) A description of the extent to which participants and beneficiaries may select the primary care provider of their choice, including providers both within the network and outside the network of each such plan (if the plan permits out-of-network services).

''(7) A description of the procedures for advance directives and organ donation decisions if the plan maintains such procedures.

''(8) A description of the requirements and procedures to be used to obtain preauthorization for health services (including telephone numbers and mailing addresses), including referrals for specialty care.

''(9) A description of the definition of medical necessity used in making coverage determinations by each such plan.

''(10) A summary of the rules and methods for appealing coverage decisions and filing grievances (including telephone numbers and mailing addresses), as well as other available remedies.

''(11) A summary description of any provisions for obtaining off-formulary medications if the plan utilizes a defined formulary for providing specific prescription medications.

''(12) A summary of the rules for access to emergency room care. Also, any available educational material regarding proper use of emergency services.

''(13) A description of whether or not coverage is provided for experimental treatments, investigational treatments, or clinical trials and the circumstances under which access to such treatments or trials is made available.

''(14) A description of the specific preventative services covered under the plan if such services are covered.

''(15) A statement regarding—

''(A) the manner in which a participant or beneficiary may access an obstetrician, gynecologist, or pediatrician in accordance with section 723 or 724; and

''(B) the manner in which a participant or beneficiary obtains continuity of care as provided for in section 726.

''(16) A statement that the following information, and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request:

''(A) The names, addresses, telephone numbers, and State licensure status of the plan's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

''(B) A summary description of the methods used for compensating participating health care professionals, such as capitation, fee-for-service, salary, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(C) A summary description of the methods used for compensating health care facilities, including per diem, fee-for-service, capitation, bundled payments, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(D) A summary description of the procedures used for utilization review.

''(E) The list of the specific prescription medications included in the formulary of the plan, if the plan uses a defined formulary.

''(F) A description of the specific exclusions from coverage under the plan.

''(G) Any available information related to the availability of translation or interpretation services for non-English speakers and people with communication disabilities, including the availability of audio tapes or information in Braille.

''(H) Any information that is made public by accrediting organizations in the process

of accreditation if the plan is accredited, or any additional quality indicators that the plan makes available.

''(c) MANNER OF DISTRIBUTION.—The information described in this section shall be distributed in an accessible format that is understandable to an average plan participant or beneficiary.

''(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a group health plan from distributing any other additional information determined by the plan to be important or necessary in assisting participants and beneficiaries or upon request potential participants and beneficiaries in the selection of a health plan or from providing information under subsection (b)(15) as part of the required information.

''(e) HEALTH CARE PROFESSIONAL.—In this section, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the health plan involved for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.''.

SEC. 112. INFORMATION ABOUT PROVIDERS.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study, and the submission to the Secretary of a report, that includes—

(1) an analysis of information concerning health care professionals that is currently available to patients, consumers, States, and professional societies, nationally and on a State-by-State basis, including patient preferences with respect to information about such professionals and their competencies;

(2) an evaluation of the legal and other barriers to the sharing of information concerning health care professionals; and

(3) recommendations for the disclosure of information on health care professionals, including the competencies and professional qualifications of such practitioners, to better facilitate patient choice, quality improvement, and market competition.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

Subtitle C—Right to Hold Health Plans Accountable

SEC. 121. AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended to read as follows:

''SEC. 503. CLAIMS PROCEDURE, COVERAGE DETERMINATION, GRIEVANCES AND APPEALS.

''(a) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every employee benefit plan shall—

''(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant; and

''(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

''(b) COVERAGE DETERMINATIONS UNDER GROUP HEALTH PLANS.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—A group health plan or health insurance issuer conducting utilization review shall ensure that procedures are in place for—

''(i) making determinations regarding whether a participant or beneficiary is eligible to receive a payment or coverage for health services under the plan or coverage involved and any cost-sharing amount that the participant or beneficiary is required to pay with respect to such service;

''(ii) notifying a covered participant or beneficiary (or the authorized representative of such participant or beneficiary) and the treating health care professionals involved regarding determinations made under the plan or issuer and any additional payments that the participant or beneficiary may be required to make with respect to such service; and

''(iii) responding to requests, either written or oral, for coverage determinations or for internal appeals from a participant or beneficiary (or the authorized representative of such participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary.

''(B) ORAL REQUESTS.—With respect to an oral request described in subparagraph (A)(iii), a group health plan or health insurance issuer may require that the requesting individual provide written evidence of such request.

''(2) TIMELINE FOR MAKING DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—A group health plan or a health insurance issuer shall maintain procedures to ensure that prior authorization determinations concerning the provision of non-emergency items or services are made within 30 days from the date on which the request for a determination is submitted, except that such period may be extended where certain circumstances exist that are determined by the Secretary to be beyond control of the plan or issuer.

''(B) EXPEDITED DETERMINATION.—

''(i) IN GENERAL.—A prior authorization determination under this subsection shall be made within 72 hours, in accordance with the medical exigencies of the case, after a request is received by the plan or issuer under clause (ii) or (iii).

''(ii) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(iii) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies, that a determination under the procedures described in subparagraph (A) could seriously jeopardize the life or health of the participant or beneficiary.

''(C) CONCURRENT DETERMINATIONS.—A plan or issuer shall maintain procedures to certify or deny coverage of an extended stay or additional services.

''(D) RETROSPECTIVE DETERMINATION.—A plan or issuer shall maintain procedures to ensure that, with respect to the retrospective review of a determination made under paragraph (1), the determination shall be made within 30 working days of the date on which the plan or issuer receives necessary information.

''(3) NOTICE OF DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(A), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and, consistent with the medical exigencies of the case, to the treating health care professional involved not later than 2 working days after the date on which the determination is made.

''(B) EXPEDITED DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(B), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary), and consistent with the medical exigencies of the case, to the treating health care professional involved within the 72 hour period described in paragraph (2)(B).

''(C) CONCURRENT REVIEWS.—With respect to the determination under a plan or issuer under paragraph (2)(C) to certify or deny coverage of an extended stay or additional services, the plan or issuer shall issue notice of such determination to the treating health care professional and to the participant or beneficiary involved (or the authorized representative of the participant or beneficiary) within 1 working day of the determination.

''(D) RETROSPECTIVE REVIEWS.—With respect to the retrospective review under a plan or issuer of a determination made under paragraph (2)(D), the plan or issuer shall issue written notice of an approval or disapproval of a determination under this subparagraph to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and health care provider involved within 5 working days of the date on which such determination is made.

''(E) REQUIREMENTS OF NOTICE OF ADVERSE COVERAGE DETERMINATIONS.—A written notice of an adverse coverage determination under this subsection, or of an expedited adverse coverage determination under paragraph (2)(B), shall be provided to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and treating health care professional (if any) involved and shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (d).

''(c) GRIEVANCES.—A group health plan or a health insurance issuer shall have written procedures for addressing grievances between the plan or issuer offering health insurance coverage in connection with a group health plan and a participant or beneficiary.

Determinations under such procedures shall be non-appealable.

''(d) INTERNAL APPEAL OF COVERAGE DETERMINATIONS.—

''(1) RIGHT TO APPEAL.—

''(A) IN GENERAL.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary), may appeal any adverse coverage determination under subsection (b) under the procedures described in this subsection.

''(B) TIME FOR APPEAL.—A plan or issuer shall ensure that a participant or beneficiary has a period of not less than 180 days beginning on the date of an adverse coverage determination under subsection (b) in which to appeal such determination under this subsection.

''(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination under subsection (b) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to internal review under this subsection.

''(2) RECORDS.—A group health plan and a health insurance issuer shall maintain written records, for at least 6 years, with respect to any appeal under this subsection for purposes of internal quality assurance and improvement. Nothing in the preceding sentence shall be construed as preventing a plan and issuer from entering into an agreement under which the issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) ROUTINE DETERMINATIONS.—A group health plan or a health insurance issuer shall complete the consideration of an appeal of an adverse routine determination under this subsection not later than 30 working days after the date on which a request for such appeal is received.

''(4) EXPEDITED DETERMINATION.—

''(A) IN GENERAL.—An expedited determination with respect to an appeal under this subsection shall be made in accordance with the medical exigencies of the case, but in no case more than 72 hours after the request for such appeal is received by the plan or issuer under subparagraph (B) or (C).

''(B) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(C) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies of the case that a determination under the procedures described in paragraph (2) could seriously jeopardize the life or health of the participant or beneficiary.

''(5) CONDUCT OF REVIEW.—A review of an adverse coverage determination under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

''(6) LACK OF MEDICAL NECESSITY.—A review of an appeal under this subsection relating to a determination to deny coverage based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, shall be made only by a physician with appropriate expertise, including age-appropriate expertise, who was not involved in the initial determination.

''(7) NOTICE.—

''(A) IN GENERAL.—Written notice of a determination made under an internal review process shall be issued to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the treating health care professional not later than 2 working days after the completion of the review (or within the 72-hour period referred to in paragraph (4) if applicable).

''(B) ADVERSE COVERAGE DETERMINATIONS.—With respect to an adverse coverage determination made under this subsection, the notice described in subparagraph (A) shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to an independent external review under subsection (e) and instructions on how to initiate such a review.

''(e) INDEPENDENT EXTERNAL REVIEW.—

''(1) ACCESS TO REVIEW.—

''(A) IN GENERAL.—A group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan shall have written procedures to permit a participant or beneficiary (or the authorized representative of the participant or beneficiary) access to an independent external review with respect to an adverse coverage determination concerning a particular item or service (including a circumstance treated as an adverse coverage determination under subparagraph (B)) where—

''(i) the particular item or service involved—

''(I)(aa) would be a covered benefit, when medically necessary and appropriate under the terms and conditions of the plan, and the item or service has been determined not to be medically necessary and appropriate under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(bb)(AA) the amount of such item or service involved exceeds a significant financial threshold; or

''(BB) there is a significant risk of placing the life or health of the participant or beneficiary in jeopardy; or

''(II) would be a covered benefit, when not considered experimental or investigational under the terms and conditions of the plan, and the item or service has been determined to be experimental or investigational under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(ii) the participant or beneficiary has completed the internal appeals process under subsection (d) with respect to such determination.

''(B) FAILURE TO ACT.—The failure of a plan or issuer to issue a coverage determination under subsection (d)(6) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to independent external review under this subsection.

''(2) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

''(A) FILING OF REQUEST.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) who desires to have an independent external review conducted under this subsection shall file a written request for such a review with the plan or issuer involved not later than 30 working days after the receipt of a final denial of a claim under subsection (d). Any such request shall include the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary) for the release of medical information and records to independent external reviewers regarding the participant or beneficiary.

''(B) TIMEFRAME FOR SELECTION OF APPEALS ENTITY.—Not later than 5 working days after the receipt of a request under subparagraph (A), or earlier in accordance with the medical exigencies of the case, the plan or issuer involved shall—

''(i) select an external appeals entity under paragraph (3)(A) that shall be responsible for designating an independent external reviewer under paragraph (3)(B); and

''(ii) provide notice of such selection to the participant or beneficiary (which shall include the name and address of the entity).

''(C) PROVISION OF INFORMATION.—Not later than 5 working days after the plan or issuer provides the notice required under subparagraph (B)(ii), or earlier in accordance with the medical exigencies of the case, the plan, issuer, participant, beneficiary or physician (of the participant or beneficiary) involved shall forward necessary information (including, only in the case of a plan or issuer, medical records, any relevant review criteria, the clinical rationale consistent with the terms and conditions of the contract between the plan or issuer and the participant or beneficiary for the coverage denial, and evidence of the coverage of the participant or beneficiary) to the qualified external appeals entity designated under paragraph (3)(A).

''(D) FOLLOW-UP WRITTEN NOTIFICATION.—The plan or issuer involved shall send a follow-up written notification, in a timely manner, to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the plan administrator, indicating that an independent external review has been initiated.

''(3) CONDUCT OF INDEPENDENT EXTERNAL REVIEW.—

''(A) DESIGNATION OF EXTERNAL APPEALS ENTITY BY PLAN OR ISSUER.—

''(i) IN GENERAL.—A plan or issuer that receives a request for an independent external review under paragraph (2)(A) shall designate a qualified entity described in clause (ii), in a manner designed to ensure that the entity so designated will make a decision in an unbiased manner, to serve as the external appeals entity.

''(ii) QUALIFIED ENTITIES.—A qualified entity shall be—

''(I) an independent external review entity licensed or credentialed by a State;

''(II) a State agency established for the purpose of conducting independent external reviews;

''(III) any entity under contract with the Federal Government to provide independent external review services;

''(IV) any entity accredited as an independent external review entity by an accrediting body recognized by the Secretary for such purpose; or

''(V) any other entity meeting criteria established by the Secretary for purposes of this subparagraph.

''(B) DESIGNATION OF INDEPENDENT EXTERNAL REVIEWER BY EXTERNAL APPEALS ENTITY.—The external appeals entity designated under subparagraph (A) shall, not later than 30 days after the date on which such entity is designated under subparagraph (A), or earlier in accordance with the medical exigencies of the case, designate one or more individuals to serve as independent external reviewers with respect to a request received under paragraph (2)(A). Such reviewers shall be independent medical experts who shall—

''(i) be appropriately credentialed or licensed in any State to deliver health care services;

''(ii) not have any material, professional, familial, or financial affiliation with the case under review, the participant or beneficiary involved, the treating health care professional, the institution where the treatment would take place, or the manufacturer of any drug, device, procedure, or other therapy proposed for the participant or beneficiary whose treatment is under review;

''(iii) have expertise (including age-appropriate expertise) in the diagnosis or treatment under review and be a physician of the same specialty, when reasonably available, as the physician treating the participant or beneficiary or recommending or prescribing the treatment in question;

''(iv) receive only reasonable and customary compensation from the group health plan or health insurance issuer in connection with the independent external review that is not contingent on the decision rendered by the reviewer; and

''(v) not be held liable for decisions regarding medical determinations (but may be held liable for actions that are arbitrary and capricious).

''(4) STANDARD OF REVIEW.—

''(A) IN GENERAL.—An independent external reviewer shall—

''(i) make an independent determination based on the valid, relevant, scientific and clinical evidence to determine the medical necessity, appropriateness, experimental or investigational nature of the proposed treatment; and

''(ii) take into consideration appropriate and available information, including any evidence-based decision making or clinical practice guidelines used by the group health plan or health insurance issuer; timely evidence or information submitted by the plan, issuer, patient or patient's physician; the patient's medical record; expert consensus including both generally accepted medical practice and recognized best practice; medical literature as defined in section 556(5) of the Federal Food, Drug, and Cosmetic Act; the following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; and findings, studies, or research conducted by or under the auspices of Federal Government agencies and nationally recognized Federal research institutes including the Agency for Healthcare Research and Quality, National Institutes of Health, National Academy of Sciences, Health Care Financing Administration, and any national board recognized by the National Institutes of Health for the purposes of evaluating the medical value of health services.

''(B) NOTICE.—The plan or issuer involved shall ensure that the participant or beneficiary receives notice, within 30 days after the determination of the independent medical expert, regarding the actions of the plan or issuer with respect to the determination of such expert under the independent external review.

''(5) TIMEFRAME FOR REVIEW.—

''(A) IN GENERAL.—The independent external reviewer shall complete a review of an adverse coverage determination in accordance with the medical exigencies of the case.

''(B) EXPEDITED REVIEW.—Notwithstanding subparagraph (A), a review described in such subparagraph shall be completed not later than 72 hours after the later of—

''(i) the date on which such reviewer is designated; or

''(ii) the date on which all information necessary to completing such review is received;

if the completion of such review in a period of time in excess of 72 hours would seriously jeopardize the life or health of the participant or beneficiary.

''(C) LIMITATION.—Notwithstanding subparagraph (A), and except as provided in subparagraph (B), a review described in subparagraph (A) shall be completed not later than 30 working days after the later of—

''(i) the date on which such reviewer is designated; or

''(ii) the date on which all information necessary to completing such review is received.

''(6) BINDING DETERMINATION AND ACCESS TO CARE.—

''(A) IN GENERAL.—The determination of an independent external reviewer under this subsection shall be binding upon the plan or issuer if the provisions of this subsection or the procedures implemented under such provisions were complied with by the independent external reviewer.

''(B) TIMETABLE FOR COMMENCEMENT OF CARE.—Where an independent external reviewer determines that the participant or beneficiary is entitled to coverage of the items or services that were the subject of the review, the reviewer shall establish a timeframe, in accordance with the medical exigencies of the case, during which the plan or issuer shall comply with the decision of the reviewer with respect to the coverage of such items or services under the terms and conditions of the plan.

''(C) FAILURE TO COMPLY.—If a plan or issuer fails to comply with the timeframe established under subparagraph (B) with respect to a participant or beneficiary, where such failure to comply is caused by the plan or issuer, the participant or beneficiary may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

''(D) REIMBURSEMENT.—

''(i) IN GENERAL.—Where a participant or beneficiary obtains items or services in accordance with subparagraph (C), the plan or issuer involved shall provide for reimbursement of the costs of such items of services. Such reimbursement shall be made to the treating provider or to the participant or beneficiary (in the case of a participant or beneficiary who pays for the costs of such items or services).

''(ii) AMOUNT.—The plan or issuer shall fully reimburse a provider, participant or beneficiary under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items of services) so long as—

''(I) the items or services would have been covered under the terms of the plan or coverage if provided by the plan or issuer; and

''(II) the items or services were provided in a manner consistent with the determination of the independent external reviewer.

''(E) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a provider, participant or beneficiary in accordance with this paragraph, the provider, participant or beneficiary may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is unpaid and any necessary legal costs or expenses (including attorneys' fees) incurred in recovering such reimbursement.

''(7) STUDY.—Not later than 2 years after the date of enactment of this section, the General Accounting Office shall conduct a study of a statistically appropriate sample of completed independent external reviews. Such study shall include an assessment of the process involved during an independent external review and the basis of decision-making by the independent external reviewer. The results of such study shall be submitted to the appropriate committees of Congress.

''(8) EFFECT ON CERTAIN PROVISIONS.—Nothing in this section shall be construed as affecting or modifying section 514 of this Act with respect to a group health plan.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a plan administrator or plan fiduciary or health plan medical director from requesting an independent external review by an independent external reviewer without first completing the internal review process.

''(g) DEFINITIONS.—In this section:

''(1) ADVERSE COVERAGE DETERMINATION.—The term 'adverse coverage determination' means a coverage determination under the plan which results in a denial of coverage or reimbursement.

''(2) COVERAGE DETERMINATION.—The term 'coverage determination' means with respect to items and services for which coverage may be provided under a health plan, a determination of whether or not such items and services are covered or reimbursable under the coverage and terms of the contract.

''(3) GRIEVANCE.—The term 'grievance' means any complaint made by a participant or beneficiary that does not involve a coverage determination.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(7) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a coverage determination prior to the provision of the items and services as a condition of coverage of the items and services under the coverage.

''(8) TREATING HEALTH CARE PROFESSIONAL.—The term 'treating health care professional' with respect to a group health

plan, health insurance issuer or provider sponsored organization means a physician (medical doctor or doctor of osteopathy) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

''(9) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review.''

(b) ENFORCEMENT.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

''(8) The Secretary may assess a civil penalty against any plan of up to $10,000 for the plan's failure or refusal to comply with any timeline applicable under section 503(e) or any determination under such section, except that in any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant or beneficiary involved.''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 503 and inserting the following new item:

''Sec. 503. Claims procedures, coverage determination, grievances and appeals.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 1 year after the date of enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

TITLE II—WOMEN'S HEALTH AND CANCER RIGHTS

SEC. 201. WOMEN'S HEALTH AND CANCER RIGHTS.

(a) SHORT TITLE.—This section may be cited as the ''Women's Health and Cancer Rights Act of 1999''.

(b) FINDINGS.—Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

(c) AMENDMENTS TO ERISA.—

(1) 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 section 111(a), is further amended by adding at the end the following:

''SEC. 715. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2000;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

(d) AMENDMENTS TO PHSA RELATING TO THE GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section

in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2000;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(e) AMENDMENTS TO PHSA RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) (42 U.S.C. 300gg-51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(f) AMENDMENTS TO THE IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 111(b), is further amended by inserting after section 9813 the following:

''SEC. 9814. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

''(1) in the next mailing made by the plan to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2000;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES.—A group health plan may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 100 of such Code is amended by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

TITLE III—GENETIC INFORMATION AND SERVICES

SEC. 301. SHORT TITLE.

This title may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 1999''.

SEC. 302. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by sections 111(a) and 201, is further amended by adding at the end the following:

''SEC. 716. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any

individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 716.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by sections 111(a) and 201, is further amended by inserting after the item relating to section 715 the following new item:

''Sec. 716. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning 1 year after the date of the enactment of this Act.

SEC. 303. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION IN THE GROUP MARKET.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(B) NO DISCRIMINATION IN PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by section 201, is further amended by adding at the end the following new section:

''SEC. 2708. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION IN THE GROUP MARKET.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(C) CONFORMING AMENDMENT.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 2708.''.

(D) LIMITATION ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may

request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(2) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(18) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(19) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—Subpart 2 of part B of title XXVII of the Public Health Service Act, as amended by section 201, is further amended by adding at the end the following new section:

''SEC. 2754. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) PROHIBITION ON PREDICTIVE GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use predictive genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

''(b) PROHIBITION ON PREDICTIVE GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates for individuals on the basis of predictive genetic information concerning such an individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the health insurance issuer offering health insurance coverage in the individual market shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A health insurance issuer offering health insurance coverage in the individual market shall post or provide, in writing and in a clear and conspicuous manner, notice of the issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A health insurance issuer offering health insurance coverage in the individual market shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such issuer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after 1 year after the date of enactment of this Act; and

(2) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after 1 year after the date of enactment of this Act.

SEC. 304. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by sections 111(b) and 201, is further amended by adding at the end the following:

"SEC. 9815. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).''.

(B) CONFORMING AMENDMENT.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or the receipt of genetic services), see section 9815.''.

(C) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by sections 111(b) and 201, is further amended by adding at the end the following:

''Sec. 9816. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES; DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (e), of such predictive genetic information.

''(e) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(10) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after 1 year after the date of the enactment of this Act.

TITLE IV—HEALTHCARE RESEARCH AND QUALITY

SEC. 401. SHORT TITLE.

This title may be cited as the ''Healthcare Research and Quality Act of 1999''.

SEC. 402. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended to read as follows:

"TITLE IX—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

"PART A—ESTABLISHMENT AND GENERAL DUTIES

"SEC. 901. MISSION AND DUTIES.

''(a) IN GENERAL.—There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality. In carrying out this subsection, the Secretary shall redesignate the Agency for Health Care Policy and Research as the Agency for Healthcare Research and Quality.

''(b) MISSION.—The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of healthcare services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical and health system practices, including the prevention of diseases and other health conditions. The Agency shall promote healthcare quality improvement by—

''(1) conducting and supporting research that develops and presents scientific evidence regarding all aspects of healthcare, including—

''(A) the development and assessment of methods for enhancing patient participation in their own care and for facilitating shared patient-physician decision-making;

''(B) the outcomes, effectiveness, and cost-effectiveness of healthcare practices, including preventive measures and long-term care;

''(C) existing and innovative technologies;

''(D) the costs and utilization of, and access to healthcare;

''(E) the ways in which healthcare services are organized, delivered, and financed and the interaction and impact of these factors on the quality of patient care;

''(F) methods for measuring quality and strategies for improving quality; and

''(G) ways in which patients, consumers, purchasers, and practitioners acquire new information about best practices and health benefits, the determinants and impact of their use of this information;

''(2) synthesizing and disseminating available scientific evidence for use by patients, consumers, practitioners, providers, purchasers, policy makers, and educators; and

''(3) advancing private and public efforts to improve healthcare quality.

''(c) REQUIREMENTS WITH RESPECT TO RURAL AREAS AND PRIORITY POPULATIONS.—In carrying out subsection (b), the Director shall undertake and support research, demonstration projects, and evaluations with respect to the delivery of health services—

''(1) in rural areas (including frontier areas);

''(2) for low-income groups, and minority groups;

''(3) for children;

''(4) for elderly; and

''(5) for people with special healthcare needs, including disabilities, chronic care and end-of-life healthcare.

''(d) APPOINTMENT OF DIRECTOR.—There shall be at the head of the Agency an official

to be known as the Director for Healthcare Research and Quality. The Director shall be appointed by the Secretary. The Secretary, acting through the Director, shall carry out the authorities and duties established in this title.

"SEC. 902. GENERAL AUTHORITIES.

''(a) IN GENERAL.—In carrying out section 901(b), the Director shall support demonstration projects, conduct and support research, evaluations, training, research networks, multi-disciplinary centers, technical assistance, and the dissemination of information, on healthcare, and on systems for the delivery of such care, including activities with respect to—

''(1) the quality, effectiveness, efficiency, appropriateness and value of healthcare services;

''(2) quality measurement and improvement;

''(3) the outcomes, cost, cost-effectiveness, and use of healthcare services and access to such services;

''(4) clinical practice, including primary care and practice-oriented research;

''(5) healthcare technologies, facilities, and equipment;

''(6) healthcare costs, productivity, organization, and market forces;

''(7) health promotion and disease prevention, including clinical preventive services;

''(8) health statistics, surveys, database development, and epidemiology; and

''(9) medical liability.

''(b) HEALTH SERVICES TRAINING GRANTS.—

''(1) IN GENERAL.—The Director may provide training grants in the field of health services research related to activities authorized under subsection (a), to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate. In carrying out this subsection, the Director shall make use of funds made available under section 487 as well as other appropriated funds.

''(2) REQUIREMENTS.—In developing priorities for the allocation of training funds under this subsection, the Director shall take into consideration shortages in the number of trained researchers addressing the priority populations.

''(c) MULTIDISCIPLINARY CENTERS.—The Director may provide financial assistance to assist in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, and policy analysis with respect to the matters referred to in subsection (a).

''(d) RELATION TO CERTAIN AUTHORITIES REGARDING SOCIAL SECURITY.—Activities authorized in this section shall be appropriately coordinated with experiments, demonstration projects, and other related activities authorized by the Social Security Act and the Social Security Amendments of 1967. Activities under subsection (a)(2) of this section that affect the programs under titles XVIII, XIX and XXI of the Social Security Act shall be carried out consistent with section 1142 of such Act.

''(e) DISCLAIMER.—The Agency shall not mandate national standards of clinical practice or quality healthcare standards. Recommendations resulting from projects funded and published by the Agency shall include a corresponding disclaimer.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that the Agency's role is to mandate a national standard or specific approach to quality measurement and reporting. In research and quality improvement activities, the Agency shall consider a wide range of choices, providers, healthcare delivery systems, and individual preferences.

"PART B—HEALTHCARE IMPROVEMENT RESEARCH

"SEC. 911. HEALTHCARE OUTCOME IMPROVEMENT RESEARCH.

''(a) EVIDENCE RATING SYSTEMS.—In collaboration with experts from the public and private sector, the Agency shall identify and disseminate methods or systems that it uses to assess healthcare research results, particularly methods or systems that it uses to rate the strength of the scientific evidence behind healthcare practice, recommendations in the research literature, and technology assessments. The Agency shall make methods and systems for evidence rating widely available. Agency publications containing healthcare recommendations shall indicate the level of substantiating evidence using such methods or systems.

''(b) HEALTHCARE IMPROVEMENT RESEARCH CENTERS AND PROVIDER-BASED RESEARCH NETWORKS.—In order to address the full continuum of care and outcomes research, to link research to practice improvement, and to speed the dissemination of research findings to community practice settings, the Agency shall employ research strategies and mechanisms that will link research directly with clinical practice in geographically diverse locations throughout the United States, including—

''(1) Healthcare Improvement Research Centers that combine demonstrated multidisciplinary expertise in outcomes or quality improvement research with linkages to relevant sites of care;

''(2) Provider-based Research Networks, including plan, facility, or delivery system sites of care (especially primary care), that can evaluate and promote quality improvement; and

''(3) other innovative mechanisms or strategies to link research with clinical practice.

"SEC. 912. PRIVATE-PUBLIC PARTNERSHIPS TO IMPROVE ORGANIZATION AND DELIVERY.

''(a) SUPPORT FOR EFFORTS TO DEVELOP INFORMATION ON QUALITY.—

''(1) SCIENTIFIC AND TECHNICAL SUPPORT.—In its role as the principal agency for healthcare research and quality, the Agency may provide scientific and technical support for private and public efforts to improve healthcare quality, including the activities of accrediting organizations.

''(2) ROLE OF THE AGENCY.—With respect to paragraph (1), the role of the Agency shall include—

''(A) the identification and assessment of methods for the evaluation of the health of—

''(i) enrollees in health plans by type of plan, provider, and provider arrangements; and

''(ii) other populations, including those receiving long-term care services;

''(B) the ongoing development, testing, and dissemination of quality measures, including measures of health and functional outcomes;

''(C) the compilation and dissemination of healthcare quality measures developed in the private and public sector;

''(D) assistance in the development of improved healthcare information systems;

''(E) the development of survey tools for the purpose of measuring participant and beneficiary assessments of their healthcare; and

''(F) identifying and disseminating information on mechanisms for the integration of information on quality into purchaser and consumer decision-making processes.

''(b) CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.—

''(1) IN GENERAL.—The Secretary, acting through the Director and in consultation with the Commissioner of Food and Drugs, shall establish a program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in paragraph (2).

''(2) REQUIRED ACTIVITIES.—The activities referred to in this paragraph are the following:

''(A) The conduct of state-of-the-art clinical, laboratory, or health services research for the following purposes:

''(i) To increase awareness of—

''(I) new uses of drugs, biological products, and devices;

''(II) ways to improve the effective use of drugs, biological products, and devices; and

''(III) risks of new uses and risks of combinations of drugs and biological products.

''(ii) To provide objective clinical information to the following individuals and entities:

''(I) Healthcare practitioners and other providers of healthcare goods or services.

''(II) Pharmacists, pharmacy benefit managers and purchasers.

''(III) Health maintenance organizations and other managed healthcare organizations.

''(IV) Healthcare insurers and governmental agencies.

''(V) Patients and consumers.

''(iii) To improve the quality of healthcare while reducing the cost of Healthcare through—

''(I) an increase in the appropriate use of drugs, biological products, or devices; and

''(II) the prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

''(B) The conduct of research on the comparative effectiveness, cost-effectiveness, and safety of drugs, biological products, and devices.

''(C) Such other activities as the Secretary determines to be appropriate, except that grant funds may not be used by the Secretary in conducting regulatory review of new drugs.

''(c) REDUCING ERRORS IN MEDICINE.—The Director shall conduct and support research and build private-public partnerships to—

''(1) identify the causes of preventable healthcare errors and patient injury in healthcare delivery;

''(2) develop, demonstrate, and evaluate strategies for reducing errors and improving patient safety; and

''(3) promote the implementation of effective strategies throughout the healthcare industry.

"SEC. 913. INFORMATION ON QUALITY AND COST OF CARE.

''(a) IN GENERAL.—In carrying out 902(a), the Director shall—

''(1) conduct a survey to collect data on a nationally representative sample of the population on the cost, use and, for fiscal year 2001 and subsequent fiscal years, quality of healthcare, including the types of healthcare services Americans use, their access to healthcare services, frequency of use, how much is paid for the services used, the source of those payments, the types and costs of private health insurance, access, satisfaction, and quality of care for the general population including rural residents and for the populations identified in section 901(c); and

''(2) develop databases and tools that provide information to States on the quality, access, and use of healthcare services provided to their residents.

''(b) QUALITY AND OUTCOMES INFORMATION.—

''(1) IN GENERAL.—Beginning in fiscal year 2001, the Director shall ensure that the survey conducted under subsection (a)(1) will—

''(A) identify determinants of health outcomes and functional status, and their relationships to healthcare access and use, determine the ways and extent to which the priority populations enumerated in section 901(c) differ from the general population with respect to such variables, measure changes over time with respect to such variable, and monitor the overall national impact of changes in Federal and State policy on healthcare;

''(B) provide information on the quality of care and patient outcomes for frequently occurring clinical conditions for a nationally representative sample of the population including rural residents; and

''(C) provide reliable national estimates for children and persons with special healthcare needs through the use of supplements or periodic expansions of the survey.

In expanding the Medical Expenditure Panel Survey, as in existence on the date of enactment of this title, in fiscal year 2001 to collect information on the quality of care, the Director shall take into account any outcomes measurements generally collected by private sector accreditation organizations.

''(2) ANNUAL REPORT.—Beginning in fiscal year 2003, the Secretary, acting through the Director, shall submit to Congress an annual report on national trends in the quality of healthcare provided to the American people.

''SEC. 914. INFORMATION SYSTEMS FOR HEALTHCARE IMPROVEMENT.

''(a) IN GENERAL.—In order to foster a range of innovative approaches to the management and communication of health information, the Agency shall support research, evaluations and initiatives to advance—

''(1) the use of information systems for the study of healthcare quality, including the generation of both individual provider and plan-level comparative performance data;

''(2) training for healthcare practitioners and researchers in the use of information systems;

''(3) the creation of effective linkages between various sources of health information, including the development of information networks;

''(4) the delivery and coordination of evidence-based healthcare services, including the use of real-time healthcare decision-support programs;

''(5) the utility and comparability of health information data and medical vocabularies by addressing issues related to the content, structure, definitions and coding of such information and data in consultation with appropriate Federal, State and private entities;

''(6) the use of computer-based health records in all settings for the development of personal health records for individual health assessment and maintenance, and for monitoring public health and outcomes of care within populations; and

''(7) the protection of individually identifiable information in health services research and healthcare quality improvement.

''(b) DEMONSTRATION.—The Agency shall support demonstrations into the use of new information tools aimed at improving shared decision-making between patients and their care-givers.

''SEC. 915. RESEARCH SUPPORTING PRIMARY CARE AND ACCESS IN UNDERSERVED AREAS.

''(a) PREVENTIVE SERVICES TASK FORCE.—

''(1) ESTABLISHMENT AND PURPOSE.—The Director may periodically convene a Preventive Services Task Force to be composed of individuals with appropriate expertise. Such a task force shall review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of clinical preventive services for the purpose of developing recommendations for the healthcare community, and updating previous clinical preventive recommendations.

''(2) ROLE OF AGENCY.—The Agency shall provide ongoing administrative, research, and technical support for the operations of the Preventive Services Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force.

''(3) OPERATION.—In carrying out its responsibilities under paragraph (1), the Task Force is not subject to the provisions of Appendix 2 of title 5, United States Code.

''(b) PRIMARY CARE RESEARCH.—

''(1) IN GENERAL.—There is established within the Agency a Center for Primary Care Research (referred to in this subsection as the 'Center') that shall serve as the principal source of funding for primary care practice research in the Department of Health and Human Services. For purposes of this paragraph, primary care research focuses on the first contact when illness or health concerns arise, the diagnosis, treatment or referral to specialty care, preventive care, and the relationship between the clinician and the patient in the context of the family and community.

''(2) RESEARCH.—In carrying out this section, the Center shall conduct and support research concerning—

''(A) the nature and characteristics of primary care practice;

''(B) the management of commonly occurring clinical problems;

''(C) the management of undifferentiated clinical problems; and

''(D) the continuity and coordination of health services.

''SEC. 916. CLINICAL PRACTICE AND TECHNOLOGY INNOVATION.

''(a) IN GENERAL.—The Director shall promote innovation in evidence-based clinical practice and healthcare technologies by—

''(1) conducting and supporting research on the development, diffusion, and use of healthcare technology;

''(2) developing, evaluating, and disseminating methodologies for assessments of healthcare practices and healthcare technologies;

''(3) conducting intramural and supporting extramural assessments of existing and new healthcare practices and technologies;

''(4) promoting education, training, and providing technical assistance in the use of healthcare practice and healthcare technology assessment methodologies and results; and

''(5) working with the National Library of Medicine and the public and private sector to develop an electronic clearinghouse of currently available assessments and those in progress.

''(b) SPECIFICATION OF PROCESS.—

''(1) IN GENERAL.—Not later than December 31, 2000, the Director shall develop and publish a description of the methodology used by the Agency and its contractors in conducting practice and technology assessment.

''(2) CONSULTATIONS.—In carrying out this subsection, the Director shall cooperate and consult with the Assistant Secretary for Health, the Administrator of the Health Care Financing Administration, the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency, and shall seek input, where appropriate, from professional societies and other private and public entities.

''(3) METHODOLOGY.—The Director, in developing assessment methodology, shall consider—

''(A) safety, efficacy, and effectiveness;

''(B) legal, social, and ethical implications;

''(C) costs, benefits, and cost-effectiveness;

''(D) comparisons to alternate technologies and practices; and

''(E) requirements of Food and Drug Administration approval to avoid duplication.

''(c) SPECIFIC ASSESSMENTS.—

''(1) IN GENERAL.—The Director shall conduct or support specific assessments of healthcare technologies and practices.

''(2) REQUESTS FOR ASSESSMENTS.—The Director is authorized to conduct or support assessments, on a reimbursable basis, for the Health Care Financing Administration, the Department of Defense, the Department of Veterans Affairs, the Office of Personnel Management, and other public or private entities.

''(3) GRANTS AND CONTRACTS.—In addition to conducting assessments, the Director may make grants to, or enter into cooperative agreements or contracts with, entities described in paragraph (4) for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded healthcare technologies, and for related activities.

''(4) ELIGIBLE ENTITIES.—An entity described in this paragraph is an entity that is determined to be appropriate by the Director, including academic medical centers, research institutions and organizations, professional organizations, third party payers, governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

''SEC. 917. COORDINATION OF FEDERAL GOVERNMENT QUALITY IMPROVEMENT EFFORTS.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—To avoid duplication and ensure that Federal resources are used efficiently and effectively, the Secretary, acting through the Director, shall coordinate all research, evaluations, and demonstrations related to health services research, quality measurement and quality improvement activities undertaken and supported by the Federal Government.

''(2) SPECIFIC ACTIVITIES.—The Director, in collaboration with the appropriate Federal officials representing all concerned executive agencies and departments, shall develop and manage a process to—

''(A) improve interagency coordination, priority setting, and the use and sharing of research findings and data pertaining to Federal quality improvement programs, technology assessment, and health services research;

''(B) strengthen the research information infrastructure, including databases, pertaining to Federal health services research and healthcare quality improvement initiatives;

''(C) set specific goals for participating agencies and departments to further health services research and healthcare quality improvement; and

''(D) strengthen the management of Federal healthcare quality improvement programs.

''(b) STUDY BY THE INSTITUTE OF MEDICINE.—

''(1) IN GENERAL.—To provide Congress, the Department of Health and Human Services, and other relevant departments with an independent, external review of their quality oversight, quality improvement and quality research programs, the Secretary shall enter into a contract with the Institute of Medicine—

''(A) to describe and evaluate current quality improvement, quality research and quality monitoring processes through—

''(i) an overview of pertinent health services research activities and quality improvement efforts conducted by all Federal programs, with particular attention paid to those under titles XVIII, XIX, and XXI of the Social Security Act; and

''(ii) a summary of the partnerships that the Department of Health and Human Services has pursued with private accreditation, quality measurement and improvement organizations; and

''(B) to identify options and make recommendations to improve the efficiency and effectiveness of quality improvement programs through—

''(i) the improved coordination of activities across the medicare, medicaid and child health insurance programs under titles XVIII, XIX and XXI of the Social Security Act and health services research programs;

''(ii) the strengthening of patient choice and participation by incorporating state-of-the-art quality monitoring tools and making information on quality available; and

''(iii) the enhancement of the most effective programs, consolidation as appropriate, and elimination of duplicative activities within various federal agencies.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine for the preparation—

''(i) not later than 12 months after the date of enactment of this title, of a report providing an overview of the quality improvement programs of the Department of Health and Human Services for the medicare, medicaid, and CHIP programs under titles XVIII, XIX, and XXI of the Social Security Act; and

''(ii) not later than 24 months after the date of enactment of this title, of a final report containing recommendations.

''(B) REPORTS.—The Secretary shall submit the reports described in subparagraph (A) to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Commerce of the House of Representatives.

''PART C—GENERAL PROVISIONS

''SEC. 921. ADVISORY COUNCIL FOR HEALTHCARE RESEARCH AND QUALITY.

''(a) ESTABLISHMENT.—There is established an advisory council to be known as the Advisory Council for Healthcare Research and Quality.

''(b) DUTIES.—

''(1) IN GENERAL.—The Advisory Council shall advise the Secretary and the Director with respect to activities proposed or undertaken to carry out the purpose of the Agency under section 901(b).

''(2) CERTAIN RECOMMENDATIONS.—Activities of the Advisory Council under paragraph (1) shall include making recommendations to the Director regarding—

''(A) priorities regarding healthcare research, especially studies related to quality, outcomes, cost and the utilization of, and access to, healthcare services;

''(B) the field of healthcare research and related disciplines, especially issues related to training needs, and dissemination of information pertaining to healthcare quality; and

''(C) the appropriate role of the Agency in each of these areas in light of private sector activity and identification of opportunities for public-private sector partnerships.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Advisory Council shall be voting members other than the individuals designated under paragraph (3)(B) as ex officio members.

''(2) APPOINTED MEMBERS.—The Secretary shall appoint to the Advisory Council 21 appropriately qualified individuals. At least 17 members of the Advisory Council shall be representatives of the public who are not officers or employees of the United States. The Secretary shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this title and under section 1142 of the Social Security Act. Of such members—

''(A) 4 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to healthcare;

''(B) 4 shall be individuals distinguished in the practice of medicine of which at least 1 shall be a primary care practitioner;

''(C) 3 shall be individuals distinguished in the other health professions;

''(D) 4 shall be individuals either representing the private healthcare sector, including health plans, providers, and purchasers or individuals distinguished as administrators of healthcare delivery systems;

''(E) 4 shall be individuals distinguished in the fields of healthcare quality improvement, economics, information systems, law, ethics, business, or public policy, including at least 1 individual specializing in rural aspects in 1 or more of these fields; and

''(F) 2 shall be individuals representing the interests of patients and consumers of healthcare.

''(3) EX OFFICIO MEMBERS.—The Secretary shall designate as ex officio members of the Advisory Council—

''(A) the Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), and the Under Secretary for Health of the Department of Veterans Affairs; and

''(B) such other Federal officials as the Secretary may consider appropriate.

''(d) TERMS.—Members of the Advisory Council appointed under subsection (c)(2) shall serve for a term of 3 years. A member of the Council appointed under such subsection may continue to serve after the expiration of the term of the members until a successor is appointed.

''(e) VACANCIES.—If a member of the Advisory Council appointed under subsection (c)(2) does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

''(f) CHAIR.—The Director shall, from among the members of the Advisory Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Advisory Council.

''(g) MEETINGS.—The Advisory Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Director or the chair.

''(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

''(1) APPOINTED MEMBERS.—Members of the Advisory Council appointed under subsection (c)(2) shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Council unless declined by the member. Such compensation may not be in an amount in excess of the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which such member is engaged in the performance of the duties of the Advisory Council.

''(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Advisory Council may not receive compensation for service on the Advisory Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

''(i) STAFF.—The Director shall provide to the Advisory Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

''SEC. 922. PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.

''(a) REQUIREMENT OF REVIEW.—

''(1) IN GENERAL.—Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this title.

''(2) REPORTS TO DIRECTOR.—Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations respecting the application to the Director in such form and in such manner as the Director shall require.

''(b) APPROVAL AS PRECONDITION OF AWARDS.—The Director may not approve an application described in subsection (a)(1) unless the application is recommended for approval by a peer review group established under subsection (c).

''(c) ESTABLISHMENT OF PEER REVIEW GROUPS.—

''(1) IN GENERAL.—The Director shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

''(2) MEMBERSHIP.—The members of any peer review group established under this section shall be appointed from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for these duties carried out as such officers and employees.

''(3) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this

section may continue in existence until otherwise provided by law.

''(4) QUALIFICATIONS.—Members of any peer-review group shall, at a minimum, meet the following requirements:

''(A) Such members shall agree in writing to treat information received, pursuant to their work for the group, as confidential information, except that this subparagraph shall not apply to public records and public information.

''(B) Such members shall agree in writing to recuse themselves from participation in the peer-review of specific applications which present a potential personal conflict of interest or appearance of such conflict, including employment in a directly affected organization, stock ownership, or any financial or other arrangement that might introduce bias in the process of peer-review.

''(d) AUTHORITY FOR PROCEDURAL ADJUSTMENTS IN CERTAIN CASES.—In the case of applications for financial assistance whose direct costs will not exceed $100,000, the Director may make appropriate adjustments in the procedures otherwise established by the Director for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented or provider-based research, and for such other purposes as the Director may determine to be appropriate.

''(e) REGULATIONS.—The Director shall issue regulations for the conduct of peer review under this section.

''SEC. 923. CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.

''(a) STANDARDS WITH RESPECT TO UTILITY OF DATA.—

''(1) IN GENERAL.—To ensure the utility, accuracy, and sufficiency of data collected by or for the Agency for the purpose described in section 901(b), the Director shall establish standard methods for developing and collecting such data, taking into consideration—

''(A) other Federal health data collection standards; and

''(B) the differences between types of healthcare plans, delivery systems, healthcare providers, and provider arrangements.

''(2) RELATIONSHIP WITH OTHER DEPARTMENT PROGRAMS.—In any case where standards under paragraph (1) may affect the administration of other programs carried out by the Department of Health and Human Services, including the programs under title XVIII, XIX or XXI of the Social Security Act, or may affect health information that is subject to a standard developed under part C of title XI of the Social Security Act, they shall be in the form of recommendations to the Secretary for such program.

''(b) STATISTICS AND ANALYSES.—The Director shall—

''(1) take appropriate action to ensure that statistics and analyses developed under this title are of high quality, timely, and duly comprehensive, and that the statistics are specific, standardized, and adequately analyzed and indexed; and

''(2) publish, make available, and disseminate such statistics and analyses on as wide a basis as is practicable.

''(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon request of a public or private entity, the Director may conduct or support research or analyses otherwise authorized by this title pursuant to arrangements under which such entity will pay the cost of the services provided. Amounts received by the Director under such arrangements shall be available to the Director for obligation until expended.

''SEC. 924. DISSEMINATION OF INFORMATION.

''(a) IN GENERAL.—The Director shall—

''(1) without regard to section 501 of title 44, United States Code, promptly publish, make available, and otherwise disseminate, in a form understandable and on as broad a basis as practicable so as to maximize its use, the results of research, demonstration projects, and evaluations conducted or supported under this title;

''(2) ensure that information disseminated by the Agency is science-based and objective and undertakes consultation as necessary to assess the appropriateness and usefulness of the presentation of information that is targeted to specific audiences;

''(3) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

''(4) provide, in collaboration with the National Library of Medicine where appropriate, indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to healthcare to public and private entities and individuals engaged in the improvement of healthcare delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

''(5) as appropriate, provide technical assistance to State and local government and health agencies and conduct liaison activities to such agencies to foster dissemination.

''(b) PROHIBITION AGAINST RESTRICTIONS.—Except as provided in subsection (c), the Director may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this title.

''(c) LIMITATION ON USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Director) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Director) to its publication or release in other form.

''(d) PENALTY.—Any person who violates subsection (c) shall be subject to a civil monetary penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected.

''SEC. 925. ADDITIONAL PROVISIONS WITH RESPECT TO GRANTS AND CONTRACTS.

''(a) FINANCIAL CONFLICTS OF INTEREST.—With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this title, the Director shall by regulation define—

''(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

''(2) the actions that will be taken by the Director in response to any such interests identified by the Director.

''(b) REQUIREMENT OF APPLICATION.—The Director may not, with respect to any program under this title authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out the program in involved.

''(c) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

''(1) IN GENERAL.—Upon the request of an entity receiving a grant, cooperative agreement, or contract under this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

''(2) CORRESPONDING REDUCTION IN FUNDS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Director. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

''(d) APPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO CONTRACTS.—Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

''SEC. 926. CERTAIN ADMINISTRATIVE AUTHORITIES.

''(a) DEPUTY DIRECTOR AND OTHER OFFICERS AND EMPLOYEES.—

''(1) DEPUTY DIRECTOR.—The Director may appoint a deputy director for the Agency.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Director may appoint and fix the compensation of such officers and employees as may be necessary to carry out this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

''(b) FACILITIES.—The Secretary, in carrying out this title—

''(1) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Director of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

''(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

''(c) PROVISION OF FINANCIAL ASSISTANCE.—The Director, in carrying out this title, may make grants to public and nonprofit entities and individuals, and may enter into cooperative agreements or contracts with public and private entities and individuals.

''(d) UTILIZATION OF CERTAIN PERSONNEL AND RESOURCES.—

''(1) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Director, in carrying out this

title, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

''(2) OTHER AGENCIES.—The Director, in carrying out this title, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

''(e) CONSULTANTS.—The Secretary, in carrying out this title, may secure, from time to time and for such periods as the Director deems advisable but in accordance with section 3109 of title 5, United States Code, the assistance and advice of consultants from the United States or abroad.

''(f) EXPERTS.—

''(1) IN GENERAL.—The Secretary may, in carrying out this title, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, United States Code, except that the limitation in such section on the duration of service shall not apply.

''(2) TRAVEL EXPENSES.—

''(A) IN GENERAL.—Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a), 5724a(c), and 5726(C) of title 5, United States Code.

''(B) LIMITATION.—Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or 1 year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a statutory obligation owed to the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

''(g) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director, in carrying out this title, may accept voluntary and uncompensated services.

''SEC. 927. FUNDING.

''(a) INTENT.—To ensure that the United States's investment in biomedical research is rapidly translated into improvements in the quality of patient care, there must be a corresponding investment in research on the most effective clinical and organizational strategies for use of these findings in daily practice. The authorization levels in subsection (b) provide for a proportionate increase in healthcare research as the United States investment in biomedical research increases.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 through 2006.

''(c) EVALUATIONS.—In addition to amounts available pursuant to subsection (b) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section 241 (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 241 to be made available for a fiscal year.

''SEC. 928. DEFINITIONS.

''In this title:

''(1) ADVISORY COUNCIL.—The term 'Advisory Council' means the Advisory Council on Healthcare Research and Quality established under section 921.

''(2) AGENCY.—The term 'Agency' means the Agency for Healthcare Research and Quality.

''(3) DIRECTOR.—The term 'Director' means the Director for the Agency for Healthcare Research and Quality.''.

SEC. 403. REFERENCES.

Effective upon the date of enactment of this Act, any reference in law to the ''Agency for Health Care Policy and Research'' shall be deemed to be a reference to the ''Agency for Healthcare Research and Quality''.

TITLE V—ENHANCED ACCESS TO HEALTH INSURANCE COVERAGE

SEC. 501. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to allowance of deductions) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and his dependents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 502. FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of the Internal Revenue Code of 1986 (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraphs (C) and (D).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) REMOVAL OF LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 220 of the Internal Revenue Code of 1986 (relating to medical savings accounts) is amended by striking subsections (i) and (j).

(2) MEDICARE+CHOICE.—Section 138 of such Code (relating to Medicare+Choice MSA) is amended by striking subsection (f).

(c) REDUCTION IN HIGH DEDUCTIBLE PLAN MINIMUM ANNUAL DEDUCTIBLE.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' and inserting ''$1,000'', and

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended—

(A) by striking ''1998'' and inserting ''1999''; and

(B) by striking ''1997'' and inserting ''1998''.

(d) INCREASE IN CONTRIBUTION LIMIT TO 100 PERCENT OF ANNUAL DEDUCTIBLE.—

(1) IN GENERAL.—Section 220(b)(2) of the Internal Revenue Code of 1986 (relating to monthly limitation) is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible of the high deductible health plan of the individual.''

(2) CONFORMING AMENDMENT.—Section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(e) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Section 220(f)(4) of the Internal Revenue Code of 1986 (relating to additional tax on distributions not used for qualified medical expenses) is amended by adding at the end the following:

''(D) EXCEPTION IN CASE OF SUFFICIENT ACCOUNT BALANCE.—Subparagraph (A) shall not apply to any payment or distribution in any taxable year, but only to the extent such payment or distribution does not reduce the fair market value of the assets of the medical savings account to an amount less than the annual deductible for the high deductible health plan of the account holder (determined as of January 1 of the calendar year in which the taxable year begins).''.

(f) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—Section 220(c)(2)(B) of the Internal Revenue Code of 1986 (relating to special rules for high deductible health plans) is amended by adding at the end the following:

''(iii) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—A plan that provides health care services through a network of contracted or affiliated health care providers, if the benefits provided when services are obtained through network providers meet the requirements of subparagraph (A), shall not fail to be treated as a high deductible health plan by reason of providing benefits for services rendered by providers who are not members of the network, so long as the annual deductible and annual limit on out-of-pocket expenses applicable to services received from non-network providers are not lower than those applicable to services received from the network providers.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 503. PERMITTING CONTRIBUTION TOWARDS MEDICAL SAVINGS ACCOUNT THROUGH FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP).

(a) AUTHORITY TO CONTRACT FOR CATASTROPHIC PLANS.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

''(p)(1) The Office shall contract under this chapter for a catastrophic plan with any qualified carrier that—

''(A) offers such a plan; and

''(B) as of the date of enactment of the Patients' Bill of Rights Plus Act, offers a health benefits plan under this chapter.

''(2) The Office may contract under this chapter for a catastrophic plan with any qualified carrier that—

''(A) offers such a plan; but

''(B) does not satisfy the requirement under paragraph (1)(B).''.

(b) GOVERNMENT CONTRIBUTION TO MEDICAL SAVINGS ACCOUNT.—

(1) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

''(j)(1) In the case of an employee or annuitant who is enrolled in a catastrophic plan described by section 8903(5), there shall be a Government contribution under this subsection to a medical savings account established or maintained for the benefit of the individual. The contribution under this subsection shall be in addition to the Government contribution under subsection (b).

''(2) The amount of the Government contribution under this subsection with respect to an individual is equal to the amount by which—

''(A) the maximum contribution allowed under subsection (b)(1) with respect to any employee or annuitant, exceeds

''(B) the amount of the Government contribution actually made with respect to the individual under subsection (b) for coverage under the catastrophic plan.

''(3) The Government contributions under this subsection shall be paid into a medical savings account (designated by the individual involved) in a manner that is specified by the Office and consistent with the timing of contributions under subsection (b).

''(4) Subsections (f) and (g) shall apply to contributions under this section in the same manner as they apply to contributions under subsection (b).

''(5) For the purpose of this subsection, the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.''.

(2) ALLOWING PAYMENT OF FULL AMOUNT OF CHARGE FOR CATASTROPHIC PLAN.—Section 8906(b)(2) of such title is amended by inserting ''(or 100 percent of the subscription charge in the case of a catastrophic plan)'' after ''75 percent of the subscription charge''.

(c) OFFERING OF CATASTROPHIC PLANS.—

(1) IN GENERAL.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

''(5) CATASTROPHIC PLANS.—(A) One or more plans described in paragraph (1), (2), or (3), but which provide benefits of the types referred to by paragraph (5) of section 8904(a), instead of the types referred to in paragraphs (1), (2), and (3) of such section.

''(B) Nothing in this section shall be considered—

''(i) to prevent a carrier from simultaneously offering a plan described by subparagraph (A) and a plan described by paragraph (1) or (2);

''(ii) to require that a catastrophic plan offer two levels of benefits; or

''(iii) to allow, in any contract year, for—

''(I) more than one plan to be offered which satisfies both subparagraph (A) and paragraph (1) (subject to clause (ii)); and

''(II) more than one plan which satisfies both subparagraph (A) and paragraph (2) (subject to clause (ii)).''.

(2) TYPES OF BENEFITS.—Section 8904(a) of such title is amended by inserting after paragraph (4) the following new paragraph:

''(5) CATASTROPHIC PLANS.—Benefits of the types named under paragraph (1) or (2) of this subsection or both, except that the plan shall meet the annual deductible and annual out-of-pocket expenses requirements under section 220(c)(2) of the Internal Revenue Code of 1986.''.

(3) DETERMINING LEVEL OF GOVERNMENT CONTRIBUTIONS.—Section 8906(b) of such title is amended by adding at the end the following: ''Subscription charges for medical savings accounts shall be deemed to be the amount of Government contributions made under subsection (j)(2).''.

(d) CONFORMING AMENDMENTS.—

(1) ADDITIONAL HEALTH BENEFITS PLANS.—Section 8903a of title 5, United States Code, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) The plans under this section may include one or more plans, otherwise allowable under this section, that satisfy the requirements of clauses (i) and (ii) of section 8903(5)(A).''.

(2) REFERENCE.—Section 8909(d) of title 5, United States Code, is amended by striking ''8903a(d)'' and inserting ''8903a(e)''.

(e) REFERENCES.—Section 8903 of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

''The Office shall prescribe regulations under which the requirements of section 8902(c), 8902(n), 8909(e), and any other provision of this chapter that applies with respect to a plan described by paragraph (1), (2), (3), or (4) of this section shall apply with respect to the corresponding plan under paragraph (5) of this section. Similar regulations shall be prescribed with respect to any plan under section 8903a(d).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to contract terms beginning on or after January 1, 2000.

SEC. 504. CARRYOVER OF UNUSED BENEFITS FROM CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH FLEXIBLE SPENDING ACCOUNTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j) and by inserting after subsection (g) the following new subsection:

''(h) ALLOWANCE OF CARRYOVERS OF UNUSED BENEFITS TO LATER TAXABLE YEARS.—

''(1) IN GENERAL.—For purposes of this title—

''(A) notwithstanding subsection (d)(2), a plan or other arrangement shall not fail to be treated as a cafeteria plan or flexible spending or similar arrangement, and

''(B) no amount shall be required to be included in gross income by reason of this section or any other provision of this chapter,

solely because under such plan or other arrangement any nontaxable benefit which is unused as of the close of a taxable year may be carried forward to 1 or more succeeding taxable years.

''(2) LIMITATION.—Paragraph (1) shall not apply to amounts carried from a plan to the extent such amounts exceed $500 (applied on an annual basis). For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(3) ALLOWANCE OF ROLLOVER.—

''(A) IN GENERAL.—In the case of any unused benefit described in paragraph (1) which consists of amounts in a health flexible spending account or dependent care flexible spending account, the plan or arrangement shall provide that a participant may elect, in lieu of such carryover, to have such amounts distributed to the participant.

''(B) AMOUNTS NOT INCLUDED IN INCOME.—Any distribution under subparagraph (A) shall not be included in gross income to the extent that such amount is transferred in a trustee-to-trustee transfer, or is contributed within 60 days of the date of the distribution, to—

''(i) a qualified cash or deferred arrangement described in section 401(k),

''(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iii) an eligible deferred compensation plan described in section 457, or

''(iv) a medical savings account (within the meaning of section 220).

Any amount rolled over under this subparagraph shall be treated as a rollover contribution for the taxable year from which the unused amount would otherwise be carried.

''(C) TREATMENT OF ROLLOVER.—Any amount rolled over under subparagraph (B) shall be treated as an eligible rollover under section 220, 401(k), 403(b), or 457, whichever is applicable, and shall be taken into account in applying any limitation (or participation requirement) on employer or employee contributions under such section or any other provision of this chapter for the taxable year of the rollover.

''(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $500 amount under paragraph (2) shall be adjusted at the same time and in the same manner as under section 415(d)(2), except that the base period taken into account shall be the calendar quarter beginning October 1, 1998, and any increase which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.''

''(5) APPLICABILITY.—This subsection shall apply to taxable years beginning after December 31, 1999.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

TITLE VI—PROVISIONS RELATING TO LONG-TERM CARE INSURANCE

SEC. 601. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS IN CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH FLEXIBLE SPENDING ACCOUNTS.

(a) IN GENERAL.—Section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking the last sentence and inserting the following: ''Such term includes any qualified long-term care insurance contract.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 602. DEDUCTION FOR PREMIUMS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

''SEC. 222. PREMIUMS FOR LONG-TERM CARE INSURANCE.

''(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a deduction an amount equal to 100 percent of the amount paid during the taxable year for any coverage for qualified long-term care services (as defined in section 7702B(c)) or any

qualified long-term care insurance contract (as defined in section 7702B(b)) which constitutes medical care for the taxpayer, his spouse, and dependents.

''(b) LIMITATIONS.—

''(1) DEDUCTION NOT AVAILABLE TO INDIVIDUALS ELIGIBLE FOR EMPLOYER-SUBSIDIZED COVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any plan which includes coverage for qualified long-term care services (as so defined) or is a qualified long-term care insurance contract (as so defined) maintained by any employer (or former employer) of the taxpayer or of the spouse of the taxpayer.

''(B) CONTINUATION COVERAGE.—Coverage shall not be treated as subsidized for purposes of this paragraph if—

''(i) such coverage is continuation coverage (within the meaning of section 4980B(f)) required to be provided by the employer, and

''(ii) the taxpayer or the taxpayer's spouse is required to pay a premium for such coverage in an amount not less than 100 percent of the applicable premium (within the meaning of section 4980B(f)(4)) for the period of such coverage.

''(2) LIMITATION ON LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as so defined), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under subsection (a)(2).

''(c) SPECIAL RULES.—For purposes of this section—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following:

''(18) LONG-TERM CARE INSURANCE COSTS OF CERTAIN INDIVIDUALS.—The deduction allowed by section 222.''

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 222. Premiums for long-term care insurance.

''Sec. 223. Cross reference.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 603. STUDY OF LONG-TERM CARE NEEDS IN THE 21ST CENTURY.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall provide, in accordance with this section, for a study in order to determine—

(1) future demand for long-term health care services (including institutional and home and community-based services) in the United States in order to meet the needs in the 21st century; and

(2) long-term options to finance the provision of such services.

(b) DETAILS.—The study conducted under subsection (a) shall include the following:

(1) An identification of the relevant demographic characteristics affecting demand for long-term health care services, at least through the year 2030.

(2) The viability and capacity of community-based and other long-term health care services under different federal programs, including through the medicare and medicaid programs, grants to States, housing services, and changes in tax policy.

(3) How to improve the quality of long-term health care services.

(4) The integration of long-term health care services for individuals between different classes of health care providers (such as hospitals, nursing facilities, and home care agencies) and different Federal programs (such as the medicare and medicaid programs).

(5) The possibility of expanding private sector initiatives, including long-term care insurance, to meet the need to finance such services.

(6) An examination of the effect of enactment of the Health Insurance Portability and Accountability Act of 1996 on the provision and financing of long-term health care services, including on portability and affordability of private long-term care insurance, the impact of insurance options on low-income older Americans, and the options for eligibility to improve access to such insurance.

(7) The financial impact of the provision of long-term health care services on caregivers and other family members.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall provide for a report on the study under this section.

(2) RECOMMENDATIONS.—The report under paragraph (1) shall include findings and recommendations regarding each of the following:

(A) The most effective and efficient manner that the Federal government may use its resources to educate the public on planning for needs for long-term health care services.

(B) The public, private, and joint public-private strategies for meeting identified needs for long-term health care services.

(C) The role of States and local communities in the financing of long-term health care services.

(3) INCLUSION OF COST ESTIMATES.—The report under paragraph (1) shall include cost estimates of the various options for which recommendations are made.

(d) CONDUCT OF STUDY.—

(1) USE OF INSTITUTE OF MEDICINE.—The Secretary of Health and Human Services shall seek to enter into an appropriate arrangement with the Institute of Medicine of the National Academy of Sciences to conduct the study under this section. If such an arrangement cannot be made, the Secretary may provide for the conduct of the study by any other qualified non-governmental entity.

(2) CONSULTATION.—The study should be conducted under this section in consultation with experts from a wide-range of groups from the public and private sectors.

TITLE VII—INDIVIDUAL RETIREMENT PLANS

SEC. 701. MODIFICATION OF INCOME LIMITS ON CONTRIBUTIONS AND ROLLOVERS TO ROTH IRAS.

(a) INCREASE IN AGI LIMIT FOR ROLLOVER CONTRIBUTIONS.—Clause (i) of section 408A(c)(3)(A) of the Internal Revenue Code of 1986 (relating to rollover from IRA), as redesignated by subsection (a), is amended by striking ''$100,000'' and inserting ''$1,000,000''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subparagraph (B) of section 408A(c)(3) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended to read as follows:

''(B) DEFINITION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

''(i) after application of sections 86 and 469, and

''(ii) without regard to sections 135, 137, 221, and 911, the deduction allowable under section 219, or any amount included in gross income under subsection (d)(3).''

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 1999.

(2)(A) Subparagraph (B) of section 408A(c)(3) of such Code, as amended by paragraph (1), is amended to read as follows:

''(B) DEFINITION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

''(i) after application of sections 86 and 469, and

''(ii) without regard to sections 135, 137, 221, and 911, the deduction allowable under section 219, or any amount included in gross income under subsection (d)(3) or by reason of a required distribution under a provision described in paragraph (5).''

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2004.

(c) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years beginning after December 31, 1999.

TITLE VIII—REVENUE PROVISIONS

SEC. 801. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. 802. LIMITATION ON USE OF NON-ACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) IN GENERAL.—Section 448(d)(5) of the Internal Revenue Code of 1986 (relating to special rule for services) is amended—

(1) by inserting ''in fields described in paragraph (2)(A)'' after ''services by such person'', and

(2) by inserting ''CERTAIN PERSONAL'' before ''SERVICES'' in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such first taxable year.

SEC. 803. RETURNS RELATING TO CANCELLATIONS OF INDEBTEDNESS BY ORGANIZATIONS LENDING MONEY.

(a) IN GENERAL.—Paragraph (2) of section 6050P(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) any organization a significant trade or business of which is the lending of money.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

SEC. 804. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2009.''

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 805. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a)(2) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability''.

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Section 357 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—

''(1) IN GENERAL.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

''(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability, and

''(B) except to the extent provided in paragraph (2), a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

''(2) EXCEPTION FOR NONRECOURSE LIABILITY.—The amount of the nonrecourse liability treated as described in paragraph (1)(B) shall be reduced by the lesser of—

''(A) the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to, satisfy, or

''(B) the fair market value of such other assets (determined without regard to section 7701(g)).

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.''

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—Section 362 of such Code is amended by adding at the end the following new subsection:

''(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—

''(1) IN GENERAL.—In no event shall the basis of any property be increased under subsection (a) or (b) above the fair market value of such property (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

''(2) TREATMENT OF GAIN NOT SUBJECT TO TAX.—Except as provided in regulations, if—

''(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee, and

''(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.''

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A), and

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(d)) a liability of the taxpayer'', and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 of such Code is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking ''or acquired''.

(4) Section 357(c)(1) of such Code is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) of such Code is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) of such Code is amended by striking ''or acquisition (in the amount of the liability)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 19, 1998.

SEC. 806. CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.

(a) IN GENERAL.—Subsection (f) of section 170 of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

''(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

''(i) the organization directly or indirectly pays, or has previously paid, any premium

on any personal benefit contract with respect to the transferor, or

''(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

''(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

''(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

''(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

''(i) such organization possesses all of the incidents of ownership under such contract,

''(ii) such organization is entitled to all the payments under such contract, and

''(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

''(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

''(i) such trust possesses all of the incidents of ownership under such contract, and

''(ii) such trust is entitled to all the payments under such contract.

''(F) EXCISE TAX ON PREMIUMS PAID.—

''(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

''(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

''(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

''(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

''(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

''(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

''(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

''(i) such State law requirement was in effect on February 8, 1999,

''(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

''(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

''(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

SEC. 807. TRANSFER OF EXCESS DEFINED BENEFIT PLAN ASSETS FOR RETIREE HEALTH BENEFITS.

(a) EXTENSION.—

(1) IN GENERAL.—Section 420(b)(5) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking ''in any taxable year beginning after December 31, 2000'' and inserting ''made after September 30, 2009''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''1995'' and inserting ''2001''.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''1995'' and inserting ''2001''.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking ''in a taxable year beginning before January 1, 2001'' and inserting ''made before October 1, 2009'', and

(ii) by striking ''1995'' and inserting ''2001''.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Section 420(c)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) MINIMUM COST REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

''(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

''(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

''(I) without regard to any reduction under subsection (e)(1)(B), and

''(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

''(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

''(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

''(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.''

(2) CONFORMING AMENDMENTS.—

(A) Section 420(b)(1)(C)(iii) of such Code is amended by striking ''benefits'' and inserting ''cost''.

(B) Section 420(e)(1)(D) of such Code is amended by striking ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' and inserting ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers occurring after December 31, 2000, and before October 1, 2009.

SEC. 808. LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.

(a) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) of the Internal Revenue Code of 1986 (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.''

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) of the Internal Revenue Code of 1986 (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.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 809. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (1)(2).''

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) of the Internal Revenue Code of 1986 (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

SEC. 810. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(L) Any conjugate vaccine against streptococcus pneumoniae.''

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. MEDICARE COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) FINDING.—The Senate finds that implementing competitive pricing in the medicare program under title XVIII of the Social Security Act is an important goal.

(b) PROHIBITION ON IMPLEMENTATION OF PROJECT IN CERTAIN AREAS.—Notwithstanding subsection (b) of section 4011 of the Balanced Budget Act of 1997 (Public Law 105–33)), the Secretary of Health and Human Services may not implement the Medicare Competitive Pricing Demonstration Project (operated by the Secretary of Health and Human Services pursuant to such section) in Kansas City, Missouri or Kansas City, Kansas, or in any area in Arizona.

(c) MORATORIUM ON IMPLEMENTATION OF PROJECT IN ANY AREA UNTIL JANUARY, 1, 2001.—Notwithstanding any provision of section 4011 of the Balanced Budget Act of 1997 (Public Law 105–33)), the Secretary of Health and Human Services may not implement the Medicare Competitive Pricing Demonstration Project in any area before January 1, 2001.

(d) STUDY AND REPORT TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services, in conjunction with the Competitive Pricing Advisory Committee, shall conduct a study on the different approaches of implementing the Medicare Competitive Pricing Demonstration Project on a voluntary basis.

(2) REPORT.—Not later than June 30, 2000, the Secretary of Health and Human Services shall submit a report to Congress which shall contain a detailed description of the study conducted under paragraph (1), together with the recommendations of the Secretary and the Competitive Pricing Advisory Committee regarding the implementation of the Medicare Competitive Pricing Demonstration Project.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 21, 1999, at 9:30 a.m. to conduct a hearing on S. 985, the Intergovernmental Gaming Agreement Act of 1999. The hearing will be held in room 106, Dirksen Senate Office Building.

Please direct any inquiries to committee staff at 202/224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the informaiton of the Senate and the public that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 22, 1999, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nominations of Curt Hebert to be a Member of the Federal Energy Regulatory Commission, and Earl E. DeVaney to be Inspector General of the Department of the Interior.

For further information, please contact David Dye of the Committee staff.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources, The purpose of this hearing is to receive testimony on S. 710, to authorize a feasibility study on the preservation of certain Civil War battlefields along the Vicksburg Campaign Trail; S. 905, to establish the Lackawanna Valley Heritage Area: S. 1093, to establish the Galisteo Basin Archaeological Protection Sites, to provide for the protection of archaeological sites in the Galisteo Basin of New Mexico, and for other purposes; S. 1117, to establish the Corinth Unit of Shiloh National Military Park, in the vicinity of the city of Corinth, Mississippi, and in the State of Tennessee, and for other purposes; S. 1324, to expand the boundaries of Gettysburg National Military Park to include Wills House, and for other purposes; and S. 1349, to direct the Secretary of the Interior to conduct special resources studies to determine the national significance of specific sites as well as the suitability and feasibility of their inclusion as units of the National Park System.

The hearing will take place on Thursday. July 29, 1999 at 2:15 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Shawn Taylor of the committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate

Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 15, 1999, immediately following the committee executive session at 9:30 a.m. on NTSB reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 15, 1999 at 9:30 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. 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, July 15, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 161, the Power Marketing Administration Reform Act of 1999; S. 282, the Transition to Competition in the Electric Industry Act; S. 516, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999; S. 1047, the Comprehensive Electricity Competition Act; 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; and 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 customer who seeks to purchase electric energy in interstate commerce from any supplier.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Government Affairs Committee be permitted to meet on Thursday, July 15, 1999 at 5:00 p.m. for a business meeting to consider pending Committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, July 15, 1999 at 3:30 p.m. to approve the Committee's budget for the 106th Congress. The meeting will be held in room 485, Russell Senate Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. 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, July 15, 1999, in S216 of the Capitol.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, July 15, 1999 at 9:30 a.m. to mark-up a Committee funding resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, July 15, 1999, to consider the Committee's budget and to markup pending legislation. The meeting will begin at 9:00 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 15, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on July 15, 1999 at 9:30 a.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ECONOMIC POLICY, AND INTERNATIONAL TRADE AND FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the subcommittees on economic policy, and International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 15, 1999, to conduct a hearing on ''Official Dollarization in Latin America.''

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE HIGH-TECH AGENDA

• Mr. ABRAHAM. Mr. President, I rise to address the importance of the high-tech industry for working families in America, and in my state in particular, and to set out what I believe should be the high-tech agenda for this body in the coming months.

Employment in our high-technology sector is vast and growing. According to the American Electronics Association, about 4,825,000 Americans were employed in the high-tech sector during 1998. That reflects a net increase of 852,000 jobs since 1990. And these jobs pay very well. The average high-tech worker in 1997 made over $53,000 per year—a 19% increase over the levels of 1990.

My state of Michigan is playing an important part in the expansion of high-tech industry in America. Ann Arbor has among the largest concentrations of high-technology firms and employees in the nation. The University of Michigan is a leader in this field, and we have integrated cutting edge technology throughout our manufacturing and services sectors.

As of 1997, 96,000 Michiganians were employed in high-tech jobs. The total payroll for these Michigan workers reaches $4.5 billion annually, and the average employee makes an impressive $46,761 per year.

High-tech is of critical importance to my state. In addition to those who are directly employed in this sector, thousands of others depend on the health of our high-tech industry for their livelihood. Just as an example, 21 percent of Michigan's total exports consist of high-tech goods. Clearly, whether in international trade, automobile manufacturing, mining, financial services, or communications, Michigan's workers depend on a healthy high-tech industry in our state.

And the same goes for America, Mr. President. The internet is transforming the way we do business. Electronic or ''E'' commerce between businesses has grown to an estimated $64.8 billion for 1999. 10 million customers shopped for some product using the internet in 1998 alone. International Data Corporation estimates that $31 billion in products will be sold over the Internet in 1999. And 5.3 million households will have access to financial transactions like banking and stock trading by the end of 1999.

All this means that our economy, and its ability to provide high paying jobs for American workers, is increasingly wrapped up in high-tech. Indeed, our nation's competitive edge in the global marketplace rests squarely on our expertise in the high-tech sector. We must maintain a healthy high-tech sector if we are to maintain a healthy, growing economy.

This is not special pleading for one industry, Mr. President. It is a simple recognition of the fact that computer technology is an integral part of numerous industries important to the workers of this country. That being the case, it is in my view critical that we secure the health and vitality of the high-tech sector through policies that encourage investment and competition. In my view it also is critical that

we empower more Americans to take part in the economic improvements made possible by high-tech through proper training and education.

Entrepreneurs and workers have made our high-tech sector a success already. That means that Washington's first duty is to do no harm. The federal government must maintain a hands-off policy, refusing to lay extra taxes and regulations on the people creating jobs and wealth through technology.

But in one area in particular decisive action is required. We have all heard, Mr. President, about the impending year 2000 or ''Y2K'' computer problem. Because most computers have been programmed to recognize only the last two digits of a given year, for example assuming the number 69 to refer to 1969, the year 2000 will bring with it many potential problems. Computers that have not been re-programmed to register the new century may assume, come next January 1, that we have entered the year 1900. The results may be minor, or they may include computer malfunctions affecting manufacturing, transportation, water supplies and even medical care.

Clearly such a result would be in no one's interest. Whether large or small, and whether producers or users of computer systems, all businesses have a stake in making the computer transition to the 21st century as smooth as possible. But, as in so many other areas of our lives, progress in dealing with the Y2K problem is being slowed because companies are afraid that acting at this time will simply expose them to big-budget lawsuits. After all, why get involved in a situation that might expose you to expensive litigation?

It was to help prevent these problems that I joined a number of my colleagues to sponsor legislation providing incentives for solving technical issues before failures occur, and by encouraging effective resolution of Y2K problems when they do occur.

This legislation, which the administration has finally signed into law, contains several provisions that would encourage parties to avoid litigation in dealing with the Y2K problem. In addition, Mr. President, this legislation contains provisions to prevent unwarranted, profit-seeking lawsuits from exacerbating any Y2K problem, provisions making sure that only real damages are compensated and only truly responsible parties are made defendants in any Y2K lawsuit.

Quick action is needed, in my view, to prevent the Y2K problem from becoming a disaster. It is a matter of simple common sense that we establish rational legal rules to encourage cooperation and repair rather than conflict and lawsuits in dealing with Y2K. Indeed, for my part, Mr. President, I have made no secret of my desire to apply common sense rules, encouraging cooperation rather than conflict, to our legal system as a whole. I would view our response to the Y2K problem as really an extension of the idea of common sense legal reform to the high-tech arena.

High-technology related commerce, and commerce over the internet in particular, is subject to the same dangers as other forms of commerce. And that means government must make certain that the basic protections needed to make commerce possible are applied to the high-tech sector. In particular, we should keep in mind that commerce is possible only if all parties can be assured that their property will be respected and protected from theft.

I have introduced the Anticybersquatting Consumer Protection Act to combat a new form of fraud that is increasing dangers and costs for people doing business on the internet. The culprit is ''cybersquatting,'' a practice whereby individuals reserve internet domain names similar or identical to companies' trademark names. Some of these sites broadcast pornographic images. Others advertise merchandise and services unrelated to the trademarked name. Still others have been purchased solely for the purpose of forcing the trademark owners to purchase them at highly inflated prices. All of them pollute the internet, undermine consumer confidence and dilute the value of valid trademarks.

Trademark law is based on the recognition that companies and individuals build a property right in brand names because of the reasonable expectations they raise among consumers. If you order a Compaq or a DEC computer, that should mean that you get a computer made by Compaq or DEC, not one built by a fly-by-night company pirating the name. The same goes for trademarks on the Internet. And if it doesn't, if anyone can just come along and take over a brand name, then commerce will suffer. If anyone who wants to steal your product can do so with impunity, then you won't be in business for long. If anyone who wants to steal company trademarks for use on the internet can do so with impunity, then the internet itself will lose its value as a marketplace and people will stop using it for e-commerce. It's really as simple as that.

We must, in my view, extend the basic property rights protections so central to the purpose of government, to the realm of e-commerce.

I have argued, Mr. President, that we must extend the basic, structural rules and protections of commerce to the high-tech arena. To be successful this effort requires recognition of the need for reasoned innovation. If they are to continue fulfilling their vital function of protecting commerce, pre-existing rules must be modified at times to meet the challenges of new technologies. Nowhere is this more true than in the instance of electronic signatures.

Secure electronic authentication methods, or electronic signatures,'' can allow organizations to enter into contracts without having to drive across town or fly thousands of miles for personal meetings—or wait for papers to make several trips through the mail. They can allow individuals to positively identify the person with whom they are transacting business and to ensure that shared information has not been tampered with.

Electronic signatures are highly controlled and are far more secure than manual signatures. They cannot be forged in the same, relatively easy way as manual signatures. Electronic signatures are verifiable and become invalid if any of the data in the electronic document is altered or deleted. They can make e-commerce the safest as well as the most convenient commerce available.

We made great strides in this Congress toward expanding the use of electronic signatures with the Abraham Government Paperwork Elimination Act. That legislation requires federal agencies to make versions of their forms available online and to allow people to submit those forms with electronic signatures instead of handwritten ones. It also set up a process by which commercially developed electronic signatures can be used in submitting forms to the government, and federal documents could be stored electronically.

By providing individuals and companies with the option of electronic filing and storage, this legislation will reduce the paperwork burden imposed by government on the American people and the American economy. It also will spur electronic innovation. But more must be done, particularly in the area of electronic signatures, to establish a uniform framework within which innovation can be pursued.

More than 40 states have adopted rules governing the use of electronic signatures. But no two states have adopted the same approach. This means that, at present, the greatest barrier to the use of electronic signatures is the lack of a consistent and predictable national framework of rules. Individuals and organizations are not willing to rely on electronic signatures when they cannot be sure that they will be held valid.

I have joined with my colleagues, Senators MCCAIN and WYDEN, to author the Millennium Digital Commerce Act. This legislation, which was recently passed out of the Senate Commerce Committee, will ensure that individuals and organizations in different states are held to their agreements and obligations even if their respective states have different rules concerning electronically signed documents. It provides that electronic records produced in executing a digital contract

shall not be denied legal effect solely because they were entered into over the Internet or any other computer network. This will provide uniform treatment of electronic signatures in all the states until such time as they enact uniform legislation on their own.

Our bill also lets the parties who enter into a contract determine, through that contract, what technologies and business methods they will use to execute it. This will give those involved in the transaction the power to decide for themselves how to allocate liability and fees as well as registration and certification requirements. In essence, this legislation empowers individuals and companies involved in e-commerce to decide for themselves whether and how to use the new technology of electronic signatures. It will encourage further growth in this area by extending the power of the contracting parties to define the terms of their own agreements.

And another piece of legislation, the Electronic Securities Transaction Act will remove a specific barrier in the law that is slowing the growth of online commerce in the area of securities trading. As the law now stands, Mr. President, anyone wishing to do business with an online trading company must request or download application materials and physically sign them, then wait for some form of surface mail system to deliver the forms before conducting any trading. Such rules cause unneeded delays and will be eliminated by this legislation.

Control over their agreements is crucial to allowing companies and individuals to conduct commerce in and through the means of high-technology. But we must do more to ensure the continued growth of high-tech commerce. Perhaps most important, we must make certain that companies involved in high-tech can find properly trained people to work for them.

During the last session of Congress I sponsored the American Competitiveness Act. This legislation, since signed into law, provides for a limited increase in the number of highly skilled foreign-born workers who can come to this country on temporary worker visas. It also provides for scholarships to students who elect to study in areas important for the high-tech industry, including computers, math and science.

In my view we should build on the American Competitiveness Act by extending training and educational assistance to the millions of elementary and secondary school children who can and should become the high-tech workers of tomorrow.

It is projected that 60 percent of all jobs will require high-tech computer skills by the year 2000. But 32 percent of our public schools have only one classroom with access to the Internet. The Educational Testing Service reports that, on average, in 1997 there was only one multi-media computer for every 24 students in America. That makes the line to use a school computer five times longer than the Education Department says it should be.

Not only do our classrooms have too few computers, the few computers they do have are so old and outdated that they cannot run the most basic of today's software programs and cannot even access the Internet. One of the more common computers in our schools today is the Apple IIc, a model so archaic it is now on display at the Smithsonian.

The federal government recently attempted to rectify this situation, with little success. The 21st Century Classrooms Act of 1997 allows businesses to take a deduction for donating computer technology, equipment and software. Unfortunately, that deduction was small and businesses had difficulty qualifying for it. Thus the Detwiler Foundation, a leading clearinghouse for computer-to-school donations, reports that they have not witnessed the anticipated increase in donation activity'' since its enactment.

I strongly believe that we must change that. That is why I have joined with Senator RON WYDEN (D-Ore.) to offer the New Millennium Classrooms Act. This legislation will increase the amount of computer technology donated to schools, helping our kids prepare for the high-tech jobs of the future.

The earlier tax deduction failed to produce donations because it was too narrowly drawn. It allowed only a limited deduction (one half the fair market value of the computer). It also applied this deduction only to computers less than two years old. And only the original user of the computer could donate it to the school.

Under the New Millennium Classrooms Act, however, businesses will be able to choose either the old deduction or a tax credit of up to 30 percent of the computer's fair market value, whichever reduces their taxes most. Businesses donating computers to schools located in empowerment zones, enterprise communities and Indian reservations would be eligible for a 50 percent tax credit because they are bringing computers to those who need them most.

In addition, the New Millennium Classrooms Act would eliminate the two year age limit. After all, many computers more than two years old today have Pentium-chip technology and can run programs advanced enough to be extremely useful in the classroom. Finally, the new legislation would let companies that lease computers to other users donate those computers once they are handed in.

These provisions will expand the availability of useful computers to our schools. They will allow our classrooms to become real places of high-tech learning, preparing our children for the challenges of the future and providing our economy with the skilled workers we need to keep us prosperous and moving ahead. They are an important part of an overall high-tech agenda that emphasizes expanding opportunities for all Americans.

Of course we must do more. We must extend the Research and Development tax credit so important to high-tech innovation. We must extend the 3 year moratorium on any taxing of the internet. We must update our encryption laws so that American companies can compete overseas and provide consumers with state-of-the-art protection for their e-commerce. We must increase high-speed internet access. I will work to support each and every one of these reforms.

Mr. President, these are some of the legislative initiatives a number of my colleagues and I are working on to ensure the future of high-tech growth in this country. It is an important agenda because high-tech is an important sector of our economy. I hope members of both houses of Congress and the Administration will recognize the need to support this agenda so that American workers can continue to prosper.●

TRIBUTE TO COACH GLENN DANIEL

● Mr. SHELBY. Mr. President, I rise today to pay tribute to Coach Glenn Daniel, a dedicated man and an inspirational leader to the many football teams which he has led. The state of Alabama has been blessed with a very rich football heritage. The thought of the sport conjures images of Bear Bryant leading his famed University of Alabama teams to glory on the gridiron. Between interstate colleges and high school rivalries, there is no argument that the State's roots are firmly entrenched in the game of football.

It is from these roots that I pay tribute to the most successful coach in the history of Alabama high school football, Coach Glenn Daniel. With a lifetime record of 302 wins, 167 loses and 16 ties, Coach Daniel has stood the test of time and climbed countless obstacles in his relentless assault on the record books. Coach Daniel's 50-year career, spanning six decades, serves as a inspiration to the young people he coaches and as an example of the internal fortitude and a strength of character which few possess. He is truly the standard bearer for a high school coaching legend and the definition of a man dedicated to the sport of football.

Born on December 2, 1925, in Montgomery, Coach Daniel attended Albert G. Parrish High School in rustic Selma, Alabama. He earned a Bachelor's Degree in Education at Livingston University (now the University of West Alabama) and a Master's Degree from the University of Alabama in 1956.

It was in 1947 that Glenn Daniel began his coaching career at the rural Alabama school of Pine Hill High. He was able to successfully resuscitate a football program which had been discontinued for several years due to World War II. Within 5 years of beginning his tenure at Pine Hill, he had established a perennial football powerhouse at the school. During this time, Coach Daniel lead his team to an undefeated season, while outscoring opponents 232–32 and receiving a Birmingham News regional championship.

Following his tenure at Pine Hill, Coach Daniel moved on to coach at Luverne High School in Luverne, Alabama. While coaching at the school for 38 years, Coach Daniel's teams finished with an astonishing 34 winning seasons. In 11 of his last 12 years, his team earned a spot in the state playoffs, including three semi-finals appearances. His remarkable 1991 team reached the ultimate promise land, winning the state 3A championship, the first in Luverne High School's history. Coach Daniel retired in 1993 and did not coach during the 1993 and 1994 seasons. However, he returned as an assistant coach for the 1995 season as Defensive Coordinator and helped his team earn a state championship in 1997.

Coach Daniel was named Alabama's Coach of the Year in 1981, 1987, and 1991 by various major newspapers in the state. In a coach's poll conducted in 1985, he was ranked by his peers as one of the ten best coaches in the state. In addition to these accolades, Coach Daniel served as head coach of the Alabama team in the annual Alabama/Mississippi All-Star Football Classic in 1992, and was named as Alumni Coach of the Year in 1992 by the University of West Alabama. In a fitting honor to cap his distinguished career, Coach Daniel was chosen as a member of the inaugural class of inductees into the Alabama High School Sports Hall of Fame in 1991. Mr. President, if a coaching career has ever proven deserving of these many distinctions, it is Coach Glenn Daniel.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Executive Calendar No. 164 on today's Executive Calendar.

I further ask unanimous consent the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination appear in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF COMMERCE

Johnnie E. Frazier, of Maryland, to be Inspector General, Department of Commerce.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1999

Mr. JEFFORDS. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 199, S. 468.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 468) to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 468

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 Financial Assistance Management Improvement Act of 1999''.

SEC. 2. FINDINGS.

[The**]** Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) LOCAL GOVERNMENT.—The term ''local government'' means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code);.

(5) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, local government, or nonprofit organization.

(6) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) TRIBAL GOVERNMENT.—The term ''tribal government'' means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) UNIFORM ADMINISTRATIVE RULE.—The term ''uniform administrative rule'' means a Government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—**[**NOT**]** *Except as provided under subsection (b), not* later than **[**18**]** *36* months after the date of enactment of this Act, each Federal agency shall develop and implement, *including promulgation of rules and amendments to existing collections of information,* a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) *in cooperation with recipients of Federal financial assistance,* establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(b) EXTENSION.—[If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each noncompliant agency for up to 12 months.] *If an agency is unable to comply with the requirements of subsection (a)(5), the Director may extend the period for the agency to develop and implement a plan that allows applicants to electronically apply for, and report on the use of, funds from Federal financial assistance programs administered by the agency to October 31, 2003.*

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads, and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

(e) REPORT ON RECOMMENDED CHANGES IN LAW.—Not later than 18 months after the date of the enactment of this Act, the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

(f) DEADLINE.—All actions required under this section shall be carried out not later than 18 months after the date of enactment of this Act.

SEC. 7. EVALUATION.

(a) IN GENERAL.—[The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to] *The General Accounting Office shall* evaluate the effectiveness of this Act. Not later than [4] *6* years after the date of enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective [5] *8* years after such date of enactment.

Mr. JEFFORDS. Mr. President, I ask unanimous consent the committee amendments be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 468) was read the third time and passed.

CORRECTING ERRORS IN THE AUTHORIZATIONS OF CERTAIN PROGRAMS ADMINISTERED BY THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 2035, which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2035) to correct errors in the authorizations of certain programs administered by the National Highway Traffic Safety Administration.

The Senate proceeded to consider the bill.

Mr. JEFFORDS. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2035) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR FRIDAY JULY 16, 1999

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Friday, July 16. I further ask consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day.

I further ask consent that following the cloture vote, the Senate proceed to a period of morning business with Senators speaking up to 5 minutes each with the following exceptions:

Senator COVERDELL or his designee in control of the first hour and Senator BREAUX or his designee in control of the second hour, Senator DOMENICI for 10 minutes, Senator BAUCUS for 10 minutes, Senator HARKIN for 15 minutes, and Senator LEVIN for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. JEFFORDS. For the information of all Senators, the Senate will convene at 9:30 a.m. Under the previous order, the Senate will debate the Social Security lockbox legislation for 1 hour with a vote to occur at approximately 10:30 a.m. For the information of all Senators, that vote will be the only rollcall vote during Friday's session of the Senate. Following the vote, Senator COVERDELL will be recognized to begin a period of morning business.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:02 p.m., adjourned until Friday, July 16, 1999, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 15, 1999:

DEPARTMENT OF COMMERCE

JOHNNIE E. FRAZIER, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF COMMERCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, July 15, 1999*

The House met at 10 a.m.

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

We affirm in the ancient Psalm of David ''The Lord is my shepherd, I shall not want.'' Oh gracious God, as You are the shepherd of our souls and are with us in all the concerns of life, we ask Your blessing on all who are sick or infirm and who desire to find wholeness and health. Either for ourselves or those who are near and dear to us, we pray that Your healing power will visit all those in need and that our hearts and minds will be open to Your redeeming love. May Your strong arm, O God, give fortitude and strength and assure us always of that peace that passes all human understanding. In Your name we pray. 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.

Mr. GIBBONS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. GIBBONS. 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. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado (Mr. SCHAFFER) come forward and lead the House in the Pledge of Allegiance.

Mr. SCHAFFER 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 with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2465. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2465) ''An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon and appoints Mr. BURNS, Mrs. HUTCHISON, Mr. CRAIG, Mr. KYL, Mr. STEVENS, Mrs. MURRAY, Mr. REID, Mr. INOUYE, and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a bill of the following title in which concurrence of the House is requested.

S. 604. An act to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 15 one-minute speeches on each side.

TRIBUTE TO AIR FORCE SERGEANTS ASSOCIATION

(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, today I rise with great honor to pay tribute to the Air Force Sergeants Association, a private, not-for-profit organization that diligently represents this Nation's active and retired enlisted men and women of the United States Air Force and their families.

I would like to commend the Air Force Sergeants Association for their extraordinary efforts informing Congress on key personnel and readiness issues and also for promoting programs and policies which recognize the sacrifices of our ''Sierra Hotel'' Air Force enlisted members.

This year, from August 29 through September 3, the Air Force Sergeants Association will convene its annual international convention at the Silver Legacy and Eldorado Hotels in Reno, Nevada. As an Air Force veteran, who knows firsthand the outstanding contributions of our enlisted force, I will be proud and honored to celebrate this occasion with them.

Mr. Speaker, for 38 years, the Air Force Sergeants Association has been an outspoken advocate for Air Force enlisted members, and I thank them for their wonderful efforts. I also want to thank the enlisted men and women from every service who truly are the backbone and soul of our fighting forces.

REPUBLICANS DOING WRONG IS WORSE THAN DOING NOTHING

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

Mr. DOGGETT. Mr. Speaker, the willingness of House Republicans to jeopardize our economic prosperity, to jeopardize Medicare and Social Security is truly shocking.

Last night, the Republicans on the House Committee on Ways and Means approved a tax bill that is really based on the following principles: First, they will never pay down the over $5 trillion of national debt and will continue to saddle American taxpayers with hundreds of millions of dollars of interest payments each year, the second largest item in the Federal budget.

Second, they will continue taking money that Americans have paid into the Social Security Trust Fund to use for other nonSocial Security purposes.

House Republicans have made an art form this year of doing nothing in this House. But there is one thing worse, and that is doing wrong, doing wrong by Social Security, doing wrong by Medicare, and doing wrong that will interfere with our economic expansion.

Let us say no to this outrageous tax bill that the Republicans are promoting on America.

APA SAYS PRESENCE OF FATHERS IN FAMILIES IS NOT ESSENTIAL

(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, the APA has done it again. An article published in the current journal of the American Psychology Association reports that the presence of fathers in families is ''not essential'' and that fathers actually ''may be detrimental to the child and the mother.''

Can you believe this absurdity? Dads are dangerous. So I say to dads, do not bother about running home to play ball or read with your child. According to these psychologists, you will not be missed.

This report is on the heels of the national outrage the APA caused when they published another report stating sexual abuse does not harm children. First, praising pedophilia, now dumbing down dads.

Mr. Speaker, two decades of research support the fact that children who are raised without fathers are at greater risk than children raised with fathers and mothers. In fact, studies of over 25,000 children found that kids who grow up without a father are twice as likely to drop out of school, they are two and a half times as likely to become teen moms, and also the likelihood that a young male will engage in criminal activity doubles.

These studies and hundreds of others uphold that dads do make a difference. When will the APA ever learn?

NEW SURPLUS AND FISCAL DISCIPLINE

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

Mr. LUCAS of Kentucky. Mr. Speaker, the people sent us here to do a job. They sent us here to preserve Social Security and Medicare. We must save Social Security and Medicare first before squandering any of the Social Security surplus or any other government surplus.

Paying down the Federal debt is truly the greatest gift we can give to our children and our grandchildren. Paying down the Federal debt means lower interest rates for a working family, more capital available for small businesses, and a brighter future for our children.

Let us not get carried away with this budget surplus feeding frenzy. Let us remain disciplined, focused, and fiscally conservative. The time to fix the roof is now, while the sun is shining.

WHAT A DIFFERENCE A REPUBLICAN CONGRESS MAKES

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

Mr. BARTLETT of Maryland. Mr. Speaker, what a difference a Republican Congress makes. For 40 years, Congress debated ways to expand government, promising more benefits in exchange for a bit less freedom.

Few, if any, candidates ran on tax increases, but somehow taxes kept getting higher and higher.

Welfare assistance was so broke that even those on welfare knew that the system was seriously wrong, counterproductive, and harmful. Yet, nothing was done.

Then the American people said enough and elected Republicans to the majority in 1994 for the first time in 40 years.

Now we are debating ways to cut taxes, not raise them. Perhaps the most significant achievement is the historic welfare reform bill signed into law in 1996. For millions and millions of families who have moved from welfare to work, they now have hopes for a brighter future, a seemingly impossible dream when despair filled their days and nights. The children in those families now have productive and fulfilling lives to look forward to.

What a difference the Republican Congress makes.

HOW MANY AMERICANS MUST BE VICTIMIZED BEFORE BORDERS ARE SECURE?

(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, two Texas women were beaten to death in their own home. They were two of nine victims supposedly killed by the infamous railroad killer from Mexico. The border is wide open. From narcotics to terrorists, the border is wide open.

Tell me, Mr. Speaker, how many more Americans must be murdered in their own home? How many more Americans must die of drug overdoses? How many more Americans must be victimized and live in fear of terrorists? Tell me, Mr. Speaker, how many more Americans must be abused before Congress secures our border? Beam me up.

I yield back a massive problem that can and will not be solved.

TRIBUTE TO VIKKI BUCKLEY

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

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the life and contributions of Vikki Buckley, Colorado's Secretary of State, who passed away yesterday after suffering an apparent heart attack on Tuesday.

Quoting a friend of hers, ''Vikki's no longer in the hands of doctors. She's now in the arms of God.''

Vikki proudly proclaimed herself to not be a hyphenated American. She held the distinction of being the first black Secretary of State and the first female black candidate elected as a Republican for a statewide constitutional office.

She is an outspoken conservative. Vikki served as the States chief election official and traveled around the State and country speaking out on various issues of importance to her.

Most recently, she gave the opening remarks at the National Rifle Association's annual meeting in Denver. Her speech has been acknowledged nationwide as among the most insightful concerning the heart of humanity and preserving the entire Constitution of the United States, including the second amendment.

I for one got to know Vikki quite well. In 1994, I was a statewide candidate Republican nominee for Lieutenant Governor, and I spent almost the whole year on the campaign trail with Vikki. She is one who cares passionately about her country. She is an inspiration to all who knew her. She was deeply devoted to her family.

Although she is gone and away from us now, her inspiration and memory will inspire Americans for generations to come. I pray that God receives her openly into his heavenly kingdom and that her soul and all of the souls of those who have departed in faith rest in peace.

REPUBLICAN TAX CUT PLAN IS FISCALLY IRRESPONSIBLE

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

Mr. MENENDEZ. Mr. Speaker, the Republican tax cut plan of a trillion dollars is fiscally irresponsible and will leave a legacy of debt and deficit for the next generation of taxpayers, and that is why they only show us charts for the first 5 years of their tax cut plan. They do not show us the last 5 years where the tax cuts will explode and leave us with an enormous gap in the budget.

Their tax cut plan will create higher deficits and, therefore, create higher interest rates for American families and businesses.

That is not a value we Democrats share. Democrats believe that we have to pay down the national debt, and Republicans want a massive tax cut. Democrats value the contribution of seniors who have helped build families and community and who should be able to retire with dignity and health security. That is why we want to pay the debt, extend the life for Social Security and Medicare.

Republicans want to go on a wild tax cut spree that leaves nothing for Medicare, nothing for Social Security, and nothing for our prescription drug program. That is fiscal irresponsibility we cannot have. It is a value we do not share.

DEMOCRATS AND REPUBLICANS DIFFER ON TAX PHILOSOPHIES

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

Mr. BALLENGER. Mr. Speaker, a lot of people say there is not much difference between Democrats and Republicans. But when it comes to taxes, it is clear that there are two quite different philosophies at work which guide the thinking of each side.

Democrats believe that the tax system is primarily a way to redistribute wealth; that is to say, take what belongs to one person and give it to someone else.

□ 1015

Republicans, on the other hand, believe that the tax system is merely what is necessary to raise revenues for the constitutionally required functions of the Federal Government, which is principally to provide the common defense.

Democrats believe that a system that redistributes wealth is more fair than a system whereby people are entitled to the fruits of their labors to the maximum extent possible.

Democrats speak constantly of the fact that the wealthy, never defined, do not need a tax cut. Of course, by that logic a rich person does not need to be paid for any work that he performs. But they fail to recognize that the money earned by the wealthy or the middle class or whomever belongs to them. After all, they earned it.

REPUBLICANS THROW IN THE TOWEL ON SAVING SOCIAL SECURITY, MEDICARE AND PAYING DOWN DEBT

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

Mr. GEORGE MILLER of California. Mr. Speaker, yesterday was a sad day for our Nation, a sad day because the Republicans threw in the towel. They gave up and they capitulated.

Rather than make the tough choices to save Social Security, to save Medicare, and to pay down a $5 trillion debt, Republicans simply gave up and did what they thought was the easy thing to do, provide for an irresponsible tax cut that forecloses the financial future for many, many, many Americans who must rely on Social Security, who must rely on Medicare, and to the next generation that is hoping to have low interest rates, hoping to have a good economy so they can buy a house and form families and raise their children.

But, no, rather than pay down the debt, the Republicans would rather risk high interest rates for the whole Nation and for small businesses. We tried this once in 1980. It has taken us 20 years, I repeat, it has taken us 20 years to dig out of that debt that the Republicans gave us in 1980.

Now, for the first time in history, we have an opportunity to save Social Security, to save Medicare and to pay down the debt. But the Republicans have given up and thrown in the towel. How little courage they have.

REPUBLICANS BELIEVE IN TAX CUTS

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

Mr. CHABOT. Mr. Speaker, there are a lot of Americans who believe that there is not much difference between Democrats and Republicans. Well, there certainly is here in the U.S. House of Representatives.

For example, let us consider taxes. The Democrats, under President Clinton, passed the largest increase in U.S. history back in 1993. The liberals have not stopped praising that tax increase ever since. The liberals are actually happy to raise taxes because that means more revenues for big government and more money to spend on their special interests.

Republicans believe that the government is too big and that Washington politicians have too much power. Republicans passed tax cuts last time and it is our goal to pass additional tax cuts this year. Let us get rid of the unfair marriage penalty, for example. Let us get rid of the death tax. Let us reduce taxes on all Americans.

The difference between Democrats and Republicans here in the House: The Democrats believe that the bureaucrats here in Washington know best how to spend taxpayers' money. Republicans think that the American people are smart enough to know how to spend their own money.

WHEN WE PAY DOWN THE DEBT, AMERICANS GET A REAL BONUS

(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, every summer, particularly in election years, Republicans run down to the well and they give us their usual, a big tax break, as though that were the answer to all the problems. They insult the intelligence of many American people.

First, as usual, when we look behind the rhetoric, what we see is a tax break that basically benefits the very wealthy. But this year it is even worse because this is a fiscally irresponsible tax break that undermines our economy and creates higher deficits.

We on the Democratic side of the aisle have an alternative. We believe, number one, we need long-term solutions, not short-sighted and short-thinking solutions. We need solutions that, number one, protect Social Security. We need solutions that, number two, can pay down the debt.

When we pay down the debt the American people get a real bonus, they get lower interest rates, which helps them with buying houses and buying cars. That is what really matters. We need to pay down the debt, help families, help small businesses.

And, third, we need to strengthen Medicare. Now, we will not hear the Republicans say a thing about Medicare. We can strengthen Medicare and provide a prescription drug benefit for our senior citizens. That is the long-term solution, not the short-sighted solution the Republicans are offering.

REPUBLICANS WANT TO GIVE BACK MONEY TO TAXPAYERS; DEMOCRATS WANT TO SPEND IT

(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, the liberal Democrats, the liberal editorial pages, the President, they are all singing off the same sheet of music with remarkable harmony these last few days. They have called the Republican tax cut proposal ''risky.'' I am not surprised.

But for Republicans, what is far riskier is keeping the Federal budget surplus in Washington, D.C. ''Trust us,'' these liberal politicians will say. ''We won't spend it.'' ''Really,'' they say, ''we will use it for debt reduction. Trust us, we won't spend it. Trust us, we won't spend it.''

Now, I really do not know what to say to people who think that politicians in Washington can be trusted not to spend this pot of money. If the choice is between giving the money back to the people who earned it or spending it, the Democrats will spend it. Republicans will not spend it. They want to give it back to the people who earned it. It is their money in the first place.

DEMOCRATS WANT TO PAY OFF THE DEBT

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

Mr. RANGEL. Mr. Speaker, it is interesting that the last Speaker would say that if the money from the so-called surplus is left in Washington that Americans should not trust us because ''we'' would spend it. The last I heard, the Republicans were the ''we''. The Republicans are in the majority.

If the Republicans are so fractionalized, if they are so disorganized that basically they are saying we should take the surplus and get it out of here as quick as we can and stop us before we hurt the Nation any further, then I understand the argument.

But if it is that no matter what economist we might listen to, no matter what American we might talk to, the

whole idea of the surplus is that the President says that we are close to $4 trillion, we now have the ability to pay off some of that debt, and we should do that. And that is what we are talking about on our side.

BIPARTISAN WORKING GROUP TO TAKE COMPREHENSIVE LOOK INTO YOUTH VIOLENCE

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

Mr. WAMP. Mr. Speaker, I am not a fan of these 1-minute speeches. Usually I do not do this. As we can all see, it devolves sometimes into a partisan food fight.

I come today to praise a bipartisan approach to the number one domestic issue, in my opinion, and that is youth violence. At the initiative of the Speaker of the House, working with the gentleman from Missouri (Mr. GEPHARDT), the minority leader, they have appointed a bipartisan working group, 10 Republicans, 10 Democrats, cochaired by the gentlewoman from Washington (Ms. DUNN) and the gentleman from Texas (Mr. FROST), and I am the vice chairman of this group.

For the next 2 months we will look in a bipartisan way at a comprehensive approach to youth violence. Guns, school security, breakdown of the family, influence of the mass media, a comprehensive approach to do what we can in the Congress to address this critical issue in a bipartisan way.

We need more approaches like this one where we can work together, because we are all serving the same people.

COLLABORATIVE EFFORTS BY ALL LAW ENFORCEMENT AGENCIES PRODUCE RESULTS

(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, the suspect for the heinous railroad killings has been caught. Resendez-Ramirez turned himself in to the INS installation in El Paso.

Let me applaud the collaboration of the Federal Bureau of Investigation, with Don Clark leading the effort in Houston, Texas, along with U.S. Marshal Contreras, the Texas Rangers, and, of course, the INS. Collaboration among law enforcement agencies is extremely important.

It is extremely important to recognize that while this alleged perpetrator and killer will probably be indicted for murder, he is not representative of the hard-working, taxpaying immigrants who live in our communities.

Mr. Speaker, I wanted to acknowledge the importance of collaboration between our law enforcement entities and to encourage the continuation of such collaboration which will, hopefully, correct the initial problem that allowed this gentleman, this person, to get away after crossing the border. We must fight illegal immigration but we must recognize the value of those hard-working immigrants.

I want to applaud again the collaborative work of our law enforcement agencies for a job well done.

FAIRNESS IN TAX CODE SHOULD BE ADDRESSED AS WELL AS TAX CUTS

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

Mr. BAIRD. Mr. Speaker, like my colleagues, I want to insist that as we look towards tax changes and towards the budget, we set first and foremost the priority of paying down the debt and of protecting Social Security and Medicare.

But, Mr. Speaker, if we are going to address tax cuts, there is one which we should address first and foremost, and that has to do with restoring fairness to the tax code. Currently, a small number of States subsidize the rest of the Federal Government. Those States in which we have sales tax but no income tax pay higher taxes than those in other States with an income tax. The reason is that those with sales taxes are not allowed to deduct their sales tax from their Federal income tax returns. Some of the States include Washington State, my own, Tennessee, Nevada, Texas, and Florida.

Mr. Speaker, hard-working men and women and their families deserve the same tax break in those States as in the rest of the country. And if we are going to make changes to the tax code, let us begin by restoring fairness, by allowing a simple change to the code and allowing people to deduct either their State income tax or the amount they pay in State sales tax from their Federal tax return.

REPUBLICANS AND DEMOCRATS DIFFER IN CORE BELIEFS

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

Mr. FOSSELLA. Mr. Speaker, today we are hearing the debate as to what we are going to do with the projected taxpayers' surplus. As Americans follow this debate, I think they should just be concerned with where we are going in our core principles.

In the way I view it, we have one side that agrees with personal freedom and the other side that wants more government control; one that says lower taxes, another that says we need higher taxes; limited government versus big government; economic growth versus bureaucratic growth here in Washington; more jobs across America or more red tape that will only stifle growth, stifle inhibition, stifle creativity and decrease the number of jobs.

So as we debate the taxpayers' surplus that the Americans have generated each and every day, let us remind ourselves of what the core principles are: Do we believe in the American people; do we believe in the American spirit; do we believe in economic growth? Or do we believe that total faith on how to spend the taxpayers' money should be made here in Washington?

WE SHOULD CONTINUE DOWN THE PATH OF FISCAL RESPONSIBILITY

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

Mr. LEVIN. Mr. Speaker, I am glad I am coming right after that last 1-minute. It is pure nonsense.

This $864 billion bill that was reported out of the Committee on Ways and Means last night is fiscally irresponsible. It sacrifices the future of Social Security and also of Medicare on the altar of that kind of political hype from the Republicans.

Let me read from a Republican, his comment, the gentleman from Delaware. ''I am not exactly sure in all of this,'' and I quote, ''how Medicare is going to be solved. And there is no consideration for debt retirement; virtually no consideration for emergency spending. This is all very problematical. The size of it creates some real problems.'' And then he goes on to say that it is a political statement.

It is indeed a political statement. It gambles with the future of Social Security and it gambles with the future of Medicare. Look, that is not conservatism, it is fiscal radicalism. We need to continue on the path of fiscal responsibility.

H.R. 2439, PREVENTING EXHAUSTION OF TELEPHONE NUMBERS AND SAVING MONEY

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

Mr. KUCINICH. Mr. Speaker, for all Americans who are struggling with new telephone area codes, I have introduced a bill, H.R. 2439, to prevent the exhaustion of telephone numbers and save the economy about $150 billion in emergency remedial measures.

If the rate at which new telephone area codes are being introduced continues, we may run out of area codes as soon as the year 2007. If that occurs, we

would be forced to add one more digit to all U.S. phone numbers. The FCC and other reliable sources estimates that the cost to the economy of adding an extra digit to all telephone numbers and reprogramming all computer networks and databases to recognize the expanded numbering format could be as high as $150 billion, which is about the same cost as fixing the Y2K bug.

□ 1030

But unlike the Y2K problem, the coming crisis in telephone number allocation is entirely preventable. My bill requires the telephone company to stop wasting potential telephone numbers. It promotes competition by ensuring that consumers can take their telephone numbers with them if they choose to switch carriers. It restores the ability of consumers to dial only seven digits and reach anyone in their area code. And it will save the economy $150 billion in unproductive emergency and preventable remedial action.

AMERICA SCREAMS OUT FOR US TO PROTECT OUR YOUTH

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is troubling, and there is a difference between the two parties. The Democrats want to try to solve Social Security, improve Medicare, and try to secure our youth from guns.

Each day in America 14 kids age 19 and under are killed by guns. In 1996, almost 5,000 juveniles were killed with a firearm. In 1997, 84 percent of the murder victims age 13 to 19 were killed with guns.

Mr. Speaker, 59 percent of the students in grades six through twelve know where to get guns if they want one. And it seems that no one cares about how many they get. Two-thirds of these students say they can acquire a firearm within 24 hours.

It is time, Mr. Speaker, that we address this issue and get on with the concerns of the American people. Kids and guns do not mix, yet Republicans refuse to consider common sense gun safety measures that would only serve to protect kids. It is time for us to do it, Mr. Speaker. America screams out for us to protect our youth.

NO REASON FOR DEMOCRATS TO VOTE DOWN GUN CONTROL BILL

(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 would like to follow up the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) on the gun issue.

Many of us felt that it was important to close the loophole at gun shows. The question and the argument centered around the question—Is 24 hours reasonable to have a criminal history check?

I am from Michigan. In Michigan we have required a criminal history check to purchase a hand gun for the last 50 years. So the reasonableness of keeping guns out of the hands of felons is something I think most of us should agree on.

To close the loophole, at gun shows where individuals that are not licensed gun dealers sell guns to other individuals at the show, a law change is necessary. The suggestion that came from the Democratic side of the aisle to require 24 hours for a criminal history check.

I called the FBI. They reported that with the current 3 days, sometimes they miss that an individual has committed a felony. But what happens is the FBI immediately call the ATF, the local law enforcement, because they have committed two felonies. Once in their certification and once taking possession of a gun. They immediately go after them. They prosecute them. They confiscate the gun.

There was no reason for the Democrats to have voted down this gun control bill that would have closed this gun show loop-hole.

REPUBLICAN TRILLION-DOLLAR TAX BILL IS A DISGRACE

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

Mr. LEWIS of Georgia. Mr. Speaker, the Republican trillion-dollar tax bill is a disgrace. It is the height of irresponsibility. It is a trillion-dollar giveaway to the special interests and the high-rollers.

The Republican plan does nothing to protect Social Security. The Republican plan does nothing to strengthen Medicare. The Republican tax scheme does nothing to reduce our national debt.

We are at a crossroads in America. We have an historic opportunity to preserve and protect Social Security, to strengthen Medicare, and to pay down this awful national debt. We should not, we cannot, and we must not let this historic opportunity pass us by.

We have balanced our national budget. We have put our economic house in order. The Republican tax scheme is irresponsible. It does not address our needs, and it will lead us down the road to economic disaster. The Republican plan is a dangerous and dark step backwards. It should be and it must be defeated, Mr. Speaker.

REPUBLICANS BELIEVE AMERICANS CAN BEST DECIDE HOW TO SPEND THEIR MONEY

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

Mr. HAYES. Mr. Speaker, I rise today to simply say, my colleague is wrong. My colleague is questioning the motives of his friends and mine on the other side of the aisle.

We simply say this is the American people's money. They deserve to have it back. It is a very simple story. It is not about motives. It is about the fact that it is their money, they should have it back. It is not where it goes. It is whose it is. It is the American people's money. We have taken it from them.

We firmly believe on our side of the aisle that the American people can best decide how to spend their money, not the Government, not a group of bureaucrats in Washington.

HMO REFORM

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

Mr. LAMPSON. Mr. Speaker, I rise this morning to ask my colleagues to stop lollygagging around and to pass meaningful HMO reform as quickly as possible.

Hundreds of Medicare beneficiaries have been dumped by their Medicare HMOs in Texas. Three healthcare plans that I know of, and there could easily be more, have decided not to renew their contracts with the Healthcare Financing Administration.

This is why Medicare HMO reform is needed ASAP. Congress needs to step up to the plate and enact legislation that ensures quality healthcare coverage for all our Nation's elderly. We need to make sure that treatment decisions are made by doctors, like my brother, not insurance company bureaucrats. Plus, we need to hold HMOs accountable for healthcare decisions that people or their doctors disagree with. We must keep Medicare HMOs at the forefront of this Congressional agenda.

LET US NOT GO OVERBOARD WITH IRRATIONAL TAX CUTS

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

Mr. MORAN of Virginia. Mr. Speaker, our message today is really directed at the majority. We are asking them not to shoot themselves in the foot, not to let this wonderful economy be dissipated by policies that are contrary to the public interest, tax cut policies that are counterproductive at best and severely damaging to our economy at worst.

We know that we are enjoying the finest economy that this country has ever experienced. And it can be a sustainable economy. We have had a decade of unprecedented profits and productivity with low inflation and high employment.

The only thing that could kill that prosperity now is a tax cut that was too deep, that was irrational, that gave relatively small amounts of benefit to a lot of people who need them the least. The fact is that too deep a tax cut will arrest the kind of controlled inflation and low unemployment that we are now experiencing. An $800-billion tax cut is too deep.

We can responsibly target our tax cuts and achieve more at ⅓ the revenue cost. We can keep this economy going. We can keep inflation low. Do not give Mr. Greenspan reason to increase interest rates. We have got a good thing going. Let us keep it going. Do not go overboard with an irrational tax cut.

THE JOURNAL

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

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

Mr. HAYES. 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 346, nays 53, answered ''present'' 2, not voting 33, as follows:

[Roll No. 297]

YEAS—346

Abercrombie
Ackerman
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E.B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pascrell
Paul
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schakowsky
Scott
Sensenbrenner
Serrano
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
Stark
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Upton
Velazquez
Vento
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—53

Aderholt
Bilbray
Bilirakis
Bonior
Borski
Clay
Clyburn
Costello
Crane
DeFazio
Fattah
Filner
Gephardt
Gibbons
Gillmor
Gutknecht
Hill (MT)
Hilleary
Hilliard
Hinchey
Hulshof
Hutchinson
Kucinich
LaFalce
LoBiondo
McGovern
McKinney
Moran (KS)
Neal
Oberstar
Pallone
Pastor
Peterson (MN)
Phelps
Pickett
Pombo
Ramstad
Rogan
Sabo
Schaffer
Slaughter
Strickland
Sweeney
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED ''PRESENT''—2

Carson
Tancredo

NOT VOTING—33

Archer
Baldwin
Brown (CA)
Burr
Capuano
Chenoweth
Cummings
Delahunt
Dingell
Dixon
English
Frost
Gutierrez
Hunter
Johnson (CT)
Jones (OH)
Kasich
Kennedy
Latham
Lewis (CA)
McDermott
McNulty
Meek (FL)
Miller, George
Porter
Regula
Rivers
Rush
Ryun (KS)
Stabenow
Thurman
Watts (OK)
Weldon (PA)

□ 1101

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

So the Journal was approved.

The result of the vote was announced as above recorded.

RELIGIOUS LIBERTY PROTECTION ACT OF 1999

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 245 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 245

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 1691) to protect religious liberty. The bill shall be considered as read for amendment. The amendment recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) a further amendment printed in the Congressional Record pursuant to clause 8 of rule XVIII, if offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HEFLEY). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), 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.

Yesterday, the Committee on Rules met and granted the structured rule for H.R. 1691, the Religious Liberty Protection Act.

The rule provides for 1 hour of debate to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill.

The rule makes in order an amendment in the nature of a substitute if printed in the CONGRESSIONAL RECORD and if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, debatable for 1 hour, equally divided between the proponent and an opponent.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this is a fair rule which will permit a thorough discussion of all the relevant issues. In fact, the Committee on the Judiciary considered one amendment during its markup of H.R. 1691, and that amendment is made in order under this rule.

Prior to 1990, Mr. Speaker, the Supreme Court vigorously protected our first amendment freedoms. A State or local government could not impede religious expression unless its laws were narrowly tailored to protect a compelling government interest. In 1990, this all changed. In the case of Employment Division v. Smith, the Supreme Court ruled that churches are subject to all generally applicable and civil laws as long as the laws were not enacted in a blatant attempt to suppress religious expression.

The potential impact of the Smith case is frightening. Now police can arrest a Catholic priest for serving communion to minors in violation of a State's drinking laws. Local officials can force an elderly lady to rent her apartment to an unwed or homosexual couple in violation of her Christian beliefs. Our law enforcement officials can conduct an autopsy on an Orthodox Jewish victim in violation of the family's religious beliefs.

Mr. Speaker, this is wrong, and it has to be changed. The Religious Liberty Protection Act would essentially overturn the Smith decision and return religious expression to its rightful place.

Under H.R. 1691, State and local officials must narrowly draft their commerce regulations so they do not penalize religion. In addition, under the bill anyone who receives Federal grant moneys cannot then turn around and discriminate against religion, and State and local governments cannot adopt land use laws that treat religious organizations differently than secular organizations. There are legitimate health and safety reasons for local governments to make zoning decisions, but religious discrimination is not one of them.

I urge my colleagues to support this rule and to support the underlying legislation.

Again I repeat:

The Committee on the Judiciary considered only one amendment during its markup of H.R. 1691, and that amendment is made in order under this rule.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume, and I want to thank my colleague, the gentlewoman from North Carolina (Mrs. MYRICK), for yielding me the time.

Mr. Speaker, this is a structured rule. It will allow for consideration of H.R. 1691, which is called the Religious Liberty Protection Act. As my colleague from North Carolina has explained, this rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule permits only one amendment which may be offered by the ranking minority member of the Committee on the Judiciary or his designee.

The bill restricts States or local governments from passing laws that impose a substantial burden on an individual's rights to practice his or her religion. The bill attempts to reverse the effects of a Supreme Court decision which made it easier for States to interfere with religious freedom. This bill balances the right of individuals to practice their religion against the need of the States to regulate the conduct of their citizens. The bill attempts to give the right to practice religion the same kind of protected status as the right of free speech.

I want to call attention to the enormous support this bill has received from the religious community. It is supported by more than 70 religious and civil liberty groups including Protestant, Catholic, Jewish and Muslim groups. I do not think I have ever seen one piece of legislation unite so many different religious organizations as this bill has done.

America was founded by people who wanted to practice their religion free from government interference, and I am pleased to be a cosponsor of this bill because I think it will protect the basic American right, freedom of religion.

Mr. Speaker, the bill has broad bipartisan support and was adopted in an open committee process. I urge adoption of the rule and the bill.

Mrs. MYRICK. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I rise in support of this rule but in opposition to the bill.

Mr. Speaker, as a legislature of enumerated powers, Congress may enact laws only for constitutionally authorized purposes. Despite citing the general welfare and commerce clause, the purpose of H.R. 1691 is obviously to ''protect religious liberty.'' However, Congress has been granted no power to protect religious liberty. Rather, the first amendment is a limitation on congressional power. The first amendment of the United States Constitution provides that Congress shall make no law prohibiting the free exercise of religion, yet H.R. 1691 specifically prohibits the free exercise of religion because it authorizes a government to substantially burden a person's free exercise if the government demonstrates some nondescript, compelling interest to do so.

The U.S. Constitution vests all legislative powers in Congress and requires Congress to define government policy and select the means by which that policy is to be implemented. Congress, in allowing religious free exercise to be infringed using the least restrictive means whenever government pleads a compelling interest without defining either what constitutes least restrictive or compelling interest delegates, to the courts legislative powers to make these policy choices constitutionally reserved to the elected body.

Nowhere does H.R. 1691 purport to enforce the provisions of the fourteenth amendment as applied to the States. Rather, its design imposes a national uniform standard of religious liberty protected beyond that allowed under the United States Constitution, thereby intruding upon the powers of the State to establish their own policies governing protection of religious liberty as preserved under the tenth amendment. The interstate commerce clause was never intended to be used to set such standards for the entire Nation.

Admittedly, instances of State government infringement of religious exercise can be found in various forms and in various States, most of which, however, occur in government-operated schools, prisons and so-called government enterprises and as a consequence of Federal Government programs. Nevertheless, it is reasonable to believe that religious liberty will be somehow better protected by enacting national terms of infringement, a national infringement standard which is ill-defined by a Federal legislature and further defined by Federal courts, both of which are remote from those whose rights are likely to be infringed.

If one admires the Federal government's handling of the abortion question, one will have to wait with even greater anticipation to witness the Federal government's handiwork with respect to religious liberty.

To the extent governments continue to expand the breadth and depth of

their reach into those functions formally assumed by private entities, governments will continue to be caught in a hopeless paradox where intolerance of religious exercise in government facilities is argued to constitute establishment and, similarly, restrictions of religious exercise constitute infringement.

Mr. Speaker, our Nation does not need an unconstitutional Federal standard of religious freedom. We need instead for government, including the courts, to respect its existing constitutional limitations so we can have true religious liberty.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. EDWARDS).

□ 1115

Mr. EDWARDS. Mr. Speaker, I rise in support of this rule and this bill, the Religious Liberty Protection Act. The first 16 words of the Bill of Rights were carefully chosen by our Founding Fathers to protect the religious freedom of all Americans. The words are these: ''Congress shall pass no law respecting an establishment of religion or prohibiting the free exercise thereof.''

For over 200 years those words and the principles they represent have given Americans a land of unprecedented religious freedom and tolerance. The establishment clause was intended to prohibit government from forcing religion upon citizens. The free exercise clause was designed to keep government from limiting any citizen's rights to exercise his or her own religious faith.

In recent weeks, I have been greatly concerned about congressional efforts that I felt would undermine the establishment clause and consequently tear down the wall of separation between church and State. Our Nation's religious community has been seriously divided on these issues. However, the legislation today does not focus on the establishment clause. Rather, it focuses on the importance of the free exercise clause of the First Amendment.

I would suggest that the freedom to exercise one's religious beliefs is the foundation for all other freedoms we cherish as Americans. Without freedom of religion, the freedom of speech, press, and association lose much of their value.

It is a commitment to the free exercise of religion that has united over 70 religious and civil rights organizations in support of this bill. It is the free exercise of religion that has united religious groups in support of this legislation that have been badly divided on so many other religious measures recently before this House.

I will greatly respect Members of this House who cannot support this legislation today because I believe religious votes should be a matter of conscience, not of party. However, I am gratified to see so many diverse religious organizations coming together on this particular issue. Organizations from the Anti-Defamation League to the Christian Coalition, numerous organizations such as the American Jewish Committee, the American Congress, the Methodist church, the Southern Baptist Convention, groups that have very seldom come together in recent days, have come together in the support of the free exercise of individual American's religious rights.

Mr. Speaker, the point I make in listing some of these organizations in support of this is not to say any Member must or should support this bill because of these religious groups' endorsement. My point is that this legislation was put together on a broad-based nonpartisan basis. Its intent was to protect religion, not to deal in partisan issues. The common bond of these diverse religious groups on this issue measure is that they all believe that government should have to show a compelling reason to limit any citizen's religious rights. I agree with those groups.

More importantly, I believe the Founding Fathers intentionally began the First Amendment with the protection of religious rights because they recognized the fundamental role of religious freedom in our society.

Now, I have been interested to see that some local and State officials have argued recently that this legislation might inconvenience them. Let me say that I agree. In fact, if they will reread the Bill of Rights, the Bill of Rights was written precisely to inconvenience governments. The Bill of Rights was written to make it inconvenient to step on the religious rights of citizens in this country.

For that reason, I think this is a measure that should pass for the very precise reason that it does inconvenience local and State governments in their efforts as mentioned by the gentlewoman from North Carolina (Mrs. MYRICK) in her speech, their efforts to limit the rights of Americans in their religious exercise.

Others, Mr. Speaker, might argue in good faith that this bill will be used by some religious groups to defend discrimination based on sexual orientation. I can only say that it is neither my intent as a primary cosponsor of this bill nor the intent of the religious groups with whom I have met to design a bill for that purpose. Our intent is rather to build into the statutes a shield against government regulations that would limit religious freedom. Our intent, in the words of Rabbi David Sapperstein, is to clarify, quote, ''A universal, uniform standard of religious freedom.''

This legislation protects the right of government entities to limit religious actions if there is a compelling interest to do so. Court cases have clearly established, for example, that protecting against race and gender discrimination are compelling State interests, as are safety and health protections in the laws.

In the real world I recognize there are sometimes direct conflicts between one citizen's right and another citizen's right. That is why we have the judicial system, a system that can look at those issues on a case-by-case basis. I believe the judicial system, rather than the legislative system, is the best way to determine those specific cases.

Consequently, personally I believe it would be a mistake for Congress in this bill to try to define who does and who does not have protected religious rights or to exclude certain circumstances from free exercise protections under this bill. Whether intended or not, and I do not think it is intended, such an action could in some cases relegate religious rights to a secondary status, something I do not think our Founding Fathers intended when they chose the first words of the first amendment to protect religious liberty.

To my Democratic colleagues who will vote for the Nadler amendment, I respect your decision. No one in this House has been a stronger defender of religious liberty and civil rights in Congress than the gentleman from New York (Mr. NADLER), and I respect his genuine concerns about possible conflicts between religious rights and other rights.

However, if the gentleman's amendment fails, I would hope that Members who supported his amendment would vote for final passage of this bill. The need to protect religious freedom and to do it today is real. It is important. This bill can still be modified in the Senate, in the conference committee, and Members can make their final decision on passage at that time. But the principle of protecting religious freedom in my opinion is too important to delay.

Mr. Speaker, no bill is perfect. I do not suggest this bill meets that impossible standard. But I believe the Religious Liberty Protection Act deserves our support because it protects the fundamental principle that government must have compelling reason to limit the religious rights of individual citizens. I can find few reasons more compelling to support any legislation before this House.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I rise in support of this rule and of the legislation and certainly in support of the remarks just made by the gentleman from Texas (Mr. EDWARDS) that were so well said in this area.

This is clearly an area that needs protection. It is an area where local governments constantly in recent

years have fought in the face of what we consider to be First Amendment rights. A small church in Florida was ordered to stop its feeding ministry for feeding the homeless.

In Greenville, South Carolina, home Bible study was banned in communities that could still have at the exact same locations Tupperware parties. When local ordinances ban Bible study but allow Tupperware parties there is some significant violation of the First Amendment there.

A family in Michigan was tried under criminal statutes because they educated their children at home for religious reasons and did not have certification. In Philadelphia, Pennsylvania, Christian day care centers were threatened with closure if they did not change their hiring practices which barred them from hiring non-Christians, but these were Christian day care centers.

In Douglas County, Colorado, officials tried to limit the operational hours of churches. A local community college required a loyalty oath that made it impossible for Jehovah witnesses whose faith instructs against taking those oaths to go to work at that facility. Certain fire and police stations promulgate a blanket of no beards rules which interferes with, among other groups, Muslim firefighters.

Mr. Speaker, these infringements on religious liberty are significant. They are not pervasive yet, but they are certainly prevalent. This bill allows churches in places like Rolling Hills Estates, California, to build in an area that was zoned commercial where the churches are told they cannot build if they want to, but adult businesses and adult massage parlors can be built in this same area of that community.

The RLPA would allow an orthodox Jewish community to build their houses of worship within walking distance of their neighborhoods. It would allow prison ministries, which have had such a great impact all over the country, to continue to do efforts and prison programming that are currently threatened. This would also deal with the question of land-use regulation that so affects religious practice in communities today.

Mr. Speaker, I would like to enter into the RECORD, as I conclude my comments in support of this rule, I would like to enter into the RECORD a list that is even more inclusive than the list that was just referred to by the gentleman from Texas of religious groups that really cover a broad, broad spectrum of religious activity and association in this country who are in favor of H.R. 1691, and I am sure would also encourage the passage of this rule so we can get on to this important debate.

ORGANIZATIONS AND SUPPORTERS OF R.L.P.A.

Agudath Israel of America
The Alepha Institute
American Baptist Churches USA
American Center for Law and Justice
American Conference on Religious Movements
American Ethical Union, Washington Ethical Action Office
American Humanist Association
American Jewish Committee
American Jewish Congress
American Muslim Council
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church & State
Anit-Defamation League
Association of Christian Schools International
Association on American Indian Affairs
Baptist Joint Committee on Public Affairs
B'nai B'rith
Campus Crusade for Christ
Catholic League for Religious and Civil Rights
Central Conference of American Rabbis
Christian Church (Disciples of Christ)
Christian Coalition
Christian Legal Society
Christian Science Committee on Publication
Church of the Brethren
Church of Jesus Christ of Latter-day Saints
Church of Scientology International
Coalition for Christian Colleges and Universities
Council of Jewish Federations
Council on Religious Freedom
Council on Spiritual Practices
Criminal Justice Policy Foundation
Episcopal Church
Ethics & Religious Liberty Commission of the Southern Baptist Convention
Evangelical Lutheran Church in America
Family Research Council
Focus on the Family
Friends Committee on National Legislation
General Conference of Seven-day Adventists
Guru Gobind Singh Foundation
Hadassah, the Women's Zionist Organization of American, Inc.
Interfaith Religious Liberty Foundation
International Association of Jewish Lawyers and Jurists
International Institute for Religious Freedom
Japanese American Citizens League
Jerry Falwell's Liberty Alliance
Jewish Council for Public Affairs
The Jewish Policy Center
The Jewish Reconstructionist Federation
Justice Fellowship
Kay Coles James
Liberty Counsel
Mennonite Central Committee U.S.
Muslim Prison Foundation
Muslim Public Affairs Council
Mystic Temple of Light, Inc.
NA'AMATUSA
National Association for the Advancement of Colored People
National Association of Evangelicals
National Campaign for a Peace Tax Fund
National Committee for Public Education and Religious Liberty
National Council of Churches of Christ in the USA
National Council of Jewish Women
National Council on Islamic Affairs
National Jewish Coalition
National Jewish Commission on Law and Public Affairs
National Native American Prisoner's Rights Advocacy Coalition
National Sikh Center
Native American Church of North America
Native American Rights Fund
Native American Spirit Correction Project
Navajo Nation Corrections Project
North American Council For Muslim Women
Pacific Justice Institute
People For the American Way Action Fund
Peyote Way Church of God
Presbyterian Church (USA), Washington Office
Prison Fellowship Ministries
Rabbinical Council of America
Religious Liberty Foundation
Rutherford Institute
Sacred Sites Inter-faith Alliance
Soka-Gakkai International—USA
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America
Unitarian Universalist Association of Congregations
United Church of Christ, Office for Church in Society
United Methodist Church, Board of Church & Society
United States Catholic Conference
United Synagogue of Conservative Judaism
Women of Reform Judaism, Federation of Temple Sisterhood

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time.

Mr. Speaker, I rise in support of the rule on H.R. 1691 and also for the subsequent legislation. What this legislation attempts to do is put some common sense in the murky waters of the First Amendment regarding the separation of church and state. And we can say, well it ought to be crystal clear. But that water is murky, and it will remain murky.

Mr. Speaker, a couple of examples: we all remember the debate several years ago about nursing homes that receive Medicare not being able to have in their advertising in the Yellow Pages religious symbols if they have a religious, faith-based organization that supports the nursing home. If they want to use a cross in the Yellow Pages, that is a violation.

The prayer-in-school issue, and this does not really affect these directly, but I am trying to prove a point about the murky water. Should kids be allowed to pray in school, nondenomination school prayer? There have been lots of cases on this, but let us look at the case of Littleton, Colorado. If a teacher were huddled in the classroom while gun shots were outside the door and in a room safely with kids and that teacher said, ''Can we bow our heads and say a prayer,'' as the shots were fired outside the door, they are not allowed to do that.

Mr. Speaker, the point is there is murky water in the question of religion, prayer, and the role of the State. And what this does in a narrowly defined area, and that area which was really opened up by the Employment Division versus Smith decision in 1990, it simply tries to put some common sense into it by saying that the local

laws, the laws of the State cannot interfere with religious beliefs.

I think it is a very small step. It is a very carefully balanced bill. It is crafted. It is not, in terms of public prayer, a significant public religion-type bill at all. This again is just a very slight adjustment and it tries to put common sense in it.

Mr. Speaker, I urge my colleagues to support this. It is bipartisan and I hope that we can move it and get back to some of the other issues that are before Congress.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. CANADY), the subcommittee chairman.

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time. And I thank all the members of the Committee on Rules for their bipartisan support for the rule that is before the House now. I would particularly like to also thank the gentleman from Texas (Mr. EDWARDS) for his leading role in sponsoring this legislation.

Mr. Speaker, I want to respond very briefly to a point that the gentleman from Texas (Mr. PAUL), my good friend, raised concerning our government being a government of enumerated powers. I certainly agree with him on that point and this bill is by no means inconsistent with the principle that we are a government of enumerated powers.

Indeed, this bill is carefully drafted with that principle in mind and is carefully based on specific enumerated powers of the Congress which are set forth in the United States Constitution.

□ 1130

In using the enumerated powers that are in this bill, we are following well-established tradition with respect to the use of those same powers to protect civil rights other than the free exercise of religion.

We use the commerce clause in this bill to protect the free exercise of religion. That same power is used in the 1964 Civil Rights Act to protect against discrimination in employment and public accommodations.

We use the spending clause in this bill to protect against the infringement of religious freedom. That same power is used once again in the 1964 Civil Rights Act under title VI of that Act to prevent discrimination in programs at the State and local level, which receive Federal funds.

We also use section 5 of the 14th amendment, which was used previously in the civil rights context to protect voting rights. So we are following in a well-established tradition of protecting civil rights using enumerated powers of the Congress under our Constitution.

This bill is carefully crafted. I want to thank the Members of the Committee on Rules for bringing forward a rule which allows for the consideration of this bill, and I urge all Members to support the rule and to support the bill on final passage, without amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the committee.

Mr CONYERS. Mr. Speaker, I want to thank the distinguished gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of Committee on Rules, for granting me the time.

Religious freedom has been one of the cornerstones of American democracy, of course, since our founding. Like the Members of this body, I believe all of them, I am committed to preserving religious freedom.

So we have before us soon today, first of all, we have a rule which I am in support of, but the bill, well-intentioned as it is, may cause far more harm than good. Because, instead of limiting religious discrimination, it will allow for an increase in other forms of discrimination. Instead of enhancing constitutional protections, it may very well run afoul of the Constitution itself.

I would like to take a moment or two to explain this. A letter came to me from the American Civil Liberties Union that started out working with a coalition supporting this bill. It was multiracial, multireligious. But now the Religious Liberty Protection Act is being opposed by the Civil Liberties organization because it does not include explicit language ensuring that the language will not undermine the enforcement of civil rights laws.

The Congress should not break from its long-standing practice, they say, of refraining from undermining or preempting State civil rights laws that are more protective of civil rights sometimes than even Federal law.

So the opposition by the Civil Liberties organization is, unless this bill is corrected and amended to protect civil rights laws, and I think the substitute of the gentleman from New York (Mr. NADLER) would accomplish this, we would have a very serious problem.

The Civil Liberties Union goes on to say that,

> We are no longer a part of the coalition supporting the Religious Liberty Protection Act because we could not ignore the potentially severe consequences that it may have on State and local civil rights laws. And although we believe that courts should find civil rights laws compelling and uniform enforcement of these laws the least restrictive means, we know that at least several courts have already rejected that position.
>
> We have found that landlords across the country have been using State religious liberty claims to challenge the application of State and local civil rights laws protecting persons against marital status discrimination.
>
> Now, none of these claims involve owner-occupied housing. All of the landlords owned many investment properties that were outside of the State laws exemptions for small landlords. These landlords are companies. And they all sought to turn the shield of religious exercise protection into a sword against civil rights prospective tenants.

So, Mr. Speaker, we want to consider an alternative, an improvement, if possible, to this measure. Without this improvement, I think this is a serious regression in both religious liberty and in civil rights protections as well.

Remember, if you will, that a measure that will lead to an increase in discrimination, because whenever a party is sued for discrimination, this bill will allow in effect, the religious liberty defense, it will in effect allow a defendant to say, I have discriminated because my religion allowed me to do it. My religion made me do it.

This is a right no other citizen or government can assert. So the bill is so sweeping that this new defense will not only apply to religious institutions themselves but to companies and corporations as well.

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

Mrs. MYRICK. Mr. Speaker, I am very pleased to hear all of the speakers today say they are in support of the rule. This is a fair rule, and I urge all of my colleagues to do the same.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 245, I call up the bill (H.R. 1691) to protect religious liberty, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 245, the bill is considered read for amendment.

The text of H.R. 1691 is as follows:

H.R. 1691

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 ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may sue for injunctive or declaratory relief to enforce compliance with this Act.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''conduct that constitutes the exercise of religion under the first amendment to the Constitution; however, such conduct need not be compelled by, or central to, a system of religious belief; the use, building, or converting of real property for religious exercise shall itself be considered religious exercise of the person or entities that use or intend to use the property for religious exercise.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means conduct that constitutes the exercise of religion under the first amendment to the Constitution; however, such conduct need not be compelled by, or central to, a system of religious belief; the use, building, or converting of real property for religious exercise shall itself be considered religious exercise of the person or entities that use or intend to use the property for religious exercise;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of H.R. 1691, as amended, is as follows:

H.R. 1691

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 ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes; even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

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(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may sue for injunctive or declaratory relief to enforce compliance with this Act.

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(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

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(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold,

easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in the CONGRESSIONAL RECORD if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. CANADY) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

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

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

Mr. Speaker, H.R. 1691, the Religious Liberty Protection Act, is legislation designed to ensure that the free exercise of religion is not trampled on by the insensitive and heedless actions of government. It is supported by a broad coalition of more than 70 religious and civil rights groups, ranging from the Christian Coalition and Campus Crusade for Christ to the National Council of Churches and People for the American Way.

This legislation has been introduced and is now being considered by the House because the Supreme Court has taken, as Professor Douglas Laycock has aptly described it, ''the cramped view that one has a right to believe a religion, and a right not to be discriminated against because of one's religion, but no right to practice one's religion.''

The purpose of this bill is to use the constitutional authority of the Congress to help ensure that people do have a right, respected by government at all levels, to practice their religion. The supporters of the bill recognize that the free exercise of religion has been a hallmark of the American system of constitutional government and that Congress has a responsibility to protect the free exercise of religion to the maximum extent practicable.

In considering the need for this legislation, it is important to understand that, at least in some respects, protection for religious liberty in America does remain strong. The Supreme Court has recognized that governmental actions which target religion for adverse treatment run afoul of the protections afforded by the first amendment of our Constitution.

As Justice Kennedy, writing in 1993 for the Court in the City of Hialeah case, stated: ''Legislators may not devise mechanisms, overt or disguised, designed to persecute or oppress a religion or its practices.'' Protection against such religious persecution or oppression clearly is a core purpose of the first amendment proscription of laws prohibiting the free exercise of religion.

But we are here today because in another important respect the religious practice of Americans have been denied protection by the Supreme Court of the United States. Let it be clearly understood that we are not here to change the scope of the protections afforded by the free exercise provision of the first amendment. That is not the purpose of the Religious Liberty Protection Act.

Instead, the purpose of this legislation is to use the recognized powers of the Congress under the Constitution to fill a gap in the protections available to people of faith in America who, in fact, face substantial burdens imposed by government on their religious practices.

We do not seek to alter the protections the Supreme Court has determined to be required by the first amendment but to provide separate and additional protections.

Mr. Speaker, I will not now rehearse the detailed history of the judicial and legislative actions that have brought us to this day, but a brief word about that background is necessary to put today's debate in proper context.

In 1990, the Supreme Court in Employment Division v. Smith held that governmental actions under neutral laws of general applicability, which is laws that do not target religion for adverse treatment, are not ordinarily subject to challenge under the free exercise clause, even if they result in substantial burdens on religious practice.

Prior to the Smith decision, the Court had for many years recognized, as the Court said in 1972 in Wisconsin v. Yoder, that a ''regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for government neutrality if it unduly burdens the free exercise of religion.''

Yoder was a case that dealt with the adverse impact of a compulsory school attendance law on the religious practices of the Amish. It did not involve circumstances in which government had targeted religion for adverse treatment.

In Yoder, the Court explained that ''the essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to a free exercise of religion.''

The shorthand description of the standard applied in Yoder and similar cases is the compelling interest/least restrictive means test.

In response to widespread public concern regarding the impact of the Smith decision, the Congress in 1993 passed the Religious Freedom Restoration Act, frequently referred to as RFRA. This legislation sought to require application of the compelling interest/least restrictive means test to governmental actions that substantially burden religious exercise.

RFRA was based in part on the power of Congress under section 5 of the 14th amendment to enforce, by appropriate legislation, the provisions of the 14th amendment with respect to the States. The provisions of the first amendment are applied to the States by virtue of the 14th amendment.

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The Supreme Court in 1997 in the City of Boerne versus Flores case held that Congress had gone beyond its proper powers under Section 5 of the 14th Amendment in enacting RFRA.

The Religious Liberty Protection Act, which is before the House today, approaches the issue of protecting free exercise in a way that will not be subject to the same challenge that succeeded in the Boerne case.

The heart of the bill, which is now before the House, is in Section 2, where the general rule is established that government may not substantially burden a person's religious exercise even if the burden results from a rule of general applicability, unless the government demonstrates that application of the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. As I have noted, the same test was adopted by Congress in the Religious Freedom Restoration Act, and a similar compelling interest test was applied by the Supreme Court for many years until it was abandoned by the court in 1990.

As set forth in Section 2, this general rule is applicable in two distinct contexts. First, it applies where a person's religious exercise is burdened ''in a program or activity operated by the government that receives Federal financial assistance.'' This provision closely tracks title VI of the Civil Rights Act of 1964, which prohibits discrimination on the ground of race, color, or national origin under ''any program or activity receiving Federal financial assistance.''

Second, the general rule under Section 2 is applicable where the burden on a person's religious exercise affects interstate commerce, or where the removal of the burden would affect interstate commerce. As with the provision

on Federal financial assistance, this provision follows in the tradition of the civil rights laws. It uses the commerce power to protect the civil right of religious exercise as the Civil Rights Act of 1964 uses the commerce power to protect against discrimination in employment and public accommodations.

The provisions of the bill requiring application of the compelling interest/least restrictive means test are based on the conviction that government should accommodate the religious exercise of individuals and groups unless there are compelling reasons not to do so.

Application of this test will not mean that a religious claimant will necessarily win against the government. And that is a very important point to understand. Indeed, in a great many cases the government will be able to establish that it has acted on the basis of a compelling interest using the least restrictive means, and thus justify the burden it has imposed on the free exercise of religion.

Under the test provided for in the bill, however, the religious claimant will not automatically lose because the burden on the free exercise of religion is imposed by a neutral law of general applicability. The mere absence of an intention to persecute the religious claimant will not be sufficient to justify the governmental action.

Section 3 of the bill contains additional safeguards for religious exercise. The provisions in Section 3 are remedial measures designed to prevent the violation of the Free Exercise Clause of the Constitution as that provision of the Constitution has been interpreted by the Supreme Court. In this Section, Congress acts within the scope of the enforcement power under Section 5 of the 14th Amendment as interpreted by the Supreme Court.

Subsection (a) of Section 3 provides that once a claimant makes a prima facie case of a free exercise violation and shows a substantial burden, the burden of persuasion will shift to the government.

Subsection (b) establishes certain limitations on land-use regulations. These provisions are necessary to effectively remedy the pervasive pattern, a pattern well documented in the hearings of the Subcommittee on the Constitution of the Committee on the Judiciary, of discriminatory and abusive treatment suffered by religious individuals and organizations in the land-use context.

These limitations include a provision requiring application of the compelling interest/least restrictive means test ''when the government has the authority to make individualized assessments of the proposed uses to which real property will be put.'' This provision follows the principle articulated by the Supreme Court in the Smith case that ''where the State has in place a system of individualized determinations or individual exemptions, it may not refuse to extend that system to cases of 'religious hardship' without compelling reason.''

Under Subsection (b), land-use regulations must treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions and must not ''discriminate against any assembly or institution on the basis of religion or religious denomination.'' In addition, a zoning authority may not ''unreasonably limit'' or ''unreasonably exclude'' assemblies or institutions principally devoted to religious exercise.

I would like to make a comment about the impact of this bill on local land use. The impact of this bill on local land use, I believe, will be the same as the impact that was intended by the Religious Freedom Restoration Act. So there is no real difference between the purpose of this bill with respect to land use and the Religious Freedom Restoration Act, which the Congress passed with an overwhelming vote of support.

It is important to understand that we should not casually interfere with local land-use decisions, but I believe that where fundamental rights are at stake, the Federal Government does have an important role to play. And based on the record of abuse that we have seen in this particular context, I believe that the actions that we would take under this bill to protect the free exercise of religion in the local land-use context are very well justified.

I would point out that those particularly who are committed to using Federal power to protect property rights against infringement at the local land-use level should certainly be no less willing to use Federal power to protect against local actions which infringe on the free exercise of religion.

Finally, in summarizing the bill, let me point out that the bill amends the Religious Freedom Restoration Act of 1993 to conform with the holding of the Supreme Court in the Boerne case. This provision of the bill recognizes the legal reality that after Boerne the courts will apply RFRA solely to the Federal Government and not to the States.

Now, I have discussed the legal concepts involved in this legislation, but I should also mention some examples of the types of cases where the enforcement of neutral rules of general application may be challenged under the bill. We have heard some reference to such examples already, but let me cite to the Members of the House a catalogue of cases that Professor Michael McConnell has gathered. These are cases which were decided under RFRA before the Boerne decision.

While RFRA was on the books, successful claimants included a Washington, D.C. church whose practice of feeding a hot breakfast to homeless men and women reportedly violated zoning laws; a Jehovah's Witness who was denied employment for refusing to take a loyalty oath; the Catholic University of America, which was sued for gender discrimination by a canon-law professor denied tenure; a religious school resisting a requirement that it hire a teacher of a different religion; a Catholic prisoner who was refused permission to wear a crucifix; and a church that was required to disgorge tithes contributed by a congregant who later declared bankruptcy.

The same sorts of cases would be affected by this legislation.

Mr. Speaker, the goal of protecting the ability of Americans freely to practice their religion according to the dictates of conscience is deeply rooted in our experience as a people. James Madison wrote of his ''particular pleasure'' concerning support for ''the immunity of religion from civil jurisdiction in every case where it does not trespass on private rights or the public peace.''

As Professor McConnell has written: ''Accommodations of religion in the years up to the framing of the First Amendment were frequent and well-known. For the most part, the largely Protestant population of the States as of 1789 entertained few religious tenets in conflict with the civil law; but where there were conflicts, accommodations were a frequent solution.''

The best known example of accommodation from that period is the exemption from military conscription granted by the Continental Congress to members of the peace churches. In the midst of our great struggle for independence as a Nation, the Continental Congress passed a resolution to grant the exemption from conscription, observing that ''as there are some people, who, from religious principles, cannot bear arms in any case, this Congress intends no violence to their consciences.''

The purpose of avoiding governmental action that does violence to the consciences of individuals is based on the understanding that there are claims on the individual which are prior to the claims of government.

This understanding finds expression in Madison's Memorial and Remonstrance Against Religious Assessments. Madison there wrote: ''It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent in order of time and degree of obligation, to the claims of civil society. Every man who becomes a member of any particular Civil Society, must do it with a saving of his allegiance to the Universal Sovereign.''

In the Christian tradition, the principle of prior allegiance is eloquently summed up in the words recorded in the Book of Acts of Peter and the other

apostles who, when ordered to cease their preaching, responded by saying, ''We must obey God rather than men.''

A government based on the idea of liberty must not turn a deaf ear to such claims of conscience. The government of a people who love freedom must not heedlessly enforce requirements that do violence to the consciences of those who seek only to ''render to the Creator such homage'' as they believe to be acceptable to him. So long as they do ''not trespass on private rights or the public peace,'' Americans should be free to practice their religion without interference from the heavy hand of government.

That is the sole purpose of the Religious Liberty Protection Act. Let this House today show that we respect the rights of conscience and honor the principles of liberty, just as the Continental Congress did more than two centuries ago. I urge the Members of the House to support this bill, to reject the substitute amendment which would weaken the bill, and move forward with the goal of protecting religious liberty for all Americans.

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

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER), who has worked very diligently on this measure.

Mr. NADLER. Mr. Speaker, the bill we have before us today is a good and important bill, and I worked with the gentleman from Florida (Mr. CANADY) and others prior to its original introduction.

I want to associate myself with the remarks of the gentleman from Florida, and I agree with every word he said about the necessity for this bill and about its drafting. Unfortunately, this bill needs to be amended to ensure that while it acts as a shield to protect the fundamental religious rights of all Americans, as it is intended to do, it cannot also be used as a sword to do violence to the rights of others.

I will be offering an amendment in the nature of a substitute later today which will consist of the exact language of this bill but will also add a provision that would ensure that the appropriate balance between competing rights is struck.

With that change, I would hope that every Member of this House would support this important legislation. And I hope that if my amendment is adopted, my colleagues will do so. Without the amendment, unfortunately, the bill carries with it a fatal flaw threatening to undermine existing civil rights protections. And I would urge my colleagues in that case to vote against the bill in order to increase the odds that the bill will be properly amended either in this House or in the Senate.

This is a very difficult stand for me to take. As many of my colleagues know, I worked very hard for passage of the original Religious Freedom Restoration Act, or RFRA, in 1993. Since the Supreme Court decision declaring RFRA unconstitutional, I have worked hard to undo the damage the Supreme Court has repeatedly inflicted on our first freedom.

Corrective legislation of this sort has been, since the Supreme Court's infamous decision in Employment Division versus Smith 9 years ago, one of my top priorities. So I want my colleagues to know it is with great sorrow I contemplate the possibility that I might have to vote against the legislation which addresses a problem that is very dear to my heart.

Religious freedom is in peril because of the rulings set down by the court in Smith. Under that rule, facially neutral, generally applicable laws, having the incidental effect of burdening religion, are no longer deemed violations of the First Amendment.

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This is unacceptable.

The Committee on the Judiciary, in its hearings on this legislation, received more than ample evidence that religion has suffered under the court's new rule and that, by following the invitation of Justice Scalia for the political branches to deal with conflicts between law and faith, religious liberty has not fared very well at all.

This bill attempts to restore the protection of free exercise of religion which the Supreme Court has deprived us, but it does so at the cost of creating a real threat to the enforcement of State and local civil rights laws prohibiting discrimination on the basis of gender, marital status, disability, sexual orientation, having or not having children, or any other innate characteristic.

The bill as drafted would enable the CEO of a large corporation to say, ''my religion prohibits me from letting my corporation hire a divorced person or a disabled person or a mother who should be at home with her children and not at work or a gay or lesbian person. And my religion prohibits me from letting my hotel rent a room to any such people. And never mind the State's civil rights laws that prohibit that kind of discrimination.''

If this bill passes in its current form, many courts will say that the States do not have a compelling interest in enforcing their laws against these kinds of discrimination, and that discrimination will go on despite the laws because of this bill.

It is not right, Mr. Speaker, to abrogate the civil rights of many Americans in order to protect the religious liberty of other Americans; and it is not necessary to do so.

Thankfully, we do not face such a stark choice between religious liberty and civil rights. We can protect the religious liberty of all Americans without threatening the civil rights of any Americans. And that is what my amendment in the nature of a substitute will do.

So I will urge my colleagues to support the Nadler civil rights substitute, which I will describe later when I introduce it in greater detail, and, if it is adopted, to support what will then be an excellent and very important bill.

But if the amendment is not adopted, I will unhappily urge my colleagues to vote against the bill in its current form in order to increase the likelihood that the bill will be properly amended either in the House or in the Senate.

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

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

Mr. CONYERS. Mr. Speaker, I merely wanted to commend the gentleman on his statement. It is a very courageous statement, and it is also a very well thought out statement from a constitutional point of view. I thank him very much for his contribution.

Mr. NADLER. Mr. Speaker, reclaiming my time, I appreciate the comments of the distinguished ranking member of the committee.

Mr. Speaker, I will address this issue further when we get to the substitute.

At this time, let me simply reiterate, the bill, except for its effect on civil rights laws, its potential effect, is a necessary and important bill. I hope we can amend it to get rid of this one but, unfortunately, fatal flaw so that we can really protect the rights of the religious liberties of all Americans without threatening the civil rights of any Americans.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a member of the Committee on the Judiciary.

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

I want to first respond to the gentleman from New York (Mr. NADLER), who has done an outstanding job of raising concerns about this bill. But this bill has been heard in subcommittee and in full committee, and those concerns have been addressed by the constitutional scholars, and I believe that it is not going to be the problems that have been addressed and expressed by the gentleman from New York.

This bill has broad bipartisan support, and I think that that is important as we move through this process.

I want to congratulate the chairman of the Subcommittee on the Constitution, the gentleman from Florida (Mr. CANADY), who has done such an outstanding job in studying and providing leadership on this issue. He certainly has earned the justified expression in this Congress that he is a constitutional scholar.

If we look at the history as to how we got here today, Congress enacted the Religious Freedom Restoration Act in 1993 to enforce the constitutional guarantees of free exercise of religion.

The Act codified a balancing test that had been applied by the court in 1990. Under this test, the government could restrict a person's free exercise of religion only if it demonstrated this amount of action is necessary to further a compelling governmental interest and it is the least restrictive means of achieving that governmental interest.

Unfortunately, on June 25 of 1997, in the Burn decision, the Supreme Court struck down the law as it applied to the State but left open the opportunity for Congress to accomplish the same protections but in a different way.

For the last 2 years, the Committee on the Judiciary Subcommittee on the Constitution has been setting legislative record holding hearings, listening to constitutional scholars, and we learned clearly that the law is necessary to protect the religious freedoms promised by the Constitution.

The legislation before us today strikes a good balance between providing much-needed protection while not exceeding the limitations on Federal power set forth in the Constitution.

The development of this legislation is an example of how legislation should be developed in Congress. We pass legislation. The Supreme Court addresses it. We come back. We try to do it and answer the concerns of the Supreme Court. We hold the hearings. We listen to the constitutional scholars. It has been done in the right way under the Constitution, the right legislative process. And we have learned why it is necessary.

It is necessary to make sure that a small church is able to continue its ministry to the homeless. It is necessary to make sure that home churches may continue to meet. It is necessary to make sure that prisoners are able to participate in Holy Communion. It is necessary to make sure that people of faith are not discriminated against in government employment. It is necessary to make sure that localities do not limit the number of students who may attend a religious school. It is necessary to make sure that Jewish boys are not prohibited from wearing yarmulkes at school. And it is necessary to make sure that communications between clergy and church members are protected.

My constituents feel strongly about this legislation, and I am pleased to be able to represent them today in support of the Religious Liberty Protection Act. I urge my colleagues to support this bill, as well.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we are confronted with a very unusual situation here that, unless we put the legislation that we handled in 1993, which was passed by a voice vote, and of course many Members now present were not in the Congress nor on the Committee on the Judiciary at that time, into perspective, we may miss what is attempted to be done here.

The court rendered part of that law invalid. They rendered the part that deals with State and local civil rights laws invalid, that it did not apply to them.

What this measure is doing is coming back and getting the other part of it. And so, this is part of a one-two punch in which we are now doing something incredible if we look at it in the broader context.

We have already put restrictions on Federal civil rights laws as a result of the 1993 case, and now we are coming back to get the part that escaped the court's criticism. That is why the leading civil rights litigation organization in the United States, the NAACP Legal Defense and Educational Fund, has, as of yesterday, sent me a strong letter explaining why they cannot support this measure.

In addition, the American Civil Liberties Union, probably the second-most active litigating organization, has also indicated their strong reservations about this measure in its present form.

I would just give my colleagues a part of the reasoning of Director Counsel General Elaine Jones of LDF's letter to me that indicates why they urged Members not to succumb to this bill, as enticing as it may be, without some correction.

Defendants in discrimination cases brought under State or local fair housing, employment laws may seek to avoid liability by claiming protection under the Religious Liberty Protection Act. This would require individuals proceeding under such State and local antidiscrimination laws to prove that the law they wish to utilize is a least restrictive means of furthering a compelling governmental interest. This requirement would significantly increase the litigation time and expense of pursuing even ordinary antidiscrimination actions and as a result could even preclude some plaintiffs from pursuing their claims.

And so, we are now being asked to submit to part two of the original law that limits the Federal civil rights jurisdiction and now we have come back in this rather clever and innocent-sounding defense of religious liberties to now put the hindrance, the binders, on local and State civil rights laws.

Although I am committed to preserving religious freedom in this nation, I cannot support the Religious Liberty Protection Act as it is presently drafted.

My principal concern is that the legislation creates a brand new right for so-called "religious practitioners" and no other group or government enjoys—the right to discriminate. The right is so sweeping it will apply not only to religious institutions, but to large corporations.

I know that the bill's supporters say we should not worry about race and gender discrimination, because those interests have previously been found by the courts to be protected under the so-called "compelling interest test set forth in the bill. Forgive me for being a little bit skeptical of this claim, particularly given the current conservative makeup of so many courts.

Even if the supporters' predictions prove true, civil rights plaintiffs will be subject to vastly enhanced litigation costs. We have enough barriers to civil rights suits without adding these new obstacles. This is why the NAACP Legal Defense and Education Fund is so strongly opposed to the bill.

But it is beyond race and gender that the most significant civil rights concerns exist. This is because anti-discrimination laws based on sexual orientation, marital status, and disability have not been found by the courts to be based on a "compelling" government interest.

This means that under the bill, businesses will be free to discriminate against gay and lesbian employees, and large landlords will be able to justify their refusal to rent to single parents or gays and lesbians. In my view, we have fought too hard in the civil rights arena over the years to give back these gains.

I am also concerned that the bill raises serious constitutional problems. Among the many problems are the bill's tenuous relationship to Congress' interstate commerce and spending power authority, and its micro management of the federal judiciary and the state and local authorities. Given the recent trend of Supreme Court decisions on commerce, federalism and separation of powers, it is difficult to see this bill passing constitutional muster. Unfortunately, when the bill was struck down, it will serve as yet another precedent blocking Congress' path to protecting other civil rights which have a far stronger tie to our commerce and spending powers. In other words, we are sending the Court the weakest possible bill from a constitutional perspective and are inviting an adverse precedent.

I seriously question whether another federal law which is so antagonistic towards civil rights holds the key to protecting religious liberty in this country. This country has more religion and a greater variety of religious expression than any nation on earth. We have done so by maintaining the delicate balance between the First Amendment's religious liberty clause and its establishment clause, as interpreted by an independent judiciary.

It is doubtful the "Religious Liberty Protection Act" can improve on the scheme for protecting religious liberty designed by our founding fathers. I urge a "no" vote.

NAACP LEGAL DEFENSE,
AND EDUCATION FUND, INC,
Washington, DC, July 14, 1999.

Congressman JOHN CONYERS, Jr.,
Rayburn Office Building,
Washington, DC.

DEAR CONGRESSMAN CONYERS: The NAACP Legal Defense and Educational Fund, Inc. ("LDF"), urges you to oppose final passage of H.R. 1691, The Religious Liberty Protection Act of 1999 ("RLPA"). LDF litigates civil rights cases throughout the country on

behalf of African Americans and other minorities in an effort to preserve equity, fairness and justice in educaiton, employment, housing, health care, environment, criminal justice, and voting rights. RLPA poses a potential threat to this type of litigation as RLPA may be used in a manner to limit African Americans and other minorities' rights to seek protection from discrimination under state and local antidiscrimination laws.

Defendants in discrimination cases brought under state or local fair housing, employment, etc., laws may seek to avoid liability by claiming protection udner RLPA. This would require individuals and groups proceeding under such state and local antidiscrimination laws to prove that the law they wish to utilize is a least restrictive means of furthering a compelling governmental interest. This requirement would significantly increase the litigation time and expense of pursuing even workday antidiscrimination actions and as a result could hinder or preclude some plaintiffs from pursuing their claims.

Even if the courts ultimately rule, as they should, that the various state and local antidiscrimination statutes are least restrictive means to further compelling governmental interests, the uncertainty of whether statutes will withstand a RLPA defense may dissuade plaintiffs from seeking redress under antidiscrimination statutes. Of course, if any court were to determine that a particular antidiscrimination statute were not a least restrictive means of furthering a compelling governmental interest, a successful RLPA defense would completely bar a plaintiff from proceeding under that statute. In either event, RLPA will create an additional burden for plaintiffs attempting to vindicate their civil rights.

For these reasons, LDF asks that you oppose RLPA, which may be used as a mechanism to limit African Americans and other minorities from proceeding under the state and local laws that prohibit discrimination in a wide range of areas.

Sincerely,

ELAINE R. JONES,
Director-Counsel.
REED COLFAX,
Assistant Counsel.

EXAMPLES OF UNINTENDED AND ADVERSE CONSEQUENCES FROM ENACTMENT OF H.R. 1691, THE ''RELIGIOUS LIBERTY PROTECTION ACT''

1. *Knives in schools.* Pursuant to its policy prohibiting the possession of knives on school property, the school district forbade Sikh elementary school children to wear kirpans—seven-inch, ceremonial knives that are required by their religion. Relying on the ''Religious Freedom Restoration Act,'' the Sikhs filed suit and moved for a preliminary injunction barring the district from applying its no-knives policy to ban the possession of kirpans at school. The court required the school district to permit the children to wear the knives if the knives were basted in their scabbards. See Cheema v. Thompson, 36F.3d 1102 (9th Cir. 1994).

2. *Sexual abuse.* In Arizona, a Warlock recently defended his alleged sexual abuse of a 13-year-old girl as part of the Wiccan religion. The open question is what is the least restrictive means of dealing with religious conduct that results in sexual abuse or statutory rape. Although the state may have a compelling interest in preventing sexual abuse or statutory rape, conviction and incarceration may not be the least restrictive means of dealing with such individuals.

3. *Refusal to pay child support.* A member of the Northeast Kingdom Community Church—which requires members to eschew all their personal possessions and work for the benefit of the Community and forbids members to support estranged spouses or children who live outside the community—was found in contempt of court for failure to comply with an order to pay child support. He alleged that both the finding of contempt and the underlying support order violated his religious rights. The court vacated the judgment of contempt and remanded the case for a hearing as to the least restrictive means to enforce the defendant's support obligation. See Hunt v. Hunt, 162 Vt. 423 (1994).

4. *Faith healing resulting in the death of a child.* The son of a believer in the Christian Science Religion died at age 11 from juvenile-onset diabetes following three days of Christian Science care. A medical professional could have easily diagnosed the child's diabetes from the various symptoms he displayed in the weeks and days leading up to his death (particularly breath with a fruity aroma). Although juvenile-onset diabetes is usually responsive to insulin, even up to within two hours of death, the Christian Science individuals who cared for the child during his last days failed to seek medical care for him—pursuant to a central tenet of the Christian Science religion. The mother argued that a wrongful death suit brought by the child's father was not the least restrictive means of serving the state's interest in the health of the child. Rather, the state could have required the mother to report the child's illness to the authorities when death seemed imminent. The court held that the constitutional right to the free exercise of religion does not extend to conduct that threatens a child's life. See Lundman v. McKown, 530 N.W.2d 807 (Minn. App. 1995).

5. *Refusal to cooperate with discovery request.* A wrongful death suit alleged that the Church of Scientology is responsible for the death of an individual who died of a blood clot in her left lung after spending 17 days in the care of church staffers. The church is attempting to block discovery by contending that releasing the decedent's files would violate the church's ''sacred religious belief'' that the files remain confidential and that they be retained by the church for use in a parishioner's future lives. The court ruled that the decedent's estate had the right to see her files. Upon the passage of the Florida religious freedom restoration act, the court is now reconsidering its previous ruling. See Thomas C. Tobin, Scientologists Fight to Keep Files Secret, St. Petersburg Times, Aug. 6, 1998, at 4B.

6. *Conjugal visits in prison.* A Roman Catholic argued that a prison regulation prohibiting condemned inmates from receiving conjugal visits violates his first amendment right to free exercise of religion. The court rejected this argument because the prisoner failed to show that the prison regulation prohibiting conjugal visits for condemned inmates is not rationally related to a valid penological interest. See Noguera v. Rowland, 940 F.2d 1535 (9th Cir. 1991). Under RFRA and RLRA, the prison would have to show that its policy regulating conjugal visits was the least restrictive means of achieving compelling penological interests.

7. *Jewelry in prison.* Wisconsin severely restricted the wearing of jewelry by jail and prison inmates. The prison regulation forbade the possession of ''items which because of shape or configuration are apt to cause a laceration if applied to the skin with force,'' and the state refuses to make an exception for religious jewelry, such as crucifixes, which (unless made of cloth) fall within the ban. Inmates brought a suit against the relevant officials to enjoin, as a violation of RFRA, the defendant's refusal to make such an exception. The court held that, because prison security is a compelling state interest, if particular types of religious jewelry (or religious jewelry of any type in the hands of prisoners reasonably believed prone to use it for purposes of weaponry, barter, or gang insignia), pose a genuine threat to prison security, the state can ban them. Second-guessing the prison authorities, the court ruled that the jewelry in that case could not be banned. See Sasnett v. Sullivan, 91 F.3d 1018 (7th Cir. 1996).

8. *Class action against prison's grooming policy.* Inmates confined by the State of South Carolina, including Muslims, Rastafarians, and Native Americans, filed a class action challenging a South Carolina grooming policy that required all male inmates to keep their hair short and their faces shaven. The inmates claimed that the Grooming Policy forced them to compromise their religious beliefs and practices, and therefore violated their rights guaranteed by the Free Exercise Clause of the First Amendment. Following invalidation of RFRA, the court held that the Grooming Policy is an eminently rational means of achieving the compelling governmental and prenological interests of maintaining order, discipline, and safety in prison and did not violate the inmates' free exercise rights. See Hines v. Taylor, 1998 U.S. App. LEXIS 13362 (4th Cir. 1998).

9. *Landmaking.* St. Bartholomew's Church owned a Community House in which the church conducted many of its religious and community outreach activities. New York's Landmarks Preservation Commission denied the Church's requested to level the historic Community House and replace it with an office tower, which would both house the Church's religious activities and significantly enhance the Church's revenues through commercial rents. The Second Circuit found that whether the Church's religious activity was ''substantially burdened'' by New York's action turned on whether the Church ''had been denied the ability to practice [its] religion or coerced in the nature of those practices.'' the court found that New York's action did not punish any religious activity. See St. Bartholomew's Church v. City of New York, 914 F.2d 348 (2d Cir. 1990). Interestingly many of the cases file under RFRA turned on whether there was a ''substantial burden'' and determined that there was no such burden. In other words, RFRA (and RLPA) open the doors to the courthouse in many cases where the religion cannot meet the threshold inquiry.

10. *Polygamy and abuse.* A battered and bruised teenager fled from an isolated ranch that is used by a Utah polygamist sect as a reeducation camp for recalcitrant women and children. The husband of the girl was charged with incest and unlawful sexual conduct stemming from the sexual relations he allegedly had with her, his fifteenth wife. See Tom Kenwoorthy, Spotlight on Utah Polygamy; Teenager's Escape from Sect Revives Scrutiny of Practice. *The Washington Post,* Aug. 9, 1998, at A3. RLPA would offer the father a defense against statutory rape and polygamy.

11. *Refusal to provide social security numbers to DMV.* California residents contended that social security numbers are the ''mark of the beast'' in the biblical Book of Revelation and refused to give the DMV their numbers for applications of their driver's licensees. The court held that, because sincere religious

convictions were involved, the DMV must use an alternate identification for those individuals. See John Dart, Judge Upholds Objections to Identifications, *L.A. Times*. October 25, 1997, at B1. In 1986, the Supreme Court rejected a similar request in Bowen v. Roy, 476 U.S. 693 (1986). RLPA would require a result much more in line with the California ruling than the Supreme Court's ruling.

12. *Historic preservation*. A Roman Church holds one service per week asked permission to demolish the entirety of the church,. which is located in the historic preservation district, for the purpose of expanding. When the City Council refused permission to demolish the church in its entirety, the church filed suit under the Religious Freedom Restoration Act, claiming that the city's historic preservation law could not be applied to a church. The Supreme Court held that RFRA is unconstitutional. Boerne v. Flores, 117 Ct. 2157 (1997). RLPA invites churches and religious individuals to thwart and ignore all land use laws, including historic and cultural preservation laws.

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

The SPEAKER pro tempore (Mr. BARRETT of Nebraska).

The Chair advises that the gentleman from Florida (Mr. CANADY) has 10 minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 20 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, I believe that the present Smith standard gravely threatens as a practical matter the mission of churches at their most fundamental level, whether it is with regard to proselytizing or to the erection of houses of worship within communities.

I commend the gentleman from Florida (Mr. CANADY) for drafting this bill, which has not been easy to do. I think he has crafted a piece of legislation which we should all support.

The Religious Liberty Protection Act addresses the serious situation caused by that ''Employment Division v. Smith'' decision by restoring the general rule that State or local officials may not burden a religious exercise without demonstrating a compelling governmental interest.

The legislation before us protects religious institutions by giving them their day in court if they can show that their religious freedom has suffered at the hands of a State or local government.

There is a long list of cases in which the religion freedom of Americans has been, in my opinion, unconstitutionally abridged since the 1990 Smith decision. Many of these infringements touch core religious teachings and beliefs.

Let me just briefly cite three examples. As a result of these so-called neutral laws of general applicability, a Catholic hospital has been denied State accreditation based on its refusal to instruct its residents on the performance of abortion in accordance with their strong religious objections.

In New York, a religious mission for the homeless operated by the late Mother Teresa's order has been shut down because it was located on the second floor of a building without an elevator, thus violating a local building code.

In Missouri, for example, a city there passed an ordinance prohibiting all door-to-door contacting and religious proselytizing on certain days of the week and indeed severely limiting the hours of such contact on the remaining days.

These are just a few of the numerous examples of how religious freedom has been and continues to be infringed across the country.

Mr. Speaker, religious liberty is a fundamental right of all Americans and must not be trampled on by insensitive bureaucracy or bad policy. Having only to show a rational basis for such policy is no protection at all.

These incidents are increasing, and that is why we need to adopt the measure before us today, which will stay the hand of government from heedlessly enacting laws that substantially burden the free exercise of religion.

I urge my colleagues, Mr. Speaker, to join me in supporting this much-needed legislation.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. WATT). I believe he is the ranking member on the subcommittee.

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I want to start by complimenting all the parties to this debate and on both sides.

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We have been at this for a good while in the subcommittee, in the full committee and now on the floor. While I rise in opposition to this bill, I would note that many of my colleagues of all political persuasions and many of my friends of all political persuasions are supporting this bill which should give Members and the public some indication of how difficult an issue this is. My opposition to the bill is based on several different factors.

First of all, I believe this bill is of uncertain constitutionality. The earlier religious protection law that the Supreme Court struck down as having constitutional problems is addressed in this bill by tying this particular bill to the commerce clause. In effect, it gives us the jurisdiction to do what we are doing under this bill by virtue of a connection to the commerce clause. The problem with that is that it seems to me that that benefits larger, more established religions who tend to operate in interstate commerce at the expense of more localized private religious groups who tend to not operate in interstate commerce. The irony of this is that many of the people who are advocating that the commerce clause should cover this kind of activity and action are the very same people that are saying that the Federal Government should stay out of a number of different things and that the commerce clause does not cover these things and give the Federal courts and the Federal Government jurisdiction over these matters. I think on the commerce clause issue, while it is an ingenious way to bootstrap our way into hoping that the Supreme Court will not strike this down, I think it has its limitations and problems.

Second, this bill is of uncertain interaction with other civil rights bills and civil rights laws. I am sure that people are going to be advocating on both sides of this, either that it overrules civil rights laws or that it does not overrule civil rights laws. The truth of the matter is that we do not know. But I am personally and on behalf of my constituents not prepared to take a gamble with this. I do not think we can simply pass a law that could be interpreted to place religion over race or religion over other civil rights and give religion a more important place in our jurisprudence than we give to other civil rights laws. I simply do not believe we can do that. I think the gentleman from New York's amendment would address that, but I have not seen any inclination yet on the part of the supporters of this bill to be supportive of the gentleman from New York's amendment. I want to come back to that briefly at the end of my discussions.

The third reason that I have concerns about this bill is that it will give the Federal Government substantially more control and involvement in local zoning and land use decisions. This is something that we have historically reserved to local and State governments. Yet many of the very people who have said that this is something that is sacrosanct, that should be decided at the local levels, the advocates of States rights, so to speak, are some of the people who are advocating that we now put a national standard in this bill having to do with land use decisions. I think that is a problem.

Finally, I want to address the people who continue to say, especially like my good friend the gentleman from Texas (Mr. EDWARDS) who says, ''We're going to fix the concerns that we have about this bill, about civil rights and other civil rights issues, in conference,'' that this consideration of this bill has been going on for a long, long time. There has been no inclination to address that problem. That is why the gentleman from New York, who was one of the original cosponsors of this bill, is now on the floor of the United States House offering an amendment to address the problem. That problem needs to be addressed now. Otherwise, this bill should not warrant our support.

I encourage my colleagues to oppose this bill in its current form.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute. I want to underscore a point made by the gentleman from North Carolina with reference to the commerce clause, because that has not been brought up and discussed in the fullness that he has done it. The bill is using now the commerce clause to seek to have a cover of constitutionality to protect religious liberty.

In order to invoke that clause, it seems to me that we will now have to equate religion with interstate commercial activity, something I am not prepared to do this afternoon. And if we equate religion with interstate commerce, does it not open the door to further regulation of religion through the commerce power? And there I think these problems that the gentleman from North Carolina does not want to take a chance on finding out what a conservative court is going to do kicks in here and it makes this reference between a bill that was held partially unconstitutional and an attempt to remedy the other half of it through this measure that is before us now.

Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the ranking member for yielding me this time.

There are a number of concerns that are raised by this bill. I want to focus on what is central to me, and I am hoping that the House will take some direction here from Governor Bush of Texas. He appears to be growing in popularity on the other side, and I am sorry they are rejecting his wisdom in this one case.

When a bill like this was presented in Texas, an amendment was offered which exempted all legislation aimed at protecting the civil rights of individuals. What the law in Texas says is, yes, we will protect people's rights to exercise their religion, but where we have as a legislature and a governor decided that certain rights of individuals and groups are important and that certain classes of people should be protected against discrimination, we will not allow you to use religion as a license for this discrimination.

Now, that was signed into law by Governor George Bush, and I thought it made a lot of sense. We are not trying to go as far as Governor Bush. The gentleman from New York has a very thoughtful amendment which allows people to invoke religion as a means of ignoring civil rights laws. It allows, in fact, people to use their religion as a license to discriminate in a number of cases that would not be allowed in Texas. I think that is a very reasonable accommodation the gentleman has offered. He has said you do not give it to corporations, et cetera. If the amendment offered by the gentleman from New York does not pass, what we will have is a law which will say, ''All you need do is invoke your religion and you can defeat many civil rights laws.''

Now, interestingly it says, ''Unless the courts find that that particular civil rights law protects a fundamental right.'' I am interested that people who describe themselves as conservative opponents of judicial activism want to so empower the judiciary, because what this bill will do absent the amendment by the gentleman from New York, is to say to the court, ''You now have the power to decide.'' There are civil rights laws at the State level. Various States have passed laws protecting different groups of people, based on religion, based on marital status, based on whether or not you have children, based on sexual orientation. We the Congress will say to you the Federal courts, ''Pick and choose among those. You decide which of those will have to give way to this Federal statute and which do not,'' rather than have the Federal Government decide, or emulate Texas and say, ''In general the religious right will win unless it is an anti-discrimination law.''

And remember, under our constitutional system, we do not want to subject individuals to some kind of inquisition when they invoke religion. So people who wish to invoke religion, people who want to go to Federal court and say, ''Hey Federal judge, let me ignore this law that this State passed,'' under this law the Federal courts will be empowered to let people pick and choose and they simply will have to say, ''My religion doesn't allow it.'' We certainly do not want a situation where that religion is subjected to some kind of examination.

So what you will do is to tell the States that no matter what they may have decided through their own local democratic processes about protecting groups, we the Congress will empower Federal courts to pick and choose among them and say ''no'' to some and ''yes'' to others. I do not think that is appropriate.

While the amendment from the gentleman from New York, because he has been very accommodating in this, does not completely rule that possibility out, it substantially diminishes it and it is the one thing that will save this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me thank the ranking member and chairman of this committee. Let me also acknowledge the leadership and work of the gentleman from New York (Mr. NADLER) of some 10 or 12 years on this issue. I think that our presence here today should hopefully connote to those who may be listening, this is an enormously important debate, and as I was reminded when we debated the flag amendment, let us not have it break down in partisan discourse but recognize that there is probably no more important right amongst others, if you will, than the free exercise of religion. And the first amendment gives us that.

And so this legislation, Mr. Speaker, is in fact needed to provide protections that have been dangerously eroded by the Supreme Court in its 1990 Employment Division v. Smith decision. We have heard the Smith decision being mentioned quite frequently because it has been the one that has upset the apple cart in terms of recognizing the importance of individuals having the personal and private right of exercising their religion. Congress attempted to remedy this by enacting on a bipartisan basis the Religious Freedom Restoration Act which the court struck down in part in its 1997 City of Boerne v. Flores decision.

H.R. 1691, the Religious Liberty Protection Act, seeks to restore the application of strict scrutiny in those cases in which facially neutral, generally applicable laws have the incidental effect of substantially burdening the free exercise of religion. I believe that the government should not have the ability to substantially burden a right that is enshrined in constitutional premise unless it is able to demonstrate that it has used the least restrictive means of achieving a compelling State interest, such as Thomas v. Review Board.

I believe that this legislation is necessary because in the wake of the aformentioned Supreme Court decisions, religious groups in general and religious minorities in particular are no longer guaranteed the religious liberty protections of the Constitution and are more vulnerable to the danger of governmental restrictions on religious freedom.

□ 1230

There are numerous examples that we can find, for example, where it was partially struck down, of churches being ejected from certain neighborhoods, church soup kitchens and welfare programs being closed and prisoners having been denied basic rights to worship.

But, Mr. Speaker, I started out by saying this is an enormously important constitutional right. Why can we not have the compromise and collaboration and respect for the various interests that are here today not denying the right to the free exercise of religion but at the same time acknowledging that we do not want to deny the civil rights of those who are under-represented who may be most challenged, and I say this in the backdrop of the wonderfully positive legislative initiative of the State of Texas, my State, a legislative initiative proposed and fostered by State Representative Scott Hochberg of Texas and signed into law by Governor George Bush. That legislative initiative recognized generally the

importance, the high importance, of the free exercise of religion, but at the same time it provided, if my colleagues will, the particular provision that recognized the civil rights of individuals, that they should not be pounced upon and they should not be denied because of the constitutional right of the free exercise of religion.

My question to my colleagues:

Can we do less in the United States Congress? Can we in fostering a bill that is to enhance rights not ensure that we protect the rights of others who simply want to ensure that they in a more vulnerable position not be denied civil rights?

I would hope that my colleagues will support the Nadler amendment from an individual who has made it very clear that he is one of the strongest proponents of the free exercise of religion, does not come to this floor in any way to attempt to undermine this legislative initiative but in keeping with the spirit of those in Texas and who I represent. My fear is that passing of this legislation without respecting the civil rights has some concerns that we should acknowledge. I hope my colleagues will see in their wisdom the importance of joining with the leadership of the Governor of the State of Texas, George Bush, on this issue and to provide for the civil rights of others as we move toward the complete free exercise of religion.

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

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 1691, the Religious Liberties Protection Act of 1999. This legislation was introduced by my friend, the gentleman from Florida (Mr. CANADY), and it is an important step in preserving the freedom that the Constitution affords religions in America.

A little over 10 years ago, 200 of our Nation's leaders from all sectors signed the Williamsburg Charter. It affirmed that, ''Religious liberty in a democracy is a right that may not be submitted to vote and depends on the outcome of no election. A society is only as just and as free as it is respectful of this right, especially toward the beliefs of the smallest minorities and the least popular religious communities.''

The provisions included in the Williamsburg Charter reflect our national commitment to respect and accommodate the philosophies, practices and needs of the many diverse religions in this Nation, even when doing so is inconvenient or annoying.

But the realization of these principles is not always simple. The growth of government on every level, combined with government's inherent tendency to over-regulate, requires occasional legislative clarification. Given the complexities, there is no practical way to measure whether anti-religious motivation plays a factor in such matters as cities' planning and zoning decisions.

In Senate hearings on this subject there was testimony that, ''Since the Smith decision, governments throughout the U.S. have run roughshod over religious conviction. In time, every religion in America will suffer. Must a Catholic church get permission from a landmarks commission before it can relocate its altar? Can Orthodox Jewish basketball players be excluded from inter-scholastic competition because their religious beliefs require them to wear yarmulkes? Are certain evangelical denominations going to be forced to ordain female ministers?''

I believe that a balance can be struck, but we do not have that balance today.

It is somewhat ironic that under current first amendment principles a city can totally zone out a church that desires to construct an edifice for its members and the surrounding community, but it cannot zone out of its community a sexually oriented adult bookstore.

Religious freedom should never depend upon the amount of religious sensitivity in a particular community or on the willingness of local governments to craft appropriate exemptions for religious practices. I urge my colleagues to support the Religious Liberties Protection Act with a yes vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I reluctantly rise in opposition to this bill drafted by my good friend and colleague and classmate, the gentleman from Florida (Mr. CANADY).

The first amendment is quite clear. It says, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. And yet, if we look at the words of the proposed statute, it says, a government may substantially burden a person's religious exercise if the government demonstrates that application of the burden of the person is in furtherance of a compelling interest or is the least restrictive means of doing so.

So, the first thing we have here is Congress making a statement that is in direct contradiction to the firm mandatory words of the United States Constitution. That bothers me for several reasons. One of those is that the attempt to protect religious liberties under the Religious Liberty Protection Act hinges on the spending clause of the Constitution and also upon the commerce clause of the Constitution, and we thus ask ourselves this question:

If a religious liberty case comes up that is not hinged to the commerce clause or the spending clause, what protection do the people have? Is it pregnant with omissions, that the courts may end up saying the liberties set forth in the statutes simply do not apply to the people?

The third problem I have with it is the fact that Justice Thomas back in 1994 after the Smith decision wrote a dissent in a case coming out of Alaska where the Supreme Court denied certiorari.

What bothers me about the Alaska case or the Alaskan statute, which is the equivalent of the statute we are trying to pass today, is that the asserted government interests, the asserted government compelling interests, are effusive. In other words, Justice Thomas wrote,

> The decision of the Alaskan Supreme Court drains the word ''compelling'' of any meaning and seriously undermines the protection of the exercise of religion that Congress so emphatically mandated in RFRA.

In other words, the very liberties we are trying to ensure we can end up taking away.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I would like to address several questions: First, the question of is this bill constitutional. Obviously, legal scholars on this floor and elsewhere throughout the country may disagree, but for the RECORD I would like to read and then insert the full letter, a letter of July 14 to the Speaker of the House, the Honorable J. DENNIS HASTERT from Jon P. Jennings, Acting Assistant Attorney General. He says that, quote,

> The Department of Justice has concluded that the Religious Liberty Protection Act, as currently drafted, is constitutional under governing Supreme Court precedence.

The letter in its entirety is as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 14, 1999.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing with respect to H.R. 1691, the Religious Liberty Protection Act of 1999 (''RLPA''), as reported by the House of Representatives Committee on the Judiciary. We understand that RLPA may be considered shortly by the House of Representatives. We also understand that some Members may be concerned about the constitutionality of the legislation. This letter is addressed solely to the question of RLPA's constitutionality. We understand that the Administration is planning to convey further views on the legislation, apart from the constitutional questions.

Over the past two years, the Department of Justice has worked diligently with supporters of RLPA to amend prior versions of the bill so as to address serious constitutional concerns. Moreover, we have reviewed carefully the testimony of several legal scholars who have questioned the constitutionality of the bill. We agree that RLPA

raises important and difficult constitutional questions—particularly with respect to recent and evolving federalism doctrines—and that there may be ways to amend the bill further to make it even less susceptible to constitutional challenge. Nevertheless, the Department of Justice has concluded that RLPA as currently drafted is constitutional under governing Supreme Court precedents.

Thank you for the opportunity to present our views. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,

JON P. JENNINGS,
Acting Assistant Attorney General.

The second question I would like to address, Mr. Speaker, is: Who are some of the people that support this bill, recognizing that good people of good-faith will be on both sides of this issue. Let me first read in a statement from the administration dated July 14, as well.

''The administration strongly supports H.R. 1691, the Religious Liberty Protection Act, which would protect the religious liberty of all Americans. RLPA would, in many cases, forbid State and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest.''

For the RECORD let me mention some other religious groups, diverse religious groups, supporting this legislation:

The American Jewish Committee,
The American Jewish Congress,
The Anti Defamation League,
The Association of American Indian Affairs,
The Baptist Joint Committee on Public Affairs,
B'nai Brith,
The Christian Coalition,
The Christian Science Committee on Publication,
The Church of Jesus Christ of Latter Day Saints,
The Episcopal Church,
The Ethics and Religious Liberty Commission of the Southern Baptist Convention,
The Family Research Council,
The General Conference of Seventh Day Adventists,
Hadassah,
NAACP,
National Council of Churches of Christ,
Presbyterian Church U.S.A,
Religious Action Center of Reform Judaism,
United Church of Christ,
United Methodist Church,
The U.S. Catholic Conference,

as well as many other organizations.

I ask no one to vote for this because of anyone's endorsement. I just point out that this is a bill supported on a broad-based basis.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 14, 1999.

STATEMENT OF ADMINISTRATION POLICY

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

[H.R. 1691—Religious Liberty Protection Act of 1999 (Canady (R) Florida and 39 cosponsors)]

The Administration strongly supports H.R. 1691, the Religious Liberty Protection Act (RLPA), which would protect the religious liberty of all Americans. RLPA would, in many cases, forbid state and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest. This statutory prohibition would, in the cases in which it applies, embody the test that was applied by the Supreme Court as a matter of Constitutional law prior to 1990 and that is applied now to the Federal Government under the Religious Freedom Restoration Act (RFRA). RLPA will, in large measure, restore the principles of RFRA, which was enacted with broad Congressional support in 1993. It is necessary for Congress to enact RLPA since the Supreme Court invalidated the application of RFRA to state and local governments RLPA is carefully crafted to address the Court's constitutional rulings. The Department of Justice has reviewed H.R. 1691 and has concluded that, while RLPA raises important and difficult Constitutional questions, nevertheless it is constitutional under governing Supreme Court precedents. The Administration looks forward to working with Congress to ensure that any remaining concerns about the bill, including clarification of civil rights protections, are addressed and that it can be enacted into law as quickly as possible.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am very concerned that this legislation has the potential of establishing a dual track. Certainly none of us want to be in a position where government is discriminating against the free exercise of religion, but, by the same token, as we have community after community across the country struggling to be able to maintain their liveability, to try and deal with issues of quality of life, to provide a broad exemption to a religious institution, to be able to violate the rules of the game that other people play by in terms of environmental protection, in terms of land use and transportation is ill advised. This is why we have a broad coalition of groups that deal with land use, with transportation, with the environment who are rising their voices in opposition led by the National Trust for Historic Preservation.

We have heard here that there are areas where somehow there is discrimination against churches and their exercise of building and development activities, but this legislation would provide a requirement that in all instances government that has the authority to make individualized assessment, the action requires the State or local government to demonstrate the reasons for the land use are compelling and that the regulation is the least restrictive means supplied to each affected individual furthering that interest.

This is something as a local official I can tell my colleagues the requirements economically, legally and practically to establish that burden unlike we would do for anybody else is unjustified and unnecessary. I find it frustrating that the Federal Government runs roughshod over local neighborhoods and communities where we have things like the local post office that does not obey local land use laws and zoning codes. To carve out another broad exemption under this act, that would have, I think, serious unintended consequences.

Regardless of the outcome of today's vote in this legislation, I hope there is a careful look at section 3(b)1(a) and people make sure that they assure that we are protecting the rights of our neighborhoods for liveability and environmental protection.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER) for the purpose of a colloquy.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I am an urban planner by training. I have prepared lots of zoning ordinances for municipalities and counties, a certified planner by the American Planning Association, and on my own initiative I wanted a clarification from the gentleman. I thank him for yielding for a colloquy, and I have two questions.

Will anything in the bill prevent local government from precluding religious uses in a particular category of zoning such as an industrial zone?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Not ordinarily. But it would under certain circumstances, such as if the exclusion from the zone does not leave reasonable opportunity to locate within the jurisdiction or if like uses are not precluded from the particular category of zoning or if the preclusion is based on the religious nature of the use. This question is governed by section 3(b)1(b), (c) and (d).

I would also say the communities that provide reasonable locations for churches have nothing to fear from this legislation, but sometimes exclusion from particular zones is in fact a device for excluding from the whole community. We have heard about cases where property was spot zoned industrial after the church bought it.

□ 1245

Some cities exclude churches from commercial zones, knowing that it is impractical to locate a church in a built-up residential zone. The intention and effect is to exclude all new churches. We believe that is not appropriate.

Mr. BEREUTER. I agree with the gentleman that the examples given are abuses of the local zoning law.

My second question will be this: Will anything in the bill prevent local government from requiring compliance with conditions authorized by statute for a conditional or special use permit for religious facilities or other traffic-generating uses in certain zoning categories?

Mr. CANADY of Florida. If the compliance requirement substantially burdens religious exercise and is not the least restrictive means of furthering the local government's compelling interest, then a religious facility would have a claim that could be successful.

This is governed by section 3(B)1)A). An example would be an orthodox Jewish temple forced to comply with parking space requirements. With the orthodox temple, no one drives a car in any case.

Another example is if the condition for a special use permit is that the use ''serve the general welfare,'' or such other vague standards that can be used to exclude whomever the board chooses to exclude.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his colloquy. I think that is reassuring, particularly in light of the comments of the gentleman from Oregon.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 1 minute to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I just have a few questions. I am very worried about this bill. Just 2 weeks ago when we had the gun debate on violence, this Congress passed, if Members can believe it, posting Ten Commandments, and this was our response to Columbine, post the Ten Commandments. It did not say which version of the Ten Commandments, the Catholic, Protestant, or Jewish version, it just said Ten Commandments.

This is really getting me nervous, this notion that we are going to give religions preference in their religious tenets over our own civil rights.

Let us make no mistake about it, the right wing of the Republican party is against gays and lesbians. They want to discriminate against people who are homosexuals. Let us just be right in front on what this debate is about.

So they feel that if one has in their religion a belief that gays and lesbians would be damned by God, then you should be able to discriminate against them. But what this also does is it discriminates against all kinds of other people.

Just imagine that fellow who killed all those people out in Chicago last week. He was part of this Church of the Creator. Is that kind of religion protected under this religious freedom? Is that going to take precedence over our civil rights in this country?

I think we are all children in the eyes of God, and no religion should practice hate or intolerance of any kind. That is why I am going to vote against this bill when it comes up for a vote.

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

Mr. Speaker, I want to respond briefly to the comments the gentleman just made. It is unfortunate that the gentleman has misconstrued the purpose of this bill.

This bill does not touch on the establishment clause issues that have from time to time divided the Members of this House. This is a bill that has broad bipartisan support. It has broad support in the religious community.

When we can bring a bill forward that has the support of both the Christian Coalition and People for the American Way, major Jewish organizations and the National Council of Churches, I think this is an opportunity for the House to stand up for principles that we can all agree to to protect religious liberty.

I would urge the Members of the House to do just that by adopting this bill.

Mr. UDALL of New Mexico. Mr. Speaker, today I rise in support of the Religious Liberty Protection Act.

Religious freedom is the foundation on which our nation was built. Every American, be they Catholic or Protestant, Jewish or Muslim, Buddhist, Sikh or of any other faith community, has the Constitutional right to practice their religious tradition without fear of government intervention or retribution.

Unfortunately, Mr. Speaker, as we've heard throughout this debate, too many people of faith in this country, particularly those in religious minorities, often find themselves facing rigid government policies that burden their religious practices.

This bill, Mr. Speaker, would prevent government restrictions against religious practices, unless there is a compelling government interest, and that policy is the least restrictive method of achieving that interest.

It is an important step, Mr. Speaker, to protect and strengthen those religious liberties for which our forefathers sacrificed so much to give us.

Now I understand, Mr. Speaker, that there are those who are concerned that this legislation would allow for some to hide behind the cloak of religious freedom in order to legally discriminate against others.

Mr. Speaker, I too share this concern. There is the danger that this legislation might be construed by some courts to elevate religious claims above other civil rights.

While we can be reassured by some recent court rulings that show government has a compelling interest in preventing racial or gender discrimination, there are other groups that do not have this same type of Constitutional protection.

It is incumbent upon us, Mr. Speaker, to take all steps necessary to make sure that we do not permit religiously motivated conduct to ''trump'' other civil rights claims. We should take steps to strengthen the civil rights of all individuals, with special attention to those populations that are at particular risk of discrimination.

I am disappointed, Mr. Speaker, that the House failed to pass the amendment introduced by Mr. NADLER of New York. I believe that this amendment would have addressed the concerns that many have voiced.

I urge my colleagues, therefore, to support future measures in this body to protect the civil rights of those minority segments of our population that do not enjoy Constitutional protection.

And I urge our colleagues in the other body to further clarify and resolve these issues as the legislation moves through the Senate.

Mr. PACKARD. Mr. Speaker, I would like to express my support for H.R. 1691, the Religious Liberty Protection Act. The intent of this bill is to protect practices from unnecessary government interference.

Religious freedom is one of the most important freedoms in our Constitution. The framers placed the right to free worship as our first Constitutional right. As stated by the father of our Constitution, Thomas Jefferson, ''The constitutional freedom of religion is the most inalienable and sacred of all human rights.'' Despite this fact, over the past few decades, the Supreme Court has continued to weaken our right to practice faith freely.

The Religious Liberty Protection Act will reinforce our Constitutional right to practice individual faith by requiring judges to use strict scrutiny when reviewing a government burden on religious practices, unless it is to protect the health or safety of the public. This bill is simply common sense legislation. Protecting the freedom of religion should be one of the highest priorities for our nation and this Congress.

Mr. Speaker, I encourage my colleagues to support the Religious Liberty Protection Act.

Mr. HOSTETTLER. Mr. Speaker, I rise to oppose H.R. 1691.

I would like to say that I am pleased to be submitting these remarks, but I am not.

I know that the drafters and supporters of the Religious Liberty Protection Act (RLPA) share many of my beliefs about faith, government, and the Constitution, and it is not often that I find myself in disagreement with their views.

But on one major RLPA issue, my conscience convicts me that in trying to right what many perceive to be wrong, Congress today is taking a major constitutional step in a dangerous direction—a constitutional step that I cannot in good faith support.

It is a constitutional step that I believe may well undermine the protections for religious freedom under which Americans have prospered for over two hundred years.

Today, because of a disagreement with the Supreme Court of the United States, and in

keeping in line with the myth of the Court's supremacy over the other branches of government, we are seeking to change the nature of our right to the free exercise of religion.

We are seeking to re-write our liberty.

Because the Supreme Court has boxed Congress in, Congress is choosing to fight for the moment, Congress is trying to find any basis, whatsoever, to strike a blow for religious liberty.

But we must not move in haste.

Such haste may lead to unintended consequences.

For as this legislation is drafted, one issue we are going to address, what is really being raised as an issue, is whether the constitutional right to the free exercise of religion will be a fundamental right protected by the First and Fourteenth Amendments, or merely an element of interstate commerce, which is not a right at all.

This is not insignificant.

By relegating religious liberty to Congress' power to regulate commerce, as the RLPA does, Congress may be opening the future to the end of liberty as we have been privileged to know it.

Yes, some are burdened by the Supreme Court's treatment of the free exercise clause and the Fourteenth Amendment.

I am not unsympathetic to believers who are suffering for their faith.

But we must also consider the future ramifications of our actions.

This future may well entail debates focused not on the fundamental right to the free exercise of religion, but on something that is not a right at all.

That something is Congress' simple power to, and I quote from the Constitution: "regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

In form, the argument today is not new.

It is a form of the age-old question of whether the end justifies the means.

While one might struggle with whether the end justifies the means, we must not ignore that the end will always, in some manner, reflect the means.

This is especially true when we are determining the constitutional basis for our actions.

We must today pause and ask ourselves, will our children and grandchildren, even to the fourth generation, look back at this day and say: There was the beginning of the end. There was the day when Congress—though well intentioned—cheapened our liberties. There was the day when Congress ceded the moral and intellectual argument that there is a fundamental right, independent of incidental affects on commerce, independent of what a particular congress might define as commerce, a right which our founders' cherished so much that they set it forth separately in our Bill of Rights.

No, I do not relish being here today opposing my friends.

But what we are doing today is wrong and I cannot simply turn my head.

It does not matter that Congress has used the commerce clause in unprincipled ways in the past.

It does not matter that we have been unable to come to an agreement as to how to proceed in light of the Court's rulings.

Truth is truth.

The free exercise of religion is a right, not because of any possible connection to commerce, but because it is a right given by our Creator.

Our founders wisely sought to give special protection to these rights.

Today, I fear that we are ignoring this wisdom for merely short term, but by no means permanent, gratification.

I hope that my fears will not be realized.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). All time for general debate has expired.

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

Mr. NADLER. Mr. Speaker, I offer an amendment in the nature of a substitute.

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

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

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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may sue for injunctive or declaratory relief to enforce compliance with this Act.

(e) PERSONS WHO MAY RAISE A CLAIM OR DEFENSE.—A person who may raise a claim or defense under subsection (a) is—

(1) an owner of a dwelling described in section 803(b) of the Fair Housing Act (42 U.S.C. 3603(b)), with respect to a prohibition relating to discrimination in housing;

(2) with respect to a prohibition against discrimination in employment—

(A) a religious corporation, association, educational institution (as described in 42 U.S.C. 2000e–2(e)), or society, with respect to the employment of individuals who perform duties such as spreading or teaching faith, other instructional functions, performing or

assisting in devotional services, or activities relating to the internal governance of such corporation, association, educational institution, or society in the carrying on of its activities; or

(B) an entity employing 5 or fewer individuals; or

(3) any other person, with respect to an assertion of any other claim or defense relating to a law other than a law—

(A) prohibiting discrimination in housing and employment, except as described in paragraphs (1) and (2); or

(B) prohibiting discrimination in a public accommodation.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. Pursuant to House Resolution 245, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Speaker, I rise in support of the amendment in the nature of a substitute. I will not repeat the arguments I made during the general debate as to why the underlying legislation is very necessary. I think the vast majority of the Members of this House agree with that proposition.

The real question is whether it is appropriate to ensure that this legislation, once enacted, while providing an effective shield for the religious rights of all Americans, will not be used as a sword against the civil rights of other Americans. I believe the amendment in the nature of a substitute strikes that balance, and does so without doing violence to the underlying purpose of the bill.

Members who support this legislation need not be concerned that the substitute will nullify its protections in any way. It is no secret there is substantial concern that establishing a standard that says a State and local law cannot be enforced in any case where someone raises a religious claim, unless the State can show a compelling interest in enforcing its law in the specific case, causes concerns about whether religious claims will prevail against State and local civil rights laws.

The Committee on the Judiciary has received testimony from some supporters of this bill who have testified very forthrightly that they have and will continue to bring free exercise litigation in an effort to undermine some civil rights protections.

While those religious beliefs may be sincere and entitled to a fair hearing, I think it is necessary to strike an appropriate balance without broad carveouts and without politicizing the process, if that is possible.

The amendment recognizes that religious rights are rights that belong to individuals and to religious assemblies and institutions. General Motors does not have sincerely held religious beliefs, by its nature. My amendment protects individual and religious institutions.

In order to protect civil rights laws against the person who would say, ''My religion prohibits me from letting my corporation hire a divorced person or a disabled person, or a mother who should be at home with her children, or a gay or a lesbian person, and it prohibits me from letting my hotel rent a room to such people,'' never mind the

State civil rights laws that prohibit this kind of discrimination, in order to protect civil rights laws against that sort of religious claim, the amendment places some limits on who may raise a claim under this bill against the application of a State or local law.

Any person would have standing, any person would have standing under this amendment to raise any claim with respect to any issue, with the following narrow exceptions: A claim against the housing discrimination law could be raised only by a small landlord who was exempted by the terms of the Fair Housing Act; a claim against an employment discrimination law could be raised only by a small business with five or fewer employees, in accord with the general practice of exempting very small businesses from employment discrimination laws or by a church or other religious institution or religious school exercising its right to decide whom to employ based on its religious beliefs.

With these exceptions, businesses of any size could bring any free exercise claims. This is important for the mom and pop store that has difficulties with Sunday closing laws, or with laws allowing malls requiring stores to remain open 7 days a week, as well as for large firms that, for example, produce kosher meat or other products.

The amendment recognizes that in protecting any rights, we are always balancing other peoples' rights. The courts do it, we do it, and there is no way around it. I think this amendment accomplishes that end.

I can tell the Members that a great deal of work and consultation, both with members of the religious coalition which is supporting this bill and with other civil rights groups, has gone into developing this language. It provides a basis to enact a bill that will pass and that will protect people who are in need of protection.

I know there are those who will object that this amendment is a carve-out, a set of exceptions to a general religious protection principle that will set a precedent for many more exceptions and could lead to gutting of the bill, to rendering our first freedom a hollow shell. I disagree.

In the first instance, this bill already has a carve-out that breaks the absolute, the principle of indivisibility that we must never have carve-outs. This bill limits the right of prison inmates to raise otherwise valid claims under the bill by specifically referencing the Prison Litigation Reform Act.

So we already have a carve-out in the bill. This is simply a second carve-out. The question is not should we have a carve-out, but is it important, worthwhile, and valid? I submit that to protect civil rights laws from possible claims under this bill, it is a valid protection.

Secondly, it is not a carve-out in the sense that, for instance, the prison carve-out is, where it simply says, this shall not apply by reference, or this shall not apply to this or that law. It is a limitation, a narrow limitation on standing which would be very difficult to extend further and which should not be extended any further.

I believe that without good faith compromise by people with vastly different beliefs, it would be difficult to get this bill through the Senate, through the House, and through the President. That was our experience with RFRA, and nothing has changed.

This amendment provides an opportunity to find the consensus we need to protect the rights of all Americans. If we could not draft this amendment, Mr. Speaker, if we had a stark choice in which we said we can either protect the free exercise of religious rights of people from the damage the Supreme Court has done to it at the expense of the civil rights of other Americans, or we can protect the civil rights of Americans but not their religious rights, that would be a terrible choice, indeed.

This amendment offers us a way to do both, protect the religious liberties we need to protect, as the gentleman from Florida (Mr. CANADY) and others have so eloquently expressed, but to do so without violating or posing a threat to civil rights of Americans.

We ought to do it in the proper way without posing a threat to the civil rights of Americans. I therefore urge my colleagues to adopt this substitute amendment and, reluctantly, if the substitute is not adopted, I will urge my colleagues to vote against the bill so that we can have, further in the process, better odds of getting this amendment or something like this into the bill.

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

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

Mr. Speaker, I do rise in opposition to the amendment in the nature of a substitute offered by my colleague, the gentleman from New York (Mr. NADLER). I at the outset would like to say that I know that the gentleman from New York (Mr. NADLER) is passionately committed to the protection of religious liberty in this country, and I believe that he has a sincere desire to deal with this issue in a responsible manner.

But I am concerned that in his efforts to develop language that will be acceptable to groups such as the ACLU, who have asserted concerns about this bill, concerns that I might add are based not on any current problems with the bill but on sheer speculation, he has varied from the principle that truly animates this bill.

In his efforts to address the concerns that a few groups have raised on the far left, he has denigrated, unintentionally, I will concede, unintentionally denigrated protection for religious liberty. Therefore, I would urge all Members to vote against the substitute that the gentleman has offered.

Again, Mr. Speaker, I want to express my utmost respect for the gentleman from New York. I know that he is passionately committed on this issue. I simply think that he has made a particular compromise here with the principle underlying this bill that we should not make, and that the House should reject this amendment for that reason.

Mr. Speaker, H.R. 1691 is designed to provide the fundamental civil right of all Americans to practice their religion with a high level of protection, consistent with other fundamental rights. The Nadler amendment would subordinate religious liberty to all other civil rights, perpetuating the second class status for religious liberty that the court in effect created in the Smith case.

I do not think that is the gentleman's intent, but that is the actual effect of what his amendment does. We cannot get away from it. That is what it will do. That is not something that this Congress should countenance.

□ 1300

Like the Religious Freedom Restoration Act, the Religious Liberty Protection Act is intended to provide a uniform standard of review for religious liberty claims. H.R. 1961 employs the ''compelling interest/least restrictive means'' test for all Americans who seek relief from substantial burdens on their religious exercise.

Under the amendment offered by the gentleman from New York, only a preferred category of plaintiffs are granted this protection. The gentleman can describe it as a ''carve in'' or a ''carve out,'' but the fact is some people are not going to get the protection that the bill would otherwise afford them.

While H.R. 1691 would restore the strong legal protection for religious freedom that was taken away by the Supreme Court in the Smith case, the Nadler amendment in effect perpetuates the weaker standard by intentionally excluding certain types of religious liberty claims from strict scrutiny review.

One reason the gentleman has expressed for the limitation on claims to businesses of five or fewer employees is to preclude General Motors from filing a religious liberty claim as a ruse to discriminate against people. With all due respect to the gentleman from New York, I think that no one who has seriously looked at this law could conclude that General Motors would have any claim under the Religious Liberty Protection Act. The argument that General Motors would have such a claim ignores the requirement of the bill that a claimant prove that his religious liberty has been substantially burdened by the government.

I do not think that General Motors or Exxon Corporation or any other such large corporation that the gentleman wants to bring forward as an example could come within a mile of showing that anything that was done would substantially infringe on their religious beliefs. They do not have a religious belief. They do not have a religious practice. It is not in the nature of such large corporations to have such religious beliefs or practices. So I think that that argument about Exxon and General Motors is, quite frankly, a bit of a red herring.

The gentleman from New York admits that his amendment does not track Title VII's exemptions from civil rights laws for religious institutions. He does not explain why he thinks that Congress ought to, in this bill, provide less protection for religious institutions than it has provided for so many years under Title VII. The Nadler amendment would restrict claims to the employment of people ''spreading or teaching the faith . . . performing . . . in devotional services or'' involved ''in the internal governance'' of the institution.

Title VII on the other hand states its provisions barring discrimination in employment ''shall not apply . . . to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion . . . to perform work connected with the carrying on by [a religious institution] of its activities.

Federal courts have recognized that this special provision for religious institutions is a broad one and permits those entities, churches, synagogues, schools, which are covered by it to discriminate on the basis of religion ''in the hiring of all of their employees.''

Mr. Speaker, if the Nadler amendment passes, Congress will have departed from the long-standing protection that it has afforded churches, synagogues, parochial schools and all other religious institutions for decades by embodying in Federal law for the first time a narrower protection for the religious liberty of religious institutions. There is no good reason to depart from the policy of protection for religious organizations established in Title VII.

I think it is worth noting that the groups that urge adoption of this amendment did not find similar fault with the Religious Freedom Restoration Act. And I know that is not something that the proponents of this amendment want to hear about. That was then and this is now. But all the arguments related to civil rights that have been advanced today were equally applicable to the Religious Freedom Restoration Act.

On a general point about civil rights, the President and the administration have expressed their strong support for this legislation. I cannot speak for the President, but I have read the letter that was sent. Strong support is expressed.

The President was a strong proponent of the Religious Freedom Restoration Act, and I know he views that legislative accomplishment as something that was very significant. I think it is strange a bit to claim that this bill, which is strongly supported by the administration, poses such a great threat to civil rights. It just does not stand up to serious consideration. That sort of argument just does not.

With all due respect to the gentleman from New York, I must suggest that I do not believe the President would express his strong support for a bill that would have the impact that some others have suggested it would have.

Mr. Speaker, we go back to RFRA, the ACLU-supported RFRA. Now they have changed their minds. What triggered this objection? I think what all of this is about, if we get right down to the facts of what is motivating this, was a 9th Circuit case in which a small religious landlord challenging a housing law was granted an exemption from compliance. This should not be a cause for alarm. It is clear from the case law that under strict scrutiny sometimes religious landlords win their claims for exemption, sometimes they do not depending upon the facts of the case.

H.R. 1691 will continue in this tradition weighing and balancing competing interests based on real facts before the Court. Religious interests will not always prevail, nor will those of the government. But the Nadler amendment would determine in advance that the interest of the Government will always prevail in certain cases. This is not what this Congress intended when it passed RFRA unanimously here in the House and is not the type of law I believe the American citizens want their Congress to enact.

Let me finally say that H.R. 1691 remedies the Smith case's tragic outcome which resulted in only politically influential people being able to obtain meaningful protection of their religious freedom against a neutral law of general applicability.

The Nadler amendment, on the other hand, exemplifies the problem created in the Smith case by legislatively doling out protection only to politically influential classes of claimants, or perhaps more accurately denying protection to politically not influential classes of claimants. Now, that is not the way we should be operating when we are dealing with religious liberty. Religious liberty should not be put in a second-class status to other civil rights. That is just not right.

Now, we are not saying in this bill that religious freedom always takes precedent over everything else. That is not what the bill does, and the gentleman knows that, and anyone who has read the bill knows that. But those of us who oppose this amendment are simply saying that it is not right to establish as a matter of Federal policy in this bill that protection for the free exercise of religion, protection for the civil right of the exercise of religion is in second-class status behind other civil rights.

So on that basis I would urge the Members of the House to reject the amendment offered by the gentleman from New York (Mr. NADLER) and move forward to the passage of this bill which has such broad support from the religious community. As we have noted earlier, it is truly remarkable that such a diverse group of religious organizations have joined together in support of any legislation. It is an unusual circumstance when we can come to the floor with such broad support. We have that broad support in the religious community. We have the support of the administration.

Mr. Speaker, I would like to thank the Department of Justice for the work that they have done in helping us craft this legislation and addressing various concerns that had existed. They were very helpful in making suggestions which I think have strengthened the bill; and I, as the chief sponsor of this legislation, want to express my gratitude to the Attorney General for the assistance that was provided.

We need to get on with this job. This is a problem that we have been struggling with since 1990, nearly a decade. Congress tried to address the problem back in 1993 during my first term as a Member of Congress. The effort we have made then has proved to not be successful in the way that we intended it. We have come back to the drawing board, and we have an approach here which we think will do the job within the constraints that the Supreme Court has imposed on us.

Mr. Speaker, the House should listen to the voice of the religious community. The House should reject this weakening amendment and pass this important legislation.

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

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. WEINER), a member of the committee.

Mr. WEINER. Mr. Speaker, as a member of the Committee on the Judiciary I have found a comfortable place standing somewhere between the gentleman from Florida (Mr. CANADY) and the gentleman from New York (Mr. NADLER), and on this issue I believe I am there again. I want to commend the gentleman from Florida for drafting an excellent bill, one that I am proud to cosponsor. And I also am proud to support the amendment offered by the gentleman from New York, which I believe makes a good bill a little bit better.

In 1963, the Supreme Court issued an important decision in Sherbert vs. Verner. In that case a South Carolina woman was denied unemployment compensation. Her denial was not based on any lack of interest in working but because she refused to work on Saturdays. South Carolina tried to argue that this woman had refused an employment opportunity. This, however, was not the case. Ms. Sherbert observed the Sabbath and she did no work from sundown Friday to sundown Saturday. The same is true for so many of my constituents.

Her religious beliefs demanded that she decline employment opportunities that involved Saturday work, but her State saw fit to deny her unemployment compensation. Her case was litigated all the way to the Supreme Court, and there the Court held that the State's refusal violated the free exercise clause because its denial of unemployment compensation forced Mrs. Sherbert to choose between religious adherence and unemployment compensation benefits.

The Court rightly ruled that South Carolina's interest in denying benefits was neither compelling nor was it narrowly tailored. Unfortunately, since that time the Supreme Court has retreated from that position and there have been several other examples that have emerged.

The bill that the gentleman from Florida (Mr. CANADY) and I and others have sponsored seeks to reverse that. And I believe that the gentleman from New York (Mr. NADLER) has said in his arguments on the floor that he supports that concept. It is something that all of us agree on. The gentleman from Florida has argued, and I agree, that this is not a bill that is intended to be an attack on civil liberties. What the Nadler amendment seeks to do is make that clear. Make it clear that in our efforts to restore religious liberties we are not taking a hatchet to civil liberties. I would not have sponsored the bill if I thought that that was the case.

Mr. Speaker, I think that what the Nadler language does is make it very clear that while we are going to have conflicts between religious rights and between civil liberties with or without H.R. 1691, what this amendment makes clear is where we stand, and that is we are not trying to take from one group of rights to serve another group. The Nadler amendment strengthens what is already a very good and a strong bill. It allows us to all vote for strong civil liberties and strong religious liberties.

Mr. Speaker, I urge my colleagues to support H.R. 1691, and I urge support for the amendment offered by the gentleman from New York.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), chairman of the House Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I would like to ask the gentleman from New York (Mr. NADLER) to listen to what I say and tell me if I am wrong. I want to make sure I understand the impact of his amendment.

It seems to me that what the gentleman is seeking to do is to carve out, lift from under the umbrella of this bill civil rights. And among the civil rights that he interprets are what are sometimes known as gay rights, that is the right of homosexuals to practice their homosexuality. And, therefore, that becomes a preferred right and the free exercise of religion becomes subordinate to that. Mr. Speaker, I would ask the gentleman if I am correct.

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

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

Mr. NADLER. Mr. Speaker, no, the gentleman from Illinois is not correct. The amendment makes no mention of gay rights or any other particular right, establishes no preferred status for anything.

The amendment limits standing as to who may bring a claim under this bill. And it says anybody may bring a claim, except with respect to housing discrimination small landlords only may bring a claim. With respect to hiring discrimination, small businesspeople or churches and religious institutions only may bring a claim. Who benefits from that depends on State and local law. That could be anybody. In other words, who can bring a claim against a State or local law.

Mr. HYDE. Mr. Speaker, reclaiming my time, it seems to me that absent the gentleman's amendment, the bill itself restores the compelling-interest standard which obtained before the SMITH case and that the question of which civil right trumps the free exercise of religion can be left to the States on a case-by-case basis.

□ 1315

Therefore, the amendment of the gentleman from New York (Mr. NADLER) is really not needed.

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

Mr. HYDE. Surely. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I think the gentleman from Illinois has got it backwards. The bill without the amendment does not lead to the decision of the States, what trumps what. Any State law would be trumped if the court finds that the State does not have a compelling State interest. If the court finds it has a compelling State interest, it is not trumped.

This amendment in effect takes out from that question and gives more effect to the State law in the limited cases of housing and employment discrimination with a carve-out from that provision for churches, small landlords, and small businesspeople.

Mr. HYDE. Mr. Speaker, it just seems to me the gentleman from New York is unduly complicating what is essentially not a complicated proposition. The civil rights that may or may not be jeopardized and any conflict with the free exercise of religion can be protected and will be protected on a case-by-case basis without the complexity of the gentleman's amendment.

So I just take this time to congratulate the gentleman from Florida (Mr. CANADY) for a very important bill and his persistence in getting it to this point. I support it without the Nadler amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for yielding me this time and for his leadership on this very, very important issue.

Certainly we all support the spirit of the Religious Liberty Protection Act, and I also commend the maker of H.R. 1691 for bringing it to the floor.

In its current form, however, the bill could undermine existing civil rights laws. We do need the Religious Liberty Protection Act. But, as I say, it could also, in its present form, undermine ongoing efforts to extend much-needed legal protections to currently unprotected and deserving individuals who suffer discrimination.

While the Religious Liberty Protection Act was designed to protect an individual's exercise of religion from the overreach of government, law, and regulation, I believe this act would itself overreach and could undermine laws that prohibit discrimination on the basis of disability, marital status, and parental status.

If this law passes without the Nadler amendment, individuals with disabilities, unmarried cohabitating couples, and single mothers could face more legal discrimination.

We would all, I think, oppose a measure that would allow an individual to use his or her religious exercise rights as a basis for legal claim to circumvent civil rights laws. I do not think there is any argument about that.

We would, none of us, ever permit this rationale to be used to permit discrimination on any basis of race against African Americans or Asian Americans. Yet, discrimination clearly and harshly continues against other individuals and groups. If the issue were race, we would not be having this debate. We would all stipulate that that discrimination should not take place.

This same principle should apply to these populations that could be adversely affected. That is why the Consortium for Citizens with Disabilities, the National Organization for Women, the Human Rights Campaign, and I might add, Mr. Speaker, the American Association of Pediatricians seek a civil rights solution to this bill. The

amendment of the gentleman from New York (Mr. NADLER) offers that.

I think that we must support the underlying bill, if and only if the Nadler amendment passes. I thank the gentleman for his leadership on this legislation.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining. The gentleman from New York (Mr. NADLER) has 18 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time. I also appreciate the comments that have been made by the gentleman from New York (Mr. NADLER) and by the gentlewoman from California (Ms. PELOSI) about the importance of this legislation, the reasons we need to move forward with it. Their commitments in the past in this area have been significant.

I would just like to say today that I think really what we are talking about here is the status of this right of religious liberty. When the gentleman from New York (Mr. NADLER) mentioned earlier his amendment would allow us to show what trumps what, I think that is exactly why I wanted to speak on this topic today, because I think we need to be careful that we do not create a second-class status for religious rights where those rights are automatically secondary to other rights. We should not be deciding that those rights are trumped by other rights. That is not what we are about here.

This legislation, as it is written, gives the fundamental civil right of all Americans to practice their religion a high level of protection. It is consistent with the other fundamental rights that we give in the Constitution and in our laws.

This legislation is consistent with title VII's long-standing exemptions for employees of religious institutions. There is nothing in this legislation that continues that.

This legislation establishes a process where we weigh and balance competing interests based on the real facts before the court. Religious interests, as defined here, would not always prevail, but they would not automatically be secondary. The facts that support those rights have equal standing in court with other rights equally protected by the Constitution.

I believe, and those of us in this body universally believe, that this is a government based on enumerated powers. Those powers are enumerated in the Constitution. Those enumerated powers are evidenced in this legislation.

This Act relies on three congressional powers: the power to spend, the power to regulate interstate commerce, the power to reach certain conduct under section 5 of the 14th amendment.

First of all, the Religious Liberty Protection Act protects individuals participating in federally assisted programs from burdens imposed by a government as a condition of participating, that those people could not be exempted from these programs because of their religious beliefs.

For example, an individual cannot be excluded from or discriminated against in a federally assisted program because of his or her religious dress or the holidays that they observe unless one can prove there is a compelling interest that that particular religious activity somehow makes it impossible to do that job.

Secondly, this Act protects religious exercise in the affecting of commerce. Some of our friends say we should not use the commerce clause here to determine whether or not a church can be built. Well, clearly, if one builds a church, if one adds on it a facility, one affects tens of thousands, sometimes hundreds of thousands, occasionally millions of dollars of commerce.

Using the commerce clause to protect religious liberty is appropriate and obvious. Because the commerce clause has sometimes been used in onerous ways does not mean we should shy away from using it for good or that we should shy away from using it to protect this freedom, to protect religious freedom.

Third, this legislation makes the use of the power of Congress to enforce the rights under section 5 of the 14th amendment consistent with recent court decisions, particularly the Supreme Court's decision in Boerne v. Flores.

What this does, it attempts to simplify litigation of free exercise violations as defined by the Supreme Court. These litigations do not need to be cumbersome. They do not need to be needlessly burdensome. Certainly no right in these litigations needs to be secondary to other rights in these litigations.

Evidence shows that individuals who have determinations in land use regulation that work against them, frequently we see that as a burden for religious activities. We see that particularly as it relates to minority faiths, and this bill reaches out and protects those minority faiths. We know that from the evidence of the very broad base of groups that are supporting this legislation today.

Again, I would like to close by simply saying that this legislation levels the playing field for a critical first amendment right. It does not allow the creation of a secondary right.

I think the Nadler substitute, while well intentioned, and I really admire what the gentleman from New York (Mr. NADLER) has done in these areas in the past, while this amendment is well intentioned, I think it does have the potential and the likelihood, and, in fact, what I think it does is relegate religious freedom and religious liberty and religious practice and religious rights to a secondary position. I think we need to have those rights as protected as any other right. Those decisions can be made by the court.

I support the bill and oppose the amendment, but I do so with deference to the sponsor of the amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his strong leadership on so many issues. I rise in support of the Nadler amendment.

The Religious Liberty Protection Act is a well-intentioned bill with a noble purpose. No State or local government should be able to restrict legitimate religious practices such as the wearing of a yarmulke or a crucifix or the celebration of certain religious holidays. But if we are not careful, then this well-intentioned bill may be used to weaken our Nation's civil rights laws.

Without the Nadler amendment, this bill could threaten the rights of single mothers, gays and lesbians, the disabled, and even perhaps members of certain religious groups.

Unfortunately, the Supreme Court retreated from Sherbert in 1990, and since then the courts and the Congress have engaged in a decade-long dialog over how to properly guarantee that all of our citizens are able to freely exercise their religious beliefs. This is not an academic debate being conducted in ivory towers and judicial chambers. Rather, this is a real-world issue of deep concern to my constituents and to Americans everywhere.

For example:

The Jewish principle of kavod hamet mandates that a dead body is not left alone from the moment of death until burial. For this reason, autopsies, in all but the most serious situations, are forbidden. Following the Supreme Court's ruling in 1990, courts in both Michigan and Rhode Island forced Jewish families of accident victims to endure intrusive government autopsies of family members, even though the autopsies directly violated Jewish law.

In Los Angeles, a court declined to protect the rights of fifty elderly Jews to meet for prayer in the Hancock Park area, because Hancock Park had no place of worship and the City did not want to create precedent for one.

In Tennessee, a Mormon church was denied a permit to use property which had formerly been used as a church. The city of Forest Hills, Tennessee decided it would not be in the best interests of the city to grant the church a construction permit and a local judge upheld the decision.

This bill could be used to deny housing or employment or otherwise discriminate against individuals based on their race, sexual orientation, disability, or marital status.

Mr. Speaker, there is no justification for discrimination. Our Nation has made enormous strides in the past 30 years toward offering equal opportunities for all, regardless of race, gender, religion, or sexual orientation.

We must not undo that progress under the guise of protecting religious freedom. But we also need to protect religious freedom. I urge my colleagues to support the Nadler amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I rise today in support of the Nadler substitute. In the 103rd Congress, I was an original cosponsor of the Religious Freedom Restoration Act. I would take second place to no one in this Chamber in terms of a concern about religious liberty protection. I take that very, very seriously. I understand the intent of this legislation as well.

But I think all of us who have looked at this legislation realize that the legislation will have an incredibly unfortunate consequence and that would be to allow the overturning of anti-discrimination statutes in the United States of America, statutes which are really at a fundamental core of the American experience.

There are well-intentioned, good arguments on both sides of this legislation. I think we come to this in one of our really better moments as an institution. But I really ask and I really plead with my colleagues who are contemplating not supporting the Nadler amendment to really spend the time to understand specifically what the effect of this legislation would do.

It will in fact, and I do not think there is an argument about this at all, it would in fact change protection that exists under present law against discrimination, whether Federal, whether State, whether county or local discrimination statute.

□ 1330

It would force them into courts. And I think all of us understand that there will be many cases, and we do not know the exact percentage of those cases, that the standards of compelling State interest will not be met.

And that really is the issue in front of us, that in terms of actual discrimination that is protected against today, if this legislation were to pass those protections would not exist and, in fact, that discrimination would occur.

And in the balancing that we are trying to do, it would not, under any circumstance with the Nadler substitute, deal with some of the parade of horribles that I support the protections of that the gentleman from Florida (Mr. CANADY) mentioned previously in terms of religious schools, dictating hiring practices of churches.

I urge my colleagues, I implore my colleagues to support the Nadler substitute.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this legislation, and I think it is really important for us, when we are discussing discrimination and discussing how to treat each other decently in the society, to come to an honest analysis about whose ox is being gored in this society and whose toes are being stepped upon.

I think there is a wide consensus in our society today that people who live less traditional lives, let us say, or have different types of values, sexual values, et cetera, have a right to their privacy and a right to their personal lives and a right to live as they see fit in their own lives. But, frankly, in the last 10 years, what I have seen, which is very disturbing to me, is that people with more traditional views, especially more traditional Christian views, although I think that this is true of Muslims and Jewish people, who are deeply involved in their religious traditions as well, that those people are being told they cannot make determinations for themselves and for their lives and for their families that are consistent with their religious values.

I see the greatest victim of discrimination in our society today as being these people, these Christians, these Jews, these Muslims, who have more traditional religious values. If someone wants to have certain sexual activities, and this is what they desire and they do so in their privacy, there are very few people today who want the government to intrude in that.

But there seem to be a lot of people trying to force their way into the lives of others. For example, the Catholics cannot have a parade. They attempted to have a parade in New York, and people whose social lives and social values are totally in conflict with what Catholics believe feel that they can force their way into a Catholic parade, which is, to me, violating those Catholics' right to have their own beliefs.

We have the Boy Scouts of America, which is a private organization, and they have certain moral standards that they believe in. Now, who is under attack? Who is under attack here? The Boy Scouts of America are spending millions of dollars just to maintain what they consider to be their moral standards.

No one is out forcing their way into the homes of other people who want to live in their privacy and want to live decent lives with their own values in terms of whether or not they are in agreement with some of these more traditional values, but the ones with the traditional values are under attack all the time.

I think this piece of legislation is going to try to swing the pendulum back. Certainly 25 and 30 years ago there was great discrimination in our country against certain nonconformists, one might say, of people who had different than the traditional values. Today, that pendulum has swung so far in the opposite direction that people with more traditional values are under attack, and we need to protect their rights as well.

So this, I think, is a balance and I support the legislation.

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

The views expressed by my friend from California are very interesting views. I would simply point out two things.

Number one, this bill does and is intended to protect religious freedom for traditional Christians and Jews and for untraditional people, for wiccans, witches, or whatever their religious views. And, secondly, this has nothing whatsoever to do with this amendment. It does with the bill, but not with this amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, I rise in support of the Nadler amendment, strong support, and in doing so acknowledge and recognize that H.R. 1691 and the sponsor, the gentleman from Florida (Mr. CANADY), seek to address very important wrongs that are occurring in the United States today. There are, in fact, numerous examples of planning and zoning decisions have are being made for the either inherent or obvious purpose of denying individuals or groups their religious freedom.

In my own community in South Florida, oftentimes there are autopsies that are conducted in violation or contrary to people's religious beliefs, when there is little or no State purpose for doing so. And the State acts either out of insensitivity or just out of lack of knowledge for people's religious beliefs. And I believe the purpose of this bill would be to correct those violations, and that I support and compliment.

But in doing so, there also is a flip side. The flip side is that in protecting one group's religious freedom, which is noble and certainly applaudable, we are, to some degree, and we can argue to what degree that is, but to some degree jeopardizing the rights of others.

And while the gentleman from California (Mr. ROHRABACHER) may suggest that people are trying to force themselves on maybe more traditional people in this country, I do not see it that way. What these so-called less traditional people are trying to do is work. They are trying to live in an apartment. And if that is forcing themselves on someone, well then, that is exactly why we need the Nadler amendment. Although, although, what the Nadler amendment seeks to do is both protect religious freedom and protect civil rights.

This bill, as it is currently drafted, puts us in an untenable situation, civil

rights versus religious liberty. Support the Nadler bill.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from New York (Mr. NADLER) has 12 minutes remaining, and the gentleman from Florida (Mr. CANADY) has 7 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Nadler amendment points out the problem of the underlying bill, and that is that without this amendment it may sabotage the enforcement of laws of general application, like civil rights laws, child protection laws and others. We should not subject vigorous enforcement of civil rights laws to individual beliefs.

We know that there are some in our society, and we have seen on Web sites the Church of the Creator, where some have strongly held beliefs about race, and we should not make civil rights laws optional. Without this amendment, those people who just do not believe in civil rights can require a showing of a compelling State interest and least restrictive means to complicate the enforcement of civil rights laws by declaring that the compliance with the civil rights laws might violate their beliefs.

Mr. Speaker, I would hope that we would not subject our civil rights laws it took us too long to enact and so long to enforce to this kind of situation. I would hope that we would adopt the Nadler amendment so these civil rights laws could be enforced.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS) for the purpose of a colloquy.

Mr. EDWARDS. Mr. Speaker, I would like to engage the chief sponsor of this legislation in a colloquy in order to address concerns that the bill advantages or disadvantages any group or ideological perspective.

Could the gentleman from Florida please explain how the compelling-interest standard works in this legislation?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, the compelling-interest standard is fair, but rigorous, not only for the government but also for religious claimants. The standard neither allows religious interests to always prevail, nor those of the government, even when its interests are compelling.

The standard weighs and then balances competing interests, first considering the burden on the claimant's interest and then evaluating the government's interest in disallowing an exemption to the law or regulation and the available alternatives for achieving the government's goals. The Religious Liberty Protection Act, like the Religious Freedom Restoration Act, does not define the various elements of the standard.

The legislation imposes a standard of review, not an outcome, and the cases are litigated on the real facts before the courts. Thus, it is difficult in some hypothetical cases to predict with certainty which interests will prevail.

Mr. EDWARDS. Reclaiming my time, Mr. Speaker, I would further ask if it is correct that the point of this legislation is that by adopting the compelling-interest standard Congress is acknowledging that courts will consider and weigh important interests behind these laws; and that because each religious claimant's situation is unique, it is appropriately left to the courts to weigh the competing interests; and that because the legislation is not designed to resolve any specific case or set of facts, it is neutral and does not directly address a specific outcome.

Mr. CANADY of Florida. That is correct.

Mr. EDWARDS. I thank the gentleman for this clarification.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I rise in support of the Nadler amendment and want to encourage my colleagues to support the amendment.

The thing that is really interesting about the debate on the Nadler amendment is how everybody seems to be claiming to be on the same side. The proponents of the underlying bill say, ''Oh, no, we are not trying to trump civil rights laws.'' The gentleman from New York (Mr. NADLER) says, ''Oh, no, we are not trying to trump religious use protection.'' And then we have people really claiming to be achieving the same objective, protecting religious freedom and protecting civil rights laws.

The problem is those same people started out together, and they have been together all along during this process. The gentleman from New York has been trying to get the proponents of the bill to accept his amendment from the very beginning. He has gone through different iterations of it, revisions of it, and here we are on the floor of the House with everybody still saying they support the same objective: ''We do not want to undo civil right laws,'' they say, ''but we are not going to support the Nadler amendment to make that clear.''

Well, there is a third version. There is the NAACP Legal Defense Fund saying that the amendment of the gentleman from New York does not go far enough. I happen to agree with the Legal Defense Fund in its assessment, but I will tell my colleagues what I am prepared to do. Since everybody says they would like to work this out in the conference committee, and everybody is trying to achieve the same objective, I have decided that I will support the Nadler amendment and I will vote for the bill if the Nadler amendment is adopted and we can continue to work on this in conference.

The problem that I have is the people who keep telling me this is going to work itself out in conference are the people who have not given one inch, one word throughout the whole discussion of this process. We need to adopt this amendment and pass the bill; or, if we reject the amendment, we need to vote against the bill.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I was interested to hear the colloquy between the gentleman from Texas (Mr. EDWARDS) and the gentleman from Florida (Mr. CANADY). It reinforces the central point. This bill is a Federal act that says to Federal judges, ''Go forth and pick and choose amongst State laws.''

This empowers Federal judges to decide what is the compelling interest according to the State and what is not.

□ 1345

And if a State has said they are going to protect them if they are unmarried and seek with their child to get housing, it will be up to the Federal judge to decide whether that State law beats a religious objection; if they are gay or lesbian, it will be up to the Federal judge to decide whether the State law in Connecticut or Wisconsin or Minnesota or California is overridden; if they are an unmarried couple seeking to live together, it will be up to the Federal Government to judge whether or not they can rent an apartment from a corporation, the stockholders of which said it is their religious objection.

The gentleman from California (Mr. ROHRABACHER) cited the Boy Scouts and the March. Let us be very clear. Neither one of those has the remotest thing to do with this bill. Both of those entities, the people having the parade and the Boy Scouts, are already protected under the law. Nothing in the law would add to that protection. But, on the other hand, nothing in the Nadler amendment would detract one iota.

The gentleman from New York (Mr. NADLER) says this: If they seek to live somewhere in a non-owner-occupied building or a very large apartment building, or if you seek a job with an employer with more than five people, if they can do the job, if they can pay the rent, their personal habits, whether

they are married or not, whether they are gay or not, whether they have some particular affliction or not that might offend someone's religion will not keep them off of the work rolls, it will not keep them out of that house.

We do not impinge on anybody's individual religious practice. Nobody goes into anybody's home. No one is involved here, under the Nadler amendment, with the ability to interfere.

We are saying that they should not say where a State has said they wish to protect them based on their sexual orientation or their marital status or the fact that they have children. They should not allow Federal judges selectively to overrule those because those Federal judges do not find the State's policy a compelling interest.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. CANADY) has 5½ minutes remaining. The gentleman from New York (Mr. NADLER) has 7 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, first of all, I would like to commend the gentleman from Florida (Mr. CANADY) for his excellent work in defending our Constitution and the first freedom enumerated there.

In fact, we all know from our history that our forefathers came to this country for religious liberty. And it was not a coincidence that when they drafted our Constitution the very first right that they enumerated was the right to religious liberty. And this right has been unquestioned in our country until 1990.

Of all things, in 1990, the Supreme Court of the United States, in a 5–4 decision, questioned the right of every citizen to our right to full expression of our religious freedoms and beliefs. There was a long-standing principle that the State had to have a compelling reason to interfere with that right, and they did away with that.

I am happy to say that this Congress, in 1993, with only three dissenting votes, passed legislation again saying that the Government has to have a compelling reason to interfere with our religious liberties. President Clinton signed that legislation.

Unfortunately, the Supreme Court came back and basically said, we cannot do that; it is unconstitutional for the Congress to try to protect our freedom of religion. Thank goodness they had not done that with some of our other freedoms.

So we are here today again. And I will say to my colleagues that, as a Congress, all three branches of government have an obligation and a duty to protect our constitutional rights and our freedom. It is not the sole responsibility of the Supreme Court, particularly in this case where the Supreme Court has shirked that responsibility and has actually taken away a freedom guaranteed in our Constitution.

I would hope that every Member of this body, with not three dissenting votes but unanimously, would say to this country and the people we represent, their religious freedoms will not be violated. If they are a prisoner and they want to confess to their priest, we will not monitor that confessional; we will not prohibit them from talking to their priest; we will not prohibit a church here in Washington, D.C., to feed the homeless; we will not prohibit Jewish prisoners from wearing a yarmulke.

It is time to end this abuse. It is time to pass this bill.

Mr. NADLER. Mr. Speaker, it is now my privilege to yield 1½ minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding me the time.

My colleagues, as the bill presently stands, whenever a parties brings suit claiming discrimination, the defendant will be able to claim that this is inconsistent with their religious beliefs.

We are creating a huge disparity here. The Nadler amendment responds to the problem, thank goodness, by specifying that the bill's protections only apply to individuals, religious institutions, and small businesses.

So the amendment will be particularly helpful with regard to laws prohibiting discrimination based on marital status, disability, sexual orientation, where there has not been found by the court a compelling interest test.

That is why the NAACP Legal Defense Fund and the American Civil Liberties Union have recently broken from this loose coalition because they realize what we would be doing if we allowed this bill to go through without this very important amendment.

We do not want to turn a shield into a sword. At our hearings, the Christian Legal Society acknowledged that they planned a widespread campaign to use the Religion Freedom Protection Act to undermine State laws protecting people with different orientations.

Please support the Nadler substitute.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON LEE of Texas. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, I started out this debate earlier today acknowledging that we have more in common than we have in disagreement.

Today I rise and stand on behalf of the Sabbath keepers, on behalf of those who wear yarmulkes, on behalf of churches who feed the homeless, because I am standing in support of the Nadler amendment, particularly emphasizing the fact that the free exercise of religion is a prominent and important right and why can we not do it together, raising the concern that we should not discriminate against those in businesses and governments with respect to their employment, participation in the rental market, their right to observe the Sabbath, to wear religion articles, and to follow the other teachings of their faith, including those relating to family life, the education of children, and the conduct of their religious institutions. The Nadler amendment stands for this.

But at the same time, as we did in my State of Texas, the Nadler amendment respects unmarried couples and single parents, lesbians and gays, maybe even racial and ethnic groups who differ in their acceptance in this community.

Mr. Speaker, I am a believer in the free exercise of religion. But my ancestors, unfortunately, came as slaves. We had to be educated about the democracy, if you will, late in life and the free exercise of religion. I would hope we would not go along the lines of the free exercise of religion and civil rights.

I offer in testimony, Mr. Speaker, the words of Scott Hochberg, the proponent of the legislation in Texas, where, in a bipartisan manner, this same legislation was passed and George Bush signed it. And what it offered to say is that he supports a strong religion liberty but he wanted to ensure that the Texas civil rights were not violated. They worked together in Texas.

I will close by simply saying, let us work together and vote for the amendment.

Mr. Speaker, today, we discuss what I believe is sorely needed legislation to restore the legal protections for the free exercise of religion. These legal protections have been dangerously eroded by the Supreme Court in its 1990 Employment Division v. Smith decision.

Congress attempted to remedy this by enacting on a bipartisan basis, the Religious Freedom Restoration Act, which the Court struck down in part in its 1997 City of Boerne v. Flores decision.

H.R. 1691, the Religious Liberty Protection Act ("RLPA") seeks to restore the application of strict scrutiny in those cases in which facially neutral, generally applicable laws have the incidental effect of substantially burdening the free exercise of religion. I believe that the government should not have the ability to substantially burden a right that is enshrined in Constitution unless it is able to demonstrate that it has used "the least restrictive means of achieving a compelling state interest." (Thomas v. Review Board, Indiana Employment Security Commission, 450 U.S. 707, 718 (1981)).

I am concerned that this legislation if left unamended could have deleterious affects on the enforcement of State and local civil rights laws. Many Americans, including unmarried couples, single parents, persons with different

lifestyles, maybe even racial and ethnic minorities with different religious beliefs.

The amendment offered in the nature of a substitute by Mr. NADLER of New York would address these concerns. This amendment would appropriately strike a balance between the free exercise sincerely held religious beliefs and the enforcement of hard-won civil rights.

The amendment, crafted in consultation with both religious and civil rights groups clarifies the fact that religious liberty is an individual right expressed by individuals and through religious associations, educational institutions and house of worship. It also makes clear that the right to raise a claim under RLPA applies to that individual. A non-religious corporate entities could not use a RLPA for a claim or defense to attack civil rights laws.

Individuals, under this amendment, could still raise a claim based on their sincerely held religious beliefs which are substantially burdened by the government, whether in the conduct of their businesses, their employment by governments, their participation in the rental market, their right to observe the sabbath or to wear religious articles and to follow the other teachings of their faith, including those relating to family life, the education of children and the conduct of their religious institutions.

I urge my colleagues to join with me in supporting the Nadler amendment as it is a positive step forward in protecting the rights of all Americans and finally restores the legal protections for religious freedom for the average American citizens that have been threatened for nearly a decade.

TESTIMONY OF TEXAS STATE REPRESENTATIVE SCOTT HOCHBERG, SENATE JUDICIARY COMMITTEE—JUNE 23, 1999

Mr. Chairman and Members of the Committee;

I appreciate the opportunity to share some thoughts with you today.

Two weeks ago, Governor George W. Bush signed the Texas Religious Freedom Restoration Act (Texas RFRA) into law, I as privileged to work the Gov. Bush as the House author of this important bill. And I'm proud of this bill, because I believe it strengthens religious freedom in Texas without weakening other fundamental individual rights.

Long before I ever heard of the Smith case or the federal RFRA, I knew how hard it was for individuals to assert their first amendment religious freedoms against the bureaucracy. I've fought battles with our prison system over allowing Jewish prisoners to practice their faith. And I found I had to pass a law before I could be sure that judges would not repeat the incident that occurred in a Houston courtroom, where an Orthodox Jewish man was required to remove his skullcap, in direct conflict with his religious practices, before he could testify.

So when the American Jewish Committee and the Anti-Defamation League, on whose local boards I serve, put the state Religious Freedom Restoration Act on their legislative agendas, I was eager to become the lead sponsor. And I was certainly encouraged by the early and strong support of Gov. Bush, who announced just before the opening of our legislative session that Texas RFRA would be one of his legislative priorities as well.

Of course you know that no bill is a simple bill. Early on, I saw that the model RFRA language left open a possibility that the act could be used to get around Texas' civil rights laws. That concern was first raised to me by the AJC, and then later the ADL, the two groups that had initially brought me the legislation, and two groups with long histories of defending civil rights internationally.

Clearly, the intended purpose of this bill was not to weaken civil rights laws. When Gov. Bush talked about the need for RFRA, he cited examples, including the skullcap situation, where RFRA could be used to help protect a person's religious practice from government interference. None of the examples were about giving any individual the right to deny another person's equal protection rights.

The Texas Constitution is very clear about the primacy of civil rights. The third and fourth sections of our Bill of Rights guarantee equal protection under the law. The next three sections protect religion and guarantee freedom of worship. So, clearly, our framers saw these fundamental rights as being on the same plane.

I wanted to pass a strong RFRA in Texas, but not one that would rewrite Texas civil rights laws. So I added language clarifying that the act neither expanded nor reduced a person's civil rights under any other law. That language drew no objection initially.

But later, some RFRA coalition members argued that to completely move civil rights out from under RFRA might imply that even a religious organization could not use religion as a criteria in hiring—an exemption that is included in our state labor code as well as in federal law.

So coalition members helped craft language to apply RFRA to the special circumstances of religious organizations, while continuing to leave the task of balancing religious and equal protection rights to the courts. That language was unanimously adopted in a bipartisan amendment on the House floor, and remained intact in the bill as it was signed by Gov. Bush.

The RFRA coalition in Texas endorsed the civil rights language and strongly supported the bill, from the Texas Freedom network on the left to the Liberty Legal Institute on the right. I must tell you, however, that one or two conservative groups in this very broad coalition objected and went so far as to ask Gov. Bush to veto the bill. He chose not to do so. Those particular groups said that they had hoped to use RFRA to do exactly what others had feared—to seek to override, in court, various civil rights laws that they had not been able to override legislatively.

I urge you to adopt a strong law to reinforce what we have done in Texas. But in so doing, I would also ask that you follow the wisdom of our governor and our legislature and include language to protect state civil rights laws.

I offer whatever assistance I can be to help develop and refine the language of this bill so that those goals are met.

This is too important a bill to be lost as a result of a fear of weakening civil rights. But likewise, national and state civil rights policies are too important to be weakened as an unintended by-product of a bill with the noble purpose of strengthening religious rights.

Thank you again for your consideration, your time and your hard work.

Mr. NADLER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 4 minutes remaining. The gentleman from Florida (Mr. CANADY) has 3 minutes remaining.

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

Mr. Speaker, everything that has been said in support of the bill, as my colleagues know, I agree with. I support this bill. I think it is an important bill. I helped draft it. But it has a terrible flaw, and we must pass this amendment. The bill should be used as a shield for religious liberty but not as a sword against civil rights laws. And that is the problem and the need for this amendment. This amendment will prevent it from being used as such a sword against civil rights laws.

My distinguished colleague, the gentleman from Florida (Mr. CANADY), who has done yeoman's work on behalf of religious liberties and who I really respect on this, he says that the amendment would subordinate religious liberty. It does not subordinate religious liberty in any way.

In fact, the bill, by establishing the compelling interest standard, establishes religious freedom as preeminent over other rights. Rarely can a State show a compelling as opposed to a legitimate interest. We could, if we wanted to, adopt the Supreme Court test of balancing the competing interests by the legitimate interest tests, and that would be an even playing field. But we are not doing that.

We are, and I agree with this, establishing a compelling State interest test which establishes religious liberty as compelling over other interests. And I think that is proper to do so. We should afford religion a preferred status, but we are also entitled to fine-tune that balance if we think the courts, pursuant to that mandate of establishing religious freedom as a preferred status, will not do it quite right.

What this amendment does is to create a somewhat different balance in the area of civil rights. Because some recent court decisions have found that States had no compelling State interest in a case involving, for example, a State law against housing discrimination in a multiple dwelling. The State did not have a compelling interest to enforce its antidiscrimination law in a multiple dwelling.

The courts sometimes make mistakes. We want to exercise our rights in this amendment to tell the courts a little more finely how to balance it in the civil rights area. We are telling them to use the compelling State interest test to establish religion as preeminent in every other case. In civil rights, we are saying, be a little different than that.

Finally, let me say that the religious groups that are supporting this bill, I have spoken with most of them, not all of them, and most of them have told me that they agree, they can live with the amendment, it gives them no practical problems, it protects all their legitimate interests. They only disagree with it because of what the gentleman

from Florida (Mr. CANADY) said before, the principle of indivisibility, that there should be one standard.

Mr. Speaker, let me simply say, sometimes we have to balance competing rights. We should adopt this amendment so that we do not have to say we will protect religious liberty at the expense of civil rights or civil rights at the expense of religious liberty. We can and should do both. With this amendment, we can and should pass the bill. And without the amendment, I would hope that we would not pass the bill today so that we can get a little more leverage to fine-tune the bill with something like this amendment before we finally pass it, as indeed we eventually must.

So I urge my colleagues to support this amendment.

□ 1400

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

Mr. Speaker, I want to encourage the Members to focus on what is actually taking place and the actual consequence of the amendment that the gentleman has offered. It would establish as a matter of congressional policy that religious liberty would have a second-class status. I do not think that is really what the gentleman wants to do, I acknowledge that, but that is the effect of the language of his amendment.

Let me point out that there are folks who have some of the same views on a whole range of civil rights issues, including issues related to homosexual rights, that the gentleman from New York has who have expressed their support for this bill without the gentleman's amendment. Members of Congress have received a letter just this week from groups such as the Friends Committee on National Legislation, the American Humanist Association, the Evangelical Lutheran Church in America, the Board of Church & Society of the United Methodist Church, People for the American Way, the Presbyterian Church (USA), Washington Office, where they say and they recognize some of the concerns that the gentleman has expressed but where they conclude, and I quote them, ''We believe that in every situation in which free exercise conflicts with government interest, application of the Religious Liberty Protection Act standard is appropriate.'' They go on to say, ''A no-exemptions, no-amendment Religious Liberty Protection Act provides the strongest possible protection of free exercise for all persons.''

I would suggest that some who have listened to the concerns expressed by the gentleman from New York and others pay attention to the view of these religious and civil rights groups. I would suggest that Members consider the broad coalition of groups that are supportive of this legislation. I do not have time to list them all. I will try to list a few in the few seconds that I have remaining:

The American Jewish Committee, Americans United for Separation of Church & State, the Anti-Defamation League, the Baptist Joint Committee on Public Affairs, Campus Crusade for Christ, the Catholic League for Religious and Civil Rights, the Christian Coalition, the Christian Legal Society, Christian Science Committee on Publication, the Church of the Brethren, the Church of Jesus Christ of Latter-Day Saints.

I will skip toward the end of the alphabet here. The Union of American Hebrew Congregations, the Union of Orthodox Jewish Congregations of America, the United Methodist Church, Board of Church & Society; the United States Catholic Conference, the United Synagogue of Conservative Judaism; Women of Reform Judaism, Federation of Temple Sisterhoods. Those are just a few of the more than 70 religious and civil rights organizations that support the Religious Liberty Protection Act.

I would urge all Members of this House to join together in a bipartisan effort to protect America's first freedom by passing this bill, this important bill, without the weakening amendment offered by the gentleman from New York. His amendment would do harm to this bill and needs to be rejected. We need to move forward with the passage of this legislation.

ORGANIZATION SUPPORTING H.R. 1691, ''RELIGIOUS LIBERTY PROTECTION ACT OF 1999''

A

Agudath Israel of America
The Aleph Institute
American Baptist Churches, USA
American Center for Law and Justice
American Conference on Religious Movements
American Ethical Union, Washington
American Humanist Association
American Jewish Committee
American Jewish Congress
American Muslim Council
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church & State
Anti-Defamation League
Association on American Indian Affairs
Association of Christian Schools International

B

Baptist Joint Committee on Public Affairs
B'nai B'rith

C

Campus Crusade for Christ
Catholic League for Religious and Civil Rights
Central Conference of American Rabbis
Christian Church (Disciples of Christ)
Christian Coalition
Christian Legal Society
Christian Science Committee on Publication
Church of the Brethren
Church of Jesus Christ of Latter-Day Saints
Church of Scientology International
Coalition for Christian Colleges and Universities
Council of Jewish Federations
Council on Religious Freedom
Council on Spiritual Practices
Criminal Justice Policy Foundation

E

Episcopal Church
Ethics, and Religious Liberty Commission of the Southern Baptist Convention
Evangelical Lutheran Church in America

F

Jerry Fawell's Liberty Alliance
Family Research Council
Focus on the Family
Friends Committee on National Legislation

G

General Conference of Seventh-Day Adventists
Guru Gobind Singh Foundation

H

Hadassah, the Women's Zionist Organization of American, Inc.

I

Interfaith Religious Liberty Foundation
International Association of Jewish Lawyers and Jurists
International Institute for Religious Freedom

J

Kay Coles James
Japanese American Citizens League
Jewish Council for Public Affairs
The Jewish Policy Center
The Jewish Reconstructionist Federation
Justice Fellowship

L

Liberty Counsel

M

Mennonite Central Committee U.S.
Muslim Prison Foundation
Muslim Public Affairs Council
Mystic Temple of Light, Inc.

N

NA' AMAT USA
National Association for the Advancement of Colored People
National Association of Evangelicals
National Campaign for a Peace Tax Fund
National Committee for Public Education and Religious Liberty
National Council of Churches of Christ in the USA
National Council of Jewish Women
National Council on Islamic Affairs
National Jewish Coalition
National Jewish Commission on Law and Public Affairs
National Native American Prisoner's Rights Advocacy Coalition
National Sikh Center
Native American Church of North America
Native American Rights Fund
Native American Spirit Correction Project
Navajo Nation Corrections Project
North American Council for Muslim Women

P

Pacific Justice Institute
People for the American Way Action Fund
Peyote Way Church of God
Presbyterian Church (USA), Washington Office
Prison Fellowship Ministries

R

Rabbinical Council of America
Religious Liberty Foundation
Rutherford Institute

S

Sacred Sites Inter-faith Alliance

Soka-Gakkai International-USA

U

Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America
Unitarian Universalist Association of Congregations
United Church of Christ, Office for Church in Society
United Methodist Church, Board of Church & Society
United States Catholic Conference
United Synagogue of Conservative Judaism

W

Women of Reform Judaism, Federation of Temple Sisterhoods

Mr. POMEROY. Mr. Speaker, I rise in support of the Nadler amendment to H.R. 1691. This amendment will safeguard religious liberty, while also protecting other critical civil rights.

This Nation was founded on the conviction that all individuals have the right to the free and full expression of religion. The First Amendment to the Constitution has protected that right for over 200 years. Unfortunately, no court can be completely free of human error when interpreting the Constitution. Beginning with the 1990 Supreme Court decision in *Oregon Dept. Of Human Resources* v. *Smith*, religious expression has been subject to substantial and unnecessary restriction by governmental policies. Therefore, it is both necessary and appropriate for Congress to pass this legislation.

As drafted, however, H.R. 1691 could have the unintended consequence of eroding critical civil rights and undermining state and local statutes. Several states and municipalities have passed laws prohibiting discrimination in housing and employment due to marital status, pregnancy status, or disability. Unless amended, H.R. 1691 could undermine state laws and allow discrimination. A widowed mother or disabled individual should not be deprived equal access to housing or employment under the guide of ensuring religious liberty.

Mr. Speaker, I believe that the Nadler amendment prevents the preemption of state and local statutes, while affording religious expression the highest level of constitutional protection. I urge my colleagues to vote in favor of this crucial provision.

Mrs. MORELLA. Mr. Speaker, I rise in support of the Nadler amendment to the Religious Liberty Protection Act.

This amendment is exactly the same as the bill itself, except for some additional language which will clarify that the bill is not to be used as a blank check to override state and local civil rights laws.

The amendment tracks language in the Civil Rights Act and the Fair Housing Act. Small businesses and small landlords are exempted from compliance. At the same time, the amendment will prevent large commercial enterprises from avoiding compliance with laws affecting housing, employment, and public accommodation.

Basically, the amendment will assure that a landlord renting an apartment in his home may do so according to religious belief, while preventing the same landlord from discriminating on the basis of his or her religious beliefs in the rental of units in a large apartment building.

The Nadler amendment makes clear our intent to strengthen individual religious liberty without overriding state and local anti-discrimination laws. Support the Nadler amendment.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 245, the previous question is ordered on the bill, as amended, and on the further amendment by the gentleman from New York (Mr. NADLER).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 190, nays 234, not voting 10, as follows:

[Roll No. 298]

YEAS—190

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Gejdenson
Gephardt
Gilman
Gonzalez
Greenwood
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Sisisky
Slaughter
Smith (WA)
Snyder
Stabenow
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NAYS—234

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

NOT VOTING—10

Baldwin
Brown (CA)
Chenoweth
Frost
Gilchrest
Latham
McDermott
McNulty
Rivers
Thurman

□ 1425

Mr. COSTELLO and Mr. SWEENEY changed their vote from ''yea'' to ''nay.''

Mrs. JONES of Ohio changed her 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.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). 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. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 306, noes 118, not voting 10, as follows:

[Roll No. 299]

AYES—306

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barton
Bateman
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Coburn
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
DeLay
DeMint
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Lampson
Largent
Larson
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pomeroy
Porter
Portman
Price (NC)
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
Sawyer
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Turner
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—118

Abercrombie
Ackerman
Baird
Barr
Barrett (WI)
Bartlett
Bass
Becerra
Berman
Blagojevich
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Campbell
Capuano
Carson
Clay
Clyburn
Collins
Conyers
Coyne
Crane
Cummings
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Fattah
Filner
Forbes
Frank (MA)
Gejdenson
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hostettler
Jackson (IL)
Johnson, E.B.
Jones (OH)
Kennedy
Kilpatrick
Kolbe
Kucinich
Kuykendall
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Maloney (NY)
Manzullo
Markey
Matsui
McGovern
McKinney
Meehan
Meeks (NY)
Metcalf
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Nadler
Neal
Oberstar
Olver
Owens
Pastor
Paul
Payne
Pelosi
Pickett
Pombo
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Scarborough
Schaffer
Schakowsky
Scott
Serrano
Sherman
Smith (WA)
Snyder
Stark
Sununu
Tancredo
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wu

NOT VOTING—10

Baldwin
Brown (CA)
Chenoweth
Frost
Gilchrest
Latham
McDermott
McNulty
Rivers
Thurman

□ 1442

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1691, the bill just passed.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR THE CONSIDERATION OF H.R. 2490, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 246 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 246

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. 2490) 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. 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 Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or rule XCI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. The chairman of the Committee of the whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto of final passage without intervening motion

except on emotion to recommit with or without instructions.

□ 1445

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of this amendment, all time is yielded for the purpose of debate only.

Mr. Speaker, the legislation before us is an open rule providing for the consideration of H.R. 2490, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and certain independent agencies for fiscal year ending September 30, 2000, and for other purposes.

This open rule provides for 1 hour of general debate equally divided between the chairman and the ranking minority member of the Committee on Appropriations.

The rule waives all points of order against consideration of the bill. It waives House rules prohibiting consideration of unauthorized or legislative provisions in an appropriations bill. The rule accords priority in recognition to Members who have their amendments preprinted in the CONGRESSIONAL RECORD.

The Chairman of the Committee of the Whole may postpone votes and reduce the voting time on a postponed vote to 5 minutes so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit with or without instructions.

H. Res. 246 presents this appropriations bill for House consideration under the normal processes by which appropriations bills may come to the floor. It is an open rule that permits Members to offer any amendments they wish, provided they are germane.

Mr. Speaker, the underlying legislation makes the appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain other independent agencies. This is very important legislation. Nearly 90 percent of the activities funded under this bill are devoted to the salaries and expenses of approximately 163,000 employees who are responsible for administering programs such as drug interdiction, collection of revenues, presidential protection, violent crimes reduction, and Federal financial management.

Through a judicious bipartisan process of hearings and testimony, the Committee on Appropriations arrived at the funding levels contained in the legislation. The funding levels are consistent with this Congress' policy of fiscal discipline, yet provide sufficient funding for agencies within the bill's jurisdiction to carry out their statutory responsibility.

Specifically, this legislation allows increased funding to provide for more diligent enforcement of gun control laws, making it more difficult for convicted felons to obtain weapons. This legislation also appropriates funds necessary to carry out IRS reforms that were passed by the last Congress and stand to benefit all taxpayers across America.

The road to the House floor for this legislation has been very bipartisan indeed. In fact, it passed the Subcommittee on Treasury, Postal Service, and General Government with a unanimous vote under the stewardship of the gentleman from Arizona (Mr. KOLBE) and the gentleman from Maryland (Mr. HOYER), ranking member.

In his testimony before the Committee on Rules yesterday, the gentleman from Maryland was excessively gracious in his praise for the gentleman from Arizona (Chairman KOLBE) and the bipartisan manner in which this legislation was crafted.

The rule, like the underlying legislation, deserves strong bipartisan support. Again, it is an open rule that permits any Member with germane amendments to have them considered by the floor.

Mr. Speaker, I urge my colleagues to continue this bipartisan effort in this legislation and to make sure that we support this fair rule.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary half-hour.

Mr. Speaker, I rise in support of this open rule providing for the consideration of the Treasury-Postal appropriations bill. However, I am very disappointed with the substantial cuts that this bill makes. This bill came out of the subcommittee as a good bipartisan effort, but unfortunately the full committee markup changed all that.

Mr. Speaker, during the markup, my colleagues slashed $239 million from this bill and, Mr. Speaker, those cuts will not be without repercussions. I am concerned that these drastic cuts will make it hard for some of our important agencies to function. Agencies that provide for 30 percent of our Federal law enforcement, including stopping the flow of drugs across our borders, enforcing gun and tobacco laws, enforcing United States customs laws and counterterrorism efforts. These are not small issues, Mr. Speaker, and we cannot afford to undercut them.

The agencies funded by this bill perform an invaluable service, and I hope that there will be a chance to restore their funding. Otherwise, Mr. Speaker, I am concerned that they will have a hard time functioning under these very drastic cuts.

I am also disappointed that the Committee on Rules did not make in order the amendment offered by the gentleman from Florida (Mr. WEXLER) to limit handgun purchases to one per month, or the amendment offered by the gentleman from Pennsylvania (Mr. HOEFFEL) to study the use of antique firearms used in crimes. These two amendments are excellent initiatives towards reasonable gun safety. I am sorry my Republican colleagues refused to consider them.

But, Mr. Speaker, I do hope that the rule passes.

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

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Tucson, Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I will not use that time; however, I appreciate the gentleman from Texas (Mr. Sessions) yielding it to me.

Mr. Speaker, I just wanted to say I am very pleased with the rule that we have before us today which brings this appropriations bill for Treasury-Postal and General Government to the floor. It is a rule that I do not think anybody could possibly object to. It is an open rule, allows any striking amendment or any amendment dealing with appropriations matters to be offered.

The rule protects those items which are already in the bill, as we normally do, from being stricken on a point of order. And, quite frankly, a number of the agencies that this subcommittee funds are not authorized agencies because authorizing committees have not been able to get legislation to the floor for year after year after year to authorize those agencies. So this legislation, this resolution does exactly what it ought to do on an appropriation bill, allow it to be considered as an appropriation matter.

Any amendment dealing with appropriations may be offered and what is in the bill will be protected, and it does not include the offering of extraneous legislative matters that have not previously been considered in the subcommittee or the committee.

Mr. Speaker, this is a good resolution. This is a good rule. It deserves the support of every Member in the body, and I hope that when we come to the question of the previous question, Members will support the previous question and they will vote ''aye'' on passage of this rule so that we can move on today to consideration of this important legislation.

Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time, and I urge adoption of this rule.

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

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), ranking member of the committee.

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. MOAKLEY), ranking member, soon to be chairman of the Committee on Rules, for yielding me this time.

I also want to thank the gentleman from Texas (Mr. SESSIONS) for noting my comments with respect to the gentleman from Arizona (Chairman KOLBE). In the first instance, Mr. Speaker, I want to rise and again repeat, as I will when we get to the debate on the bill, my appreciation of the handling of this bill by the gentleman from Arizona. He has been extremely cooperative and bipartisan and open in his handling of this bill. And, as I said earlier, I appreciate the gentleman from Texas bringing those remarks of mine to the Committee on Rules to the attention of the body, because I believe them very sincerely. The gentleman from Arizona is not only chairman of the subcommittee on which I serve, but also my good friend and an outstanding representative.

Mr. Speaker, I also want to speak on this rule. There are times, of course, when we rise and oppose rules because we do not believe they are fair. In this instance, however, I rise in strong support of the rule. I think the Committee on Rules has issued a rule which is fair to both sides. I am sure in its protection of certain provisions of the bill and items within the bill that have not been technically authorized, that is appropriation accounts that have not had authorizing bills passed, that there would obviously be individuals who might want to object and they might object to the rule for that reason. But the Committee on Rules has been fair in treating both sides equally.

Mr. Speaker, I want to thank the gentleman from California (Chairman DREIER) and the gentleman from Texas (Mr. SESSIONS) and the other members of the Committee on Rules for passing a rule that I think provides for a fair and free and open debate on this bill. Therefore, I am going to urge my colleagues on this side of the aisle to strongly support the rule.

Mr. Speaker, I would observe that when we come to debate on the bill itself, as I did in the Committee on Rules, I will express reservation about the cuts that have been recommended by the committee. I think those cuts are unfortunate, and I think they will have an adverse impact. But as we know, this is not the final step on the process of passing and adopting this bill. Therefore, we will have other opportunities.

Mr. Speaker, I yield to the distinguished gentleman from Kentucky (Mr. LUCAS), my colleague who is coming into the Chamber.

Mr. LUCAS of Kentucky. Mr. Speaker, it is my intention to ask for the yeas and nays on the previous question when the question is called because it is my understanding that if the previous question is defeated, then an amendment will be in order to preclude a COLA adjustment in Members' pay. I support doing that.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman from Kentucky. He has discussed this matter with me. I understand his view. And while he and I disagree on this issue, I certainly respect his right and his appropriate action in bringing this matter to the attention of the House.

Mr. Speaker, I rise in strong support of the rule, strong support of the previous question, and thank the gentleman for Texas for yielding me this time.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Lexington, Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

Mr. Speaker, although I have utmost respect for the Committee on Rules and the work they do, I rise to express my opposition to the previous question to the rule on the Treasury-Postal appropriations bill. As the rule is currently written, the amendment offered by the gentleman from Alabama (Mr. RILEY) to disallow the Members' COLA is not included. If the previous question is defeated, Members will have an opportunity to change the rule to allow a vote against the COLA.

Mr. Speaker, it is my intention, if the previous question is defeated, to offer an amendment to the rule that would disallow the Members' COLA. For that reason I intend to vote against the previous question and urge my colleagues to do the same.

The proposed amendment is as follows:

At the end of the resolution, insert the following:

SEC. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendment contained in section 3 of the resolution. The amendment may be offered only at the appropriate place in the reading of the bill, shall be considered as read, shall not be subject to amendment or demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendment are waived.

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

SEC. . Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended to read as follows:

''SEC. 601. (a) Until adjusted under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 and following) or other provision of law, the annual rate of pay for—

''(1) each Senator, Member of the House of Representatives, and Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico,

''(2) the President pro tempore of the Senate, the majority leader and the minority leader of the Senate, and the majority leader and the minority leader of the House of Representatives, and

''(3) the Speaker of the House of Representatives,

shall be the rate payable for such position as of the date of enactment of the Treasury and General Government Appropriations Act, 2000.''.

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

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Surfside, Texas (Mr. PAUL).

□ 1500

Mr. PAUL. Mr. Speaker, I rise with some bit of ambivalence with this rule, but I will support the rule. I was concerned about a special issue with the Post Office and was hoping that we could address this in detail, and that has to do with the regulations that I consider very onerous and very maliciously placed on private mailboxes, the Commercial Receiving Agencies. I was very hopeful that we could deal with that. But it appears we will have another chance to do that at a later date.

I have a House joint resolution under the Congressional Review Act, H.J. Res. 55. If that were to pass, we could rescind all those regulations. Currently, it is my understanding that these regulations have been put on hold. They will not go into effect soon. But the problem still exists, and I see it as a serious problem.

First, let me talk about the Post Office. The Post Office is a true monopoly. In the free market, there are no true monopolies. Only government can allow a true monopoly.

We do have enough freedom in this country to some degree to offer competition to even this monopoly of the Post Office. By doing this, the private post offices have been set up to give additional service and privacy to many of our citizens, and they are well used.

But now the Post Office sees this as a competition because they are providing services that the Post Office cannot or will not provide. So instead of dealing with this, either providing legalized competition in the Post Office or providing these same services, instead, the Post Office has issued these onerous regulations to attack these customers.

They are forcing these private mailbox operators to develop profiles on every customer, have double identification, and then make this information available to the public and to the Post Office for no good reason.

When I first got involved in this, I did not know which constituencies would be interested in this issue. But one thing that I have discovered is that many of those women who need privacy will use private post offices to avoid the husband or some other individual who may be stalking them. They have

been writing to me with a great deal of concern about what these regulations will do.

Also, it is a great cost to these operators as well as to all the customers. The Post Office would mandate that a special address be placed on each piece of mail, indicating that they are receiving mail at one of these private post offices. This costs a lot of money. There will be a lot of mail returned. If these regulations had gone into effect this week, as had been planned, a lot of mail, to the tune of hundreds of thousands of pieces, if not millions, would have been returned to the senders, and they would not have been permitted to be delivered.

I think this is tragic. I think it has to be dealt with. I am disappointed that we cannot do much with it today, but I know there is a growing support in this country and in this Chamber for doing something about this problem.

We as a Congress have the ability, and the authority, to undo regulations. For too long, we have allowed our regulatory bodies to write law, and we do nothing about it. Since 1994, we have had this authority, but we never use it. This is a perfect example of a time that we ought to come in and protect the people, try to neutralize this government monopoly and help these people who deserve this type of protection and privacy.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I want to say to the gentleman from Texas that I think he raises the question that is a good question; and it should be raised, should be looked at.

It will not come as a surprise to him that we do not agree on all the aspects of what he has said, but he certainly raises an issue that ought to be focused on. I know in talking to the gentleman from Arizona (Chairman KOLBE) that he shares that concern. I want to assure the gentleman that both the gentleman from Arizona (Mr. KOLBE) and myself will be looking at this.

Furthermore, as the gentleman may know, the Postal Department has made very substantial changes to its initially sponsored resolution through the efforts of the organizations that the gentleman from Texas talked to and himself and others who raised these issues with the department, so that they are moving to ensure greater privacy and protection to the individuals of which the gentleman spoke.

The gentleman from Texas raises a legitimate issue. I certainly intend to, along with the gentleman from Arizona (Mr. KOLBE), look at that further. I thank the gentleman for his comments.

Mr. PAUL. Mr. Speaker, I appreciate the comments of the gentleman from Maryland.

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

In furtherance of this discussion, as has been discussed by the gentleman from Texas (Mr. PAUL) and the gentleman from Maryland (Mr. HOYER), I would like to also say to the gentleman from Texas (Mr. PAUL) and to the gentleman from Kansas (Mr. TIAHRT) that I would like to thank them for bringing this issue up.

The gentleman from Indiana (Chairman BURTON) and the gentleman from Arizona (Chairman KOLBE) have also been a part of working with the Postmaster General, General Henderson, on reasonable changes as a result of the marketplace.

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

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. FLETCHER. 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 276, nays 147, not voting 12, as follows:

[Roll No. 300]

YEAS—276

Abercrombie
Andrews
Archer
Armey
Bachus
Ballenger
Barr
Barrett (WI)
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capuano
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Ehlers
Ehrlich
Engel
Eshoo
Everett
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Granger
Green (TX)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (OK)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pease
Pelosi
Pickering
Pickett
Pitts
Pombo
Porter
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sawyer
Saxton
Schakowsky
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Spence
Spratt
Stark
Stenholm
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Towns
Upton
Velazquez
Vento
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wolf
Woolsey
Young (AK)
Young (FL)

NAYS—147

Aderholt
Allen
Baird
Baker
Baldacci
Barcia
Barrett (NE)
Bartlett
Becerra
Berkley
Berry
Boswell
Brady (TX)
Brown (OH)
Bryant
Burr
Capps
Carson
Chabot
Chambliss
Coble
Cook
Costello
Cramer
Danner
DeFazio
DeMint
Deutsch
Doggett
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Evans
Fletcher
Fossella
Franks (NJ)
Frelinghuysen
Gallegly
Gibbons
Goode
Gordon
Green (WI)
Hall (TX)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hoeffel
Holt
Hooley
Hostettler
Hulshof
Hutchinson
Inslee
Jenkins
Johnson (CT)
Jones (NC)
Kaptur
Kasich
Kelly
Kildee
Kind (WI)
Kucinich
LaHood
Lazio
LoBiondo
Lofgren
Lucas (KY)
Luther
Maloney (CT)
Manzullo
Mascara
McGovern
McIntyre
McKinney
Meehan
Mica
Minge
Moore
Moran (KS)
Nethercutt
Norwood
Ose
Pascrell
Paul
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pomeroy
Portman
Price (NC)
Ramstad
Reynolds
Riley
Rodriguez
Rogan
Rothman
Roukema
Royce
Ryan (WI)
Salmon
Sanchez
Sanders
Sandlin
Sanford
Scarborough
Schaffer
Sensenbrenner
Sherman
Sherwood
Shimkus
Shows
Smith (WA)
Souder
Stabenow
Stearns
Strickland
Stump
Talent
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thune
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Visclosky

Vitter	Weller	Wilson
Walden	Weygand	Wise
Wamp	Whitfield	Wu

NOT VOTING—12

Ackerman	Frost	McNulty
Baldwin	Gilchrest	Rivers
Brown (CA)	Latham	Thurman
Chenoweth	McDermott	Wynn

□ 1526

Messrs. SANDERS, GALLEGLY, DEUTSCH, JENKINS, DEFAZIO, TALENT, STEARNS, BARCIA and BECERRA changed their vote from ''yea'' to ''nay.''

Messrs. CLAY, CALVERT, MARTINEZ, METCALF, and COX changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2490) 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, and that I may include tabular and extraneous material.

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

There was no objection.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000

The SPEAKER pro tempore. Pursuant to House Resolution 246 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. 2490.

□ 1528

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. 2490) 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, 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 Arizona (Mr. KOLBE) and the gentleman from Maryland (Mr. HOYER) each will control 30 minutes.

□ 1530

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

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

Mr. Chairman, I am very pleased to be on the floor this afternoon to present to my colleagues H.R. 2490, the Treasury and General Government Appropriations Act for Fiscal Year 2000.

As this bill has been reported by the full committee, it provides $13.5 billion in discretionary budget authority for the agencies that come under the jurisdiction of this subcommittee. The level of funding is the same, I want to repeat that, this is the same level of funding as the amount appropriated in FY 1999.

The bill presented here today is strong on law enforcement, tough on drugs, supportive of efforts to restructure and reform the way IRS does business, and increases Federal resources to enforce our current gun laws.

All of this is accomplished in a fiscally responsible manner. That has been a tall order for our subcommittee to fill. With the help of my colleagues on the subcommittee and the committee, we have accomplished what I think is a very daunting task.

I want to take this opportunity to thank everybody for their help on this bill, all the Members, particularly my ranking member the gentleman from Maryland (Mr. HOYER) and his staff, Scott Nance and Pat Scheulter, who have done an outstanding job to help us get to where we are today.

I might add, I think this bill comes to the floor in a very bipartisan fashion. We have differences, as the gentleman from Maryland (Mr. HOYER) will explain, but we come to the floor in a very bipartisan fashion because we have worked well together on this. I salute my colleague the gentleman from Maryland (Mr. HOYER), the ranking member, for the work that he has done and his assistance in getting us to this point.

I believe that, in its current form, this is an excellent bill and, remarkably, it is a clean bill. There are not controversial legislative riders on this bill. Believe it or not, this bill is an appropriations bill, pure and simple. It is my hope that it will remain that way not only on the floor here today but also as we move through conference with the Senate.

My colleagues know that the allocation required us to make some tough choices to put this bill together. This allocation is based on budget caps, which, may I remind everybody, both parties in both chambers and the President of the United States support.

In order to keep pace with inflation, the subcommittee needed nearly $600 million in new money. But clearly the allocation we received did not give us that. So in order to support the base operations of the agencies which we fund, we were required to look elsewhere for our savings.

We found these savings. We found these savings by postponing construction of new courthouses, by extending the time that was needed to complete some of our projects.

However, let me make it clear that the funding levels that are contained in this bill will adversely affect no programs. In fact, we were able to increase critical efforts to keep guns out of the hands of children, to make sure that the IRS treats taxpayers fairly.

In addition, I want to remind my colleagues that this bill supports approximately 30 percent of all the Federal law enforcement operations, the personnel that are in the Bureau of Alcohol, Tobacco and Firearms, those in the Customs Service, the Secret Service, and the Office of National Drug Control Policy.

In total, the bill before us provides $4.4 billion for these efforts, the same as the President's request, and about $185 million above the current year. We target all of these resources to supporting efforts that enforce and implement laws currently on our books, laws that seek to prevent guns from getting in the hands of criminals and youths, laws that seek to prevent illegal drugs from coming across our borders, and laws that seek to protect our Nation's leaders and the financial systems of this country.

I know that many Members in this body feel that the Federal Government is too big, that it is bloated and it is inefficient. I, for one, agree completely that we need to be able to transfer more power and more money out of Washington and back to our States and our local communities. But we should not do this in a haphazard and irresponsible fashion.

I cannot support amendments which make additional funding reductions to this bill. We are already $840 million below what the status quo would be with inflation alone. Further reductions would allow our infrastructure to deteriorate. It would cause us to delay the IRS reforms that we all voted for so willingly last year. It would rob our law enforcement agencies of the resources they desperately need. It would negatively impact our ability to protect our borders.

I have had the privilege of chairing this subcommittee for 3 years. I believe that we have applied a fiscally conservative philosophy to this bill, one which I certainly share. I think we have steadily chipped away at inefficiencies that we find in Government, at least in the agencies that are included within the jurisdiction of this bill.

The bill that is before us today continues to do this, but I think it does so in a responsible and a well thought out

way. We have spent the past 6 months carefully scrubbing the appropriations requests we received from the administration, from OMB, and from each of these agencies that come under our jurisdiction.

The funding levels that are recommended in this bill reflect what I believe is the best judgment of the Subcommittee and the Full Committee on Appropriations, their judgment about the funding levels that are necessary to sustain the operations of agencies that are under our jurisdiction.

So I urge, no, in fact I would implore my colleagues not to make other radical cuts to the beneficial programs that this bill supports.

Finally, Mr. Chairman, I would urge my colleagues to withhold amendments that would ultimately jeopardize our sending this bill to the President in a timely manner. Let us get on with the business of appropriating. Let us get on with moving this bill forward.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2000 (H.R. 2490)
(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE TREASURY					
Departmental Offices	123,151	134,630	134,206	+11,055	-424
Salaries and expenses:					
Counterdrug (emergency funding)	1,500			-1,500	
Y2K conversion (emergency funding)	1,238			-1,238	
Y2K conversion (emergency funding)	1,890			-1,890	
Automation enhancement:					
Y2K conversion (emergency funding)	37,403			-37,403	
Y2K conversion (emergency funding)	2,762			-2,762	
Y2K conversion (emergency funding)	12,500			-12,500	
Y2K conversion (emergency funding)	6,731			-6,731	
Department-wide systems and capital investments programs	28,690	53,561	31,017	+2,327	-22,544
Office of Inspector General	30,678	32,017	30,716	+38	-1,301
Inspector General for Tax Administration		112,207	112,207	+112,207	
Treasury Buildings and Annex Repair and Restoration	27,000	23,000	23,000	-4,000	
(Delay in obligation)	(-27,000)			(+27,000)	
Financial Crimes Enforcement Network	24,000	28,418	29,656	+5,656	+1,238
Violent Crime Reduction Programs:					
Bureau of Alcohol, Tobacco and Firearms	3,000	3,000	26,800	+23,800	+23,800
Financial Crimes Enforcement Network	1,400	1,263		-1,400	-1,263
Interagency crime and drug enforcement	24,000	49,716	27,000	+3,000	-22,716
United States Secret Service	22,628	3,196	4,200	-18,428	+1,004
ONDCP	1,000			-1,000	
Gang Resistance Education and Training: Grants	13,000	10,000	10,000	-3,000	
United States Customs Service	65,472	64,952	64,000	-1,472	-952
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	1,500			-1,500	
Total, Violent Crime Reduction Programs	132,000	132,127	132,000		-127
Federal Law Enforcement Training Center:					
Salaries and Expenses	71,923	86,846	82,827	+10,904	-4,019
Antiterrorism (emergency funding)	3,548			-3,548	
Acquisition, Construction, Improvements, & Related Expenses	34,760	21,000	24,310	-10,450	+3,310
Total, Federal Law Enforcement Training Center	110,231	107,846	107,137	-3,094	-709
Interagency Law Enforcement:					
Interagency crime and drug enforcement	51,900	26,184	48,900	-3,000	+22,716
Financial Management Service	196,490	202,670	201,320	+4,830	-1,350
Y2K conversion (emergency funding)	6,000			-6,000	
Federal Financing Bank (debt liquidation)	(3,317,960)			(-3,317,960)	
Bureau of Alcohol, Tobacco and Firearms:					
Salaries and Expenses	546,074	584,859	567,059	+20,985	-17,800
(Delay in obligation)	(-2,206)			(+2,206)	
Rescission	-4,500			+4,500	
Y2K conversion (emergency funding)	2,665			-2,665	
Y2K conversion (emergency funding)	5,000			-5,000	
Y2K conversion (emergency funding)	3,530			-3,530	
Laboratory facilities and headquarters		15,000			-15,000
Total, Bureau of Alcohol, Tobacco and Firearms	552,769	599,859	567,059	+14,290	-32,800
United States Customs Service:					
Salaries and Expenses	1,642,565	1,720,370	1,708,089	+65,524	-12,281
(Delay in obligation)	(-9,500)			(+9,500)	
Counterdrug (emergency funding)	106,300			-106,300	
Y2K conversion (emergency funding)	10,200			-10,200	
Y2K conversion (emergency funding)	1,701			-1,701	
Subtotal	1,760,766	1,720,370	1,708,089	-52,677	-12,281
Operation, Maintenance and Procurement, Air and Marine Interdiction Programs	113,688	109,413	109,413	-4,275	
Counterdrug (emergency funding)	162,700			-162,700	
Subtotal	276,388	109,413	109,413	-166,975	
Customs Services at Small Airports (to be derived from fees collected)	2,000	2,000	2,000		
Offsetting receipts		-2,000	-2,000	-2,000	
Harbor Maintenance Fee Collection	3,000			-3,000	
Customs facilities, construction, improvements and related expenses (Counterdrug emergency funding)	7,000			-7,000	
Total, United States Customs Service	2,049,154	1,829,783	1,817,502	-231,652	-12,281
Bureau of the Public Debt	172,100	177,819	176,919	+4,819	-900
Y2K conversion (emergency funding)	1,000			-1,000	
Payment of government losses in shipment		1,000	1,000	+1,000	
Internal Revenue Service:					
Processing, Assistance, and Management	3,086,208	3,312,535	3,270,098	+183,890	-42,437
(Delay in obligation)	(-130,000)			(+130,000)	
Tax Law Enforcement	3,164,189	3,336,838	3,301,136	+136,947	-35,702
Earned Income Tax Credit Compliance Initiative	143,000	144,000	144,000	+1,000	
Information Systems	1,265,456	1,455,401	1,394,540	+129,084	-60,861
Y2K conversion (emergency funding)	483,000			-483,000	
Y2K conversion (emergency funding)	22,312			-22,312	
Information technology investments	211,000			-211,000	
(Delay in obligation)	(-211,000)			(+211,000)	
Net total, Internal Revenue Service	8,375,165	8,248,774	8,109,774	-265,391	-139,000

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2000 (H.R. 2490)—Continued
(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	Bill	Bill vs. Enacted	Bill vs. Request
United States Secret Service:					
Salaries and Expenses	600,302	661,312	662,312	+62,010	+1,000
(Delay in obligation)	(-5,000)			(+5,000)	
Antiterrorism (emergency funding)	80,808			-80,808	
Y2K conversion (emergency funding)	3,000			-3,000	
Y2K conversion (emergency funding)	695			-695	
Acquisition, Construction, Improvement, & Related Expenses	8,068	4,923	4,923	-3,145	
Total, United States Secret Service	692,873	666,235	667,235	-25,638	+1,000
Net total, title I, Department of the Treasury	12,637,225	12,376,130	12,189,648	-447,577	-186,482
Appropriations	(11,678,242)	(12,376,130)	(12,189,648)	(+511,406)	(-186,482)
Rescissions	(-4,500)			(+4,500)	
Emergency funding	(963,483)			(-963,483)	
TITLE II - POSTAL SERVICE					
Payments to the Postal Service					
Payments to the Postal Service Fund	100,195	93,436	29,000	-71,195	-64,436
(Delay in obligation)	(-71,195)			(+71,195)	
Advance appropriations, FY 2001			64,436	+64,436	+64,436
Total	100,195	93,436	93,436	-6,759	
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT					
Compensation of the President and the White House Office:					
Compensation of the President	250	250	250		
Salaries and Expenses	52,344	52,444	52,444	+100	
Executive Residence at the White House:					
Operating Expenses	8,691	9,260	9,260	+569	
White House Repair and Restoration		810	810	+810	
Special Assistance to the President and the Official Residence of the Vice President:					
Salaries and Expenses	3,512	3,617	3,617	+105	
Operating expenses	334	345	345	+11	
Council of Economic Advisers	3,666	3,840	3,840	+174	
Office of Policy Development	4,032	4,032	4,032		
National Security Council	6,806	6,997	7,000	+194	+3
Office of Administration	28,350	39,198	39,448	+11,098	+250
Y2K conversion (emergency funding)	12,200			-12,200	
Y2K conversion (emergency funding)	7,666			-7,666	
Y2K conversion (emergency funding)	9,925			-9,925	
Office of Management and Budget	60,617	63,495	63,495	+2,878	
Office of National Drug Control Policy	48,042	43,133	52,221	+4,179	+9,088
Counterdrug (emergency funding)	1,200			-1,200	
Unanticipated Needs	1,000	1,000	1,000		
Emergency funding	30,000			-30,000	
Rescission	-10,000			+10,000	
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	184,977	185,777	192,000	+7,023	+6,223
Special forfeiture fund	214,500	225,300	225,000	+10,500	-300
Counterdrug (emergency funding)	2,000			-2,000	
Total, title III, Executive Office of the President and Funds Appropriated to the President	670,112	639,498	654,762	-15,350	+15,264
Appropriations	(607,121)	(639,498)	(654,762)	(+47,641)	(+15,264)
Emergency funding	(62,991)			(-62,991)	
TITLE IV - INDEPENDENT AGENCIES					
Committee for Purchase from People Who Are Blind or Severely Disabled	2,464	2,674	2,674	+210	
Federal Election Commission	36,500	38,516	38,152	+1,652	-364
Counterdrug (emergency funding)	243			-243	
Federal Labor Relations Authority	22,586	23,828	23,828	+1,242	
General Services Administration:					
Federal Buildings Fund:					
Appropriation	450,018			-450,018	
Limitations on availability of revenue:					
Construction and acquisition of facilities	(492,190)	(102,194)	(8,000)	(-484,190)	(-94,194)
Repairs and alterations	(668,031)	(664,869)	(559,869)	(-108,162)	(-105,000)
(Delay in obligation)	(-161,500)			(+161,500)	
Installment acquisition payments	(215,764)	(205,668)	(205,668)	(-10,096)	
Rental of space	(2,583,261)	(2,782,186)	(2,782,186)	(+198,925)	
(Delay in obligation)	(-15,000)			(+15,000)	
Building Operations	(1,554,772)	(1,590,183)	(1,590,183)	(+35,411)	
(Delay in obligation)	(-68,000)			(+68,000)	
Repayment of Debt	(91,000)	(100,000)	(100,000)	(+9,000)	
Total, Federal Buildings Fund	450,018			-450,018	
(Limitations)	(5,805,018)	(5,445,100)	(5,245,906)	(-359,112)	(-199,194)

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2000 (H.R. 2490)—Continued
(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	Bill	Bill vs. Enacted	Bill vs. Request
Policy and Operations	109,594	122,158	110,448	+854	-11,710
Y2K conversion (emergency funding)	12,701			-12,701	
Y2K conversion (emergency funding)	4,800			-4,800	
Y2K conversion (emergency funding)	5,002			-5,002	
Y2K conversion (emergency funding)	18,796			-18,796	
Y2K conversion (emergency funding)	7,108			-7,108	
Office of Inspector General	32,000	33,917	33,317	+1,317	-600
Allowances and Office Staff for Former Presidents	2,241	2,241	2,241		
Supplemental general provision (P.L. 106-31)	1,700			-1,700	
Total, General Services Administration	643,960	158,316	146,006	-497,954	-12,310
Merit Systems Protection Board:					
Salaries and Expenses	25,805	27,586	27,586	+1,781	
Y2K conversion (emergency funding)	66			-66	
(Limitation on administrative expenses)	(2,430)	(2,430)	(2,430)		
Morris K. Udall scholarship and excellence in national environmental policy foundation		3,000	1,000	+1,000	-2,000
Environmental Dispute Resolution Fund	4,250	1,250	1,250	-3,000	
National Archives and Records Administration:					
Operating expenses	224,614	186,452	180,398	-44,216	-6,054
(Delay in obligation)	(-7,861)			(+7,861)	
Y2K conversion (emergency funding)	6,662			-6,662	
Reduction of debt	-4,012	-5,598	-5,598	-1,586	
Repairs and Restoration	11,325	13,518	13,518	+2,193	
National Historical Publications and Records Commission:					
Grants program	10,000	6,000	6,000	-4,000	
(Delay in obligation)	(-4,000)			(+4,000)	
Rescission			-4,000	-4,000	-4,000
Records Center Revolving Fund		22,000	22,000	+22,000	
Total, National Archives & Records Administration	248,589	222,372	212,318	-36,271	-10,054
Office of Government Ethics	8,492	9,114	9,114	+622	
Office of Personnel Management:					
Salaries and Expenses	85,350	91,584	90,584	+5,234	-1,000
Y2K conversion (emergency funding)	2,428			-2,428	
(Limitation on administrative expenses)	(91,236)	(95,486)	(95,486)	(+4,250)	
Office of Inspector General	960	960	960		
(Limitation on administrative expenses)	(9,145)	(9,645)	(9,645)	(+500)	
Government Payment for Annuitants, Employees Health Benefits	4,654,146	5,105,482	5,105,482	+451,336	
Government Payment for Annuitants, Employee Life Insurance	34,576	36,207	36,207	+1,631	
Payment to Civil Service Retirement and Disability Fund	8,703,180	9,120,872	9,120,872	+417,692	
Total, Office of Personnel Management	13,480,640	14,355,105	14,354,105	+873,465	-1,000
Office of Special Counsel	8,720	9,740	9,740	+1,020	
Y2K conversion (emergency funding)	100			-100	
United States Tax Court	32,765	36,489	36,489	+3,724	
Total, title IV, Independent Agencies	14,515,180	14,887,990	14,862,262	+347,082	-25,728
Appropriations	(14,457,274)	(14,887,990)	(14,866,262)	(+408,988)	(-21,728)
Rescissions			(-4,000)	(-4,000)	(-4,000)
Emergency funding	(57,906)			(-57,906)	
Grand total	27,922,712	27,997,054	27,800,108	-122,604	-196,946
Appropriations	(26,852,832)	(27,997,054)	(27,739,672)	(+886,840)	(-257,382)
Rescissions	(-14,500)		(-4,000)	(+10,500)	(-4,000)
Advance appropriations. FY 2001			(64,436)	(+64,436)	(+64,436)
Emergency funding	(1,084,380)			(-1,084,380)	
(Limitations)	(5,707,829)	(5,552,661)	(5,353,467)	(-354,362)	(-199,194)
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Bureau of The Public Debt (Permanent)	138,000	142,000	142,000	+4,000	
Federal Reserve Bank reimbursement fund	126,000	128,000	128,000	+2,000	
Trust fund budget authority	102,000	106,000	106,000	+4,000	
US Mint revolving fund	15,000	11,000	11,000	-4,000	
Sallie Mae	1,000	1,000	1,000		
Federal buildings fund	-30,000	4,000	-195,000	-165,000	-199,000
Postal service advance appropriation	-71,195	71,195	71,195	+142,390	
General provision (sec. 408)	5,000			-5,000	
Ethics Reform Act adjustment	-2,000			+2,000	
Emergency funding	-1,084,380			+1,084,380	
Advance appropriations			-64,436	-64,436	-64,436
Total, scorekeeping adjustments	-800,575	463,195	199,759	+1,000,334	-263,436
Total mandatory and discretionary	27,122,137	28,460,249	27,999,867	+877,730	-460,382
Mandatory	13,656,152	14,533,811	14,533,811	+877,659	
Discretionary	13,465,985	13,926,438	13,466,056	+71	-460,382

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

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

Mr. Chairman, I want to begin by complimenting once again the gentleman from Arizona (Chairman KOLBE) for the excellent job he and his staff have done with the bill this year. I thank them for their diligent work on this bill and for their spirit of bipartisan cooperation.

Within the 302(b) allocation level that had been provided for this subcommittee, $13.6 billion in discretionary budget authority, the gentleman from Arizona (Chairman KOLBE) produced a very good bill that he presented to the subcommittee.

Even though we were not able to fund courthouse construction within the constraints of this allocation, which I think is a significant and important shortcoming of this bill, this bill deserved bipartisan support as it came out of subcommittee. And indeed it came out of subcommittee, I would remind my colleagues, unanimously.

This bill, as the chairman has said, funds the Department of the Treasury at $12.19 billion, $18.6 million below the request of the President. Included within this amount is $3.433 billion for the Treasury. Five important law enforcement agencies, as the chairman has pointed out, over 40 percent of law enforcement in the Federal Government falls within this bill.

This bill also funds antidrug activities, including $46.9 million for the Office of National Drug Control Policy. This important office has the lead role in coordinating all of this Government's efforts in the war against drugs. Within this money, $192 million is for the very successful high intensity drug trafficking areas; $19.5 million is for ONDCP's national youth and antidrug media campaign; and $30 million is for the third year of the very popular and widely supported Drug-Free Communities Act.

Mr. Chairman, I remain disappointed that this bill contains almost no construction funds. We have the responsibility in this appropriations bill to fund most of the construction of Federal buildings for the entire Government. But this year there is no attempt to fund any of the Federal courthouses on the Judiciary's 5-year plan.

Let me make it clear to the Members. The chairman, with the committee's support, last year funded courthouses but not those that were requested by Members but those that were agreed to by the Judiciary as the most critically needed in this Nation to assure the timely administration of justice.

This bill eliminates requested construction funds furthermore of $32 million to buy five border stations. They are needed, as the chairman knows. $4.3 million is eliminated for the project to replace the U.S. Mission to the United Nations in New York City, badly in need of replacement. $55.9 million was deleted from the President's budget to fund the long overdue consolidation of the FDA, and $15 million for a secure location for the currently vulnerable ATF Headquarters building.

Very frankly, Mr. Chairman, these deletions are very unfortunate and, in my opinion, penny wise and pound foolish.

I understand, however, why this bill does not include funding for these important construction projects. It is because this is the third year of the Balanced Budget Agreement and the very stringent budget caps have not been raised.

The 302(b) allocation is only 1.8 percent over the 1999 level. I want to repeat that, Mr. Chairman, for Members of the House and, very frankly, for all those listening. This bill represents only a 1.8-percent increase over last year's funding. That is for all salary increases and expenses of utilities and other related expenses that are required both of families and of the Government. This is clearly not enough to cover basic pay and inflationary increases.

So, in fact, we have an effective cut. So by eliminating requested construction projects and not adding back courthouse construction, which this committee did in the 1999 budget, the chairman has managed to almost fully fund the remainder of the requested amount in this bill.

In summary, Mr. Chairman, I believe the chairman did an outstanding job within an allocation that was simply too low because it was based on unrealistic budget caps.

Mr. Chairman, I very sincerely regret that the bill before this House today is a bill I cannot support. Why? I have said that the bill that came out of subcommittee was unanimously supported, strongly supported by me, again, realizing that it was deficient in the areas that I have talked about but realizing, as well, that the chairman and the committee had done the best it could given the fiscal constraints with which it was confronted.

However, not because the Committee on Appropriations thought it fiscally appropriate to do so, not because the Committee on Appropriations believed that there was waste within any of the numbers provided in the subcommittee's reported bill, not because the majority of the Committee on Appropriations members felt that we ought to cut this bill, but because, very frankly, Mr. Chairman, a relatively small group in this House has decided that we are going to make cuts notwithstanding the needs of this Nation.

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The unilateral actions of the House majority leadership in cutting the funding of this bill by $240 million below the 302(b) allocation has hindered this bill.

Let me make an aside, Mr. Chairman. The 302(b) allocation comes about as a result of the budget resolution passed by this House and the Senate. Let me repeat that. The 302(b) allocation that this bill was reported on out of the subcommittee was consistent with the allocations made pursuant to the budget passed by this House and the United States Senate. It was not overbudget. It was not over the 302(b) allocation.

I believe that the almost quarter of a billion dollar cut in this bill has rendered it unsupportable. This reduction passed the Committee on Appropriations on a straight party-line vote, 33–26.

Mr. Chairman, you chaired a retreat. It was a retreat on civility. It was a retreat with the objective of trying to bring us together and make us a more unified, cooperative body, looking at things that were in the best interest of this Nation, not what was in the best interest of party. Very frankly, the subcommittee did this. Very frankly, the Committee on Appropriations would have supported that. But there continues to be a group who does not want to work in a bipartisan fashion, who does not want to bring us together but wants to drive us apart, who wants to, in my opinion, for either political or philosophical reasons, create differences where they ought not to be.

I regret that I rise in opposition to the bill as it stands now. We were told that this reduction is necessary to relieve pressure on other appropriations bills that follow. However, this $240 million will not begin to solve the more than $30 billion shortfall in the 302(b) allocation of other appropriations bills.

What really is happening here is that the leadership is undercutting the committee process to satisfy a few of the members of their conference. This is the fourth appropriations bill to be cut based not on the judgment of the Committee on Appropriations but on the judgment of the leadership.

The worst part of this reduction is the damage it does to core government functions. Funding for the IRS is reduced by $135 million. The General Services Administration repairs and alterations is reduced by $100 million, and the Treasury Department's efforts to automate human resources management are cut by $5 million. These cuts are troubling and extremely ill-advised.

After scores of hearings, days and days of deliberation, the subcommittee made a judgment that the appropriate numbers were $135 million more in IRS, $100 million more in GSA and $5 million more in the human resources management of the Treasury Department.

Mr. Chairman, I know that you voted for the legislation that resulted from

the ''Vision for a New IRS.'' Very frankly, Mr. Chairman, you will remember, perhaps, that I was one of four people when the IRS reform bill was considered on the floor to vote ''no.'' Mr. Chairman, I do not expect you to remember what I had to say, as compelling as it was, in the debate that day, but I got up on the floor and I said, ''I am voting no, and very frankly, if you're going to be for IRS reform, you've got to be for IRS reform at appropriations time and at tax-writing time.'' What I meant by that is that we needed to give it the appropriate resources.

The gentleman from Ohio (Mr. PORTMAN) of this body and BOB KERREY of the other body were critically important in passing this legislation. In the report that they issued, they said this:

''The Commission recommends that Congress provide the IRS certainty in its operational budget in the near future. We recommend that the IRS budget for tax law enforcement and processing, assistance, and management be maintained at current levels of funding for the next 3 years.''

Why did they say that? They said it because if we are going to have reform in IRS, we need to fund the resources to provide the taxpayer services that that bill contemplated. In the cuts that confront us today, we are not doing that.

Last year, the House voted overwhelmingly for that reform bill. That act followed recommendations of the commission that studied the IRS which stated concerning budgets that, and I quote, the IRS should receive stable funding for the 3 years. Furthermore, they said a stable budget will allow the IRS leadership to plan and implement operations which will improve taxpayer service and compliance.

Mr. Chairman, in a recent letter, IRS Commissioner Rossotti stated the following concerning the fiscal year 2000 requested level:

''This level is the absolute bare minimum necessary to meet the congressional demand to reform IRS.''

Mr. Chairman, as you may know, Mr. Rossotti is a Republican. I do not mean he is a partisan. He is a registered Republican and he is a businessman who ran an 8,000-person firm in the private sector, had offices worldwide, and was asked by Secretary Rubin to come in to manage this department. He is not a tax lawyer as most of his predecessors were, he is a manager, a business manager, asked to make this agency run efficiently, effectively and cognizant of the needs of its customers, the taxpayers of this country. He is doing so.

He says further, ''Without these funds, the reform effort mandated by the restructuring act will be in jeopardy and could in fact fail.''

It is not enough to pass legislation which says we are going to reform the IRS. It is, as this report indicated, necessary to fund it at stable levels. We have not done so.

Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. COYNE) and in doing so I would like to observe that he is one of the senior members, as the chairman knows, of the Committee on Ways and Means but more importantly for the purposes of this bill was a member of the IRS reform task force and was intimately involved in the recommendations that that task force made.

Mr. COYNE. Mr. Chairman, I rise today to object to the cut which the Committee on Appropriations has made in funding for the Internal Revenue Service.

While it may be politically popular to cut funding for the IRS, the consequences of this action would be profoundly counterproductive and irresponsible. Do we really want to delay IRS reform or implementation of the new taxpayer protections that were enacted just last year? I do not think so. But that is the effect of this misguided cut that we are contemplating here today.

Do we really want to deny the IRS the resources it needs to modernize its equipment and prepare for the year 2000 bug that we hear so much about? I really do not think so, but this is what might happen if we deny the IRS the resources it needs to make the Y2K conversion in a timely fashion.

Mr. Chairman, this feel-good IRS cut may not feel so good next year. I urge Members to vote against this inadequate bill and send it back to the Committee on Appropriations to be fixed.

Mr. Chairman, I rise today to object to the last-minute $135 million cut which the Appropriations Committee has made in funding for the Internal Revenue Service.

While it may be a politically popular move for some to cut funding for the IRS next year, the consequences of this action would be profoundly counterproductive, unwise, and irresponsible. My Republican colleagues know this and are trying to figure out, behind the scenes, how to undo the damage this bill would do to millions of taxpayers.

Why was the IRS originally given a slight increase in funding for the next year? $75 million dollars was to be used for implementing the IRS Restructuring and Reform Act of 1998, which was passed by the Congress less than a year ago. The remaining $50 million was to be used for modernizing IRS equipment and completing the agency's Y2K conversion.

The IRS reform bill that Congress passed last year was intended to make the IRS more taxpayer-friendly, allow the IRS to hire experts and top managers, reorganize the agency, and provide taxpayers with more than 70 new taxpayers rights in dealing with the agency.

The IRS is currently in the midst of its hiring and reorganization efforts. A significant number of the taxpayer rights provisions have not yet been fully implemented. For example, IRS action to provide innocent spouse relief, allow taxpayers installment agreements, and process claims for abatement of penalty and interest all require employee training, new forms and guidance, and IRS employee interaction with taxpayers. Do we really want to delay IRS action on these statutory mandates—and on implementation of these taxpayer protections? I don't think so, but that is the effect that this misguided cut would have.

Similarly, do we really want to deny the IRS the resources it needs to modernize its equipment and prepare for the year 2000 bug? Are taxpayers really better off if an IRS computer malfunctions? Do we want to risk the possibility that millions of Americans would have to spend hours or days straightening out their tax records? I really don't think so, but that is what might happen if we deny the IRS the resources it needs to make the Y2K conversion in a timely fashion.

IRS Commissioner Rossotti stated the urgency of the situation quite clearly in a letter to Representative Steny Hoyer, Ranking Member of the Treasury-Postal Appropriations Subcommittee, earlier this month. Commissioner Rossotti wrote, ''I want to reemphasize how critical this [IRS] budget is to the success of the restructuring and reform act of 1998, passed almost unanimously a year ago. This landmark, bipartisan legislation established 71 new taxpayer rights provisions and mandated an entirely new direction for the IRS. Implementing these provisions is a huge job that requires a great deal of additional staff time and technology change . . . the Administration's IRS budget request for FY 2000 is essentially level with last year's. This level is the absolute bare minimum necessary to meet the congressional demand to reform the IRS. Without these funds, the reform effort mandated by the restructuring act will be in jeopardy, and could, in fact, fail due to financial constraints.''

Treasury Secretary Summers added that implementing the improvements of the 1998 IRS reform act ''. . . is of the highest priority in the department. The budget follows through on commitments made to the American people to reform the IRS and give the taxpayers the service they deserve and expect. We are at an important crossroad on implementation and we must ensure that the IRS is provided adequate funding to see these changes through to completion . . . I urge the Congress . . . to ensure that the final appropriation reflects the same commitment to supporting IRS reform that has been shown in the past.''

Mr. Chairman, this feel-good IRS cut may not feel so good next year. I urge Members with any sense of responsibility for IRS reform to vote against this inadequate bill and send it back to the Appropriations Committee to be fixed. The Treasury-Postal Appropriations Subcommittee, as well as the President, recommended $8.2 billion for the IRS next year with good reason.

Mr. KOLBE. Mr. Chairman, I am very pleased to yield 4 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN) who has been so instrumental in helping bring about the IRS reforms and restructuring and is the individual who has worked very hard on this and understands what this restructuring is all about.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman very much for yielding me this time. I want to start by commending the gentleman from Maryland and the gentleman from Arizona for putting together a very good bill. Overall, this is legislation that will help move our country forward in a number of ways.

I want to mention particularly the antidrug efforts. The funding of the Antidrug Media Campaign and the Drug Free Communities Act are both measures that I think will make a tremendous difference in terms of our fight against substance abuse by reducing demand in our communities.

I do, though, need to speak briefly about the IRS provisions in the legislation. It was just about a year ago when we passed what was historic IRS restructuring and reform legislation, the most dramatic reform in fact of the IRS in over 45 years. The Clinton administration initially opposed the effort but ultimately they, too, agreed that IRS reform was overdue and ultimately the legislation passed with overwhelming support in both the House and the Senate. Now with this 1-year anniversary coming up just a week from today, it is time for us as a Congress to put our money where our mouth is.

The measure before us today, as Members probably know, cuts about $135 million of funding for the IRS. The funding level proposed in the bill, I think, will jeopardize the implementation of the very law we passed with so much bipartisan support and fanfare just last year. It sounds good on the surface to cut the IRS but it actually hurts taxpayer service.

Let us take a look at how it would affect taxpayers. First, it jeopardizes the implementation of the very important customer service improvements which are mandated by the legislation we passed last year, including a dramatic taxpayer-friendly reorganization of the whole IRS that will improve customer service for every taxpayer, including the very popular telefile program that lets taxpayers file their tax returns much more easily through the telephone.

Second, it will endanger the needed computer modernization effort. Every Member of this House has heard horror stories, I know I have, from our constituents who have received erroneous computer notices where the left hand of the IRS does not know what the right hand is doing. I have been very critical of the IRS as have other Members. The effort here was to come up with computer modernization efforts and resources that would help us to deal with these problems. We need to invest in improved IRS technology if we are serious about protecting our constituents from the kind of computer problems we have all seen.

We also need to expand access to taxpayer-friendly electronic filing. Right now there is a 22 percent error rate on paper filing, compared to less than a 1 percent error rate on electronic filing. That is why in the legislation we passed, again just last year, we mandated that the IRS work hard on electronic filing and in fact we set a goal of 80 percent electronic filing for the IRS by 2007. That is going to be difficult to meet unless they have the resources to do it. Again, it is taxpayer-friendly.

On a similar note, finally, the funding cut will jeopardize, I think, the IRS's abilities to complete its Y2K preparations for this year. While the thought of IRS computers crashing may bring glee to the hearts of many, think about the consequences. Think about no refund checks. Think about erroneous IRS notices sent to innocent taxpayers who think they have paid their taxes in a timely way and in an appropriate way. Think about the unnecessary audits that might result. This is no way to bring our tax system, Mr. Chairman, into the 21st century.

I am a strong believer in fiscal discipline. I am proud to cast my vote for fiscal responsibility even when it is not popular because I think holding the line on Federal spending for the sake of our children and grandchildren is the right thing to do. But here, with regard to the IRS, I think we need to follow up with our efforts from last year. We are making good progress in reforming the IRS. Commissioner Rossotti, I believe, is doing a superb job, but we need to give him the tools to get that job done.

Mr. Chairman, I would conclude by again congratulating the gentleman from Arizona on the overall legislation. This bill is a very strong bill and I would hope with the IRS that in conference we can restore some of these reductions.

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

Before the gentleman from Ohio (Mr. PORTMAN) leaves the floor, I want to again make the comment that he has done some extraordinary work, positive work, helpful work on this entire issue. He is of course from the authorizing committee, the Committee on Ways and Means, a senior member of the Committee on Ways and Means. I appreciate his remarks. Because this is not a partisan issue. The service of our taxpayers is not a partisan issue.

The IRS reform effort, which as I pointed out I voted against the first time because I had concerns about it and, as I said, we needed to do it at budget time and we needed to do it at tax-writing time or no matter how good our people were, they could not implement it. He has reiterated and made more strongly, I think, that point, but the purpose of my rising is to thank him for the leadership that he has exercised on this issue and his continuing shepherding of this effort so that it can be successful. I thank him for his efforts.

□ 1600

Mr. Chairman, let me now reiterate the concerns that we have on this IRS cut. As I mentioned, Mr. Rossotti was hired in an unusual way. That is to say he was hired as a manager, not as a tax policymaker, to make this system run well. He has sent a letter today, and I would like to read excerpts of that. I quoted a previous letter, but he says this in a letter to me and to the chairman on July 15:

A funding reduction of $135 million would severely restrict, if not completely impair, IRS' ability to deliver on restructuring and reform act mandated by Congress in 1998.

Went on to say that it would undermine customer service.

Says further that it would undermine the funding of efforts to implement congressionally mandated reform requirements.

Also says that it will jeopardize the congressionally mandated goal of 80 percent electronic filing.

And the last two points he makes is that this cut would impair the creation of operating units to help specialized groups of taxpayers, including small business and ordinary wage earners.

Lastly, he says this cut would delay implementation of important taxpayer rights initiatives, the point being again that if we ask the IRS to accomplish these objectives it is incumbent upon us to fund their ability to do so. I regret that that has not happened and, as I say, as a result, as strongly as I support the product from the subcommittee, I will not be able to support final passage of this particular bill.

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

Mr. KOLBE. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA), who has not only a lot of Federal employees in her district but has done yeoman's work on issues dealing with Federal employees.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of this legislation.

I want to very deeply thank the gentleman from Arizona (Mr. KOLBE) for his leadership and his very hard work on this very important bill. I also want to extend accolades to my partner from Maryland who is the ranking member, the gentleman from Maryland (Mr. HOYER); and since thanks are so important I want to thank the gentleman from New York (Mr. FORBES) and the gentleman from California (Mr. DREIER) for ensuring that this legislation contains two particular provisions that are of great importance to Federal employees and their families, many of whom, as I mentioned, I have the honor of representing.

The legislation incorporates the provisions of my bill, H.R. 206, the Federal

Employee Child Care Affordability Act. This important and yet simple legislation would allow Federal agencies to use funds from their salary and expense accounts to help low income Federal employees pay for child care. This legislation gives Federal agencies the same flexibility as that enjoyed by the Department of Defense to tailor their child care programs to meet the particular needs of their employees.

So by empowering agencies to work as partners with employees to meet their child care needs, which are ever so important, Congress truly will be encouraging family friendly Federal workplaces and indeed higher productivity.

I am also encouraged that this legislation codifies the victory that we won during the debate 1 year ago today on the Fiscal Year 1999 Treasury, Postal, and General Appropriations Act which provided for contraceptive coverage in the Federal Employees Health Benefits Program. Contraceptives help couples plan wanted pregnancies and reduce the need for abortions.

During that debate, I spoke in favor of the amendment that was offered by the gentlewoman from New York (Mrs. LOWEY) to improve Federal employees' insurance coverage of basic health care for women and their families. The amendment of the gentlewoman from New York (Mrs. LOWEY) required all but five religious-based plans participating in the Federal Employees Health Benefit Plan to cover all five methods of prescription contraceptives: The pill, diaphragm, IUDs, Norplant and Depo-Provera. This bill before us today ensures that we will continue treating prescription contraceptives the same as all other covered drugs in order to achieve parity between the benefits that are offered to male participants in the FEHBP plans and to those that are offered to Federal participants.

And this bill before us, it may not be perfect because it continues the ban on abortion coverage under the FEHBP program. Therefore, I am going to support an amendment that will be offered later by the gentlewoman from Connecticut (Ms. DELAURO) that is gender equitable, to allow any health insurance plan participating in FEHPB to offer coverage for abortions just as two-thirds of the fee for service plans do and 70 percent of HMOs currently provide in the private sector. Again, that is equity.

Despite this concern, I do believe that this legislation before us today is very important. I believe that it reflects a sensible compromise among multiple interests; and, once again, I want to thank the gentleman from Arizona (Mr. KOLBE) for his yeomanship on this particular bill and thank the ranking member for his work on this bill.

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

Mrs. MORELLA. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to commend the gentlewoman for her statement, which was excellent. She is a pleasure to work with on issues relating not only to our region but particularly to Federal employees. She is always a very strong advocate of our Federal employees and treating them with fairness.

I also want to commend her. She did not mention it, but I wanted to call attention to it earlier; I do not think the gentlewoman was on the floor. I regretted the fact that we deleted the $55 million for the FDA facility which is to be located in Montgomery County. The gentlewoman has been a leader on this effort, and I know that she will work with me, with the chairman, that it is in the Senate bill, and I am hopeful that the chairman and the committee will in conference include that language, and the gentlewoman may want to comment on that.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Maryland (Mr. HOYER) for his laudatory comments. I do want to thank the gentleman from Arizona for his comments, and it is true. I know he has been an advocate for Federal employees.

And the gentleman and I and others date way back when it came to consolidation of the Food and Drug Administration, which is located in probably 24 diverse spots, some of our laboratories that really are in terrible need of repair, dilapidated, and yet state-of-the-art work is required of them in what they do. And so I recognize the fact that it is not in this House bill, but it is in the Senate bill, and that is what conferences are for. And so I will join my colleagues in hoping that the conferees will see fit to get the construction moving in the White Oak area, and I thank you for your comments on that.

Again, I thank the gentleman from Arizona (Mr. KOLBE), and I am going to be voting for this bill.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. HOEFFEL), who I understand wants to enter into a colloquy with the chairman and myself.

Mr. HOEFFEL. Mr. Chairman, I thank the gentleman from Maryland for yielding this time to me, and I thank the ranking member for leadership on this bill and his assistance to me.

Mr. Speaker, will the chairman of the committee yield for a colloquy?

I rise today on an issue of great importance to my district, which is a lack of information regarding antique firearms' use in crime. I first became aware of this problem after a 48-hour hostage standoff in Norristown, Pennsylvania, which is part of my district.

Mr. Chairman, I am seeking to require the Department of the Treasury to collect statistics and conduct a study on the use of antique firearms in crime and to report its findings to the Congress within 180 days. Very few or no statistics exist on the use of antique firearms in crime, and no Federal agency is responsible for tracking those statistics. This study would begin to fill the information void left by this lack of jurisdiction. I wonder if the gentleman could accommodate my concern.

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

Mr. HOEFFEL. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentleman from Pennsylvania for raising this issue. I would certainly be happy to work with the gentleman to accommodate his concerns by working with him regarding a study of this matter and language to be incorporated in the conference report for H.R. 2490, and I hope that might satisfy the gentleman's concerns.

Mr. HOEFFEL. Yes, it certainly will, Mr. Chairman. I thank you very much for your leadership on this and your cooperation and that of your staff, and this will certainly help to address a problem of great concern in my district.

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

Mr. Chairman, let me just add to the response of the Chairman, I think the gentleman from Pennsylvania has raised an issue where there is a void of information on the use of relic guns and commission of crime. I think a study would be very useful. I am pleased that the chairman will work with the gentleman from Pennsylvania and myself in including such language in the conference report, and I look forward to that occurring.

Mr. Chairman, I do not believe that we have any further speakers on my side. I understand a member is coming, a member of the subcommittee who would like to speak, so while she is on her way let me make a comment, Mr. Chairman.

The C-SPAN, of course, covers these proceedings, and they see the Members, and the Members work hard. My experience as a legislator over many years has been that the overwhelming 98 percent of the legislators are extraordinarily conscientious and hard-working, but none of us could do our job effectively without some extraordinarily able and committed staff. The chairman in his opening remarks mentioned the staff, and I would like to again thank them for their efforts.

The chief clerk of our committee, Michele Mrdeza, works extraordinarily hard, is very knowledgeable about the bill's provisions and works extraordinarily hard during the course of the year to oversee the implementation of the provisions in our bill. She is assisted very ably by Bob Schmidt, by

Jeff Ashford, by Tammy Hughes, by a very close friend of mine, Clif Morehead, and by Kevin Messner.

On our side of the aisle: Pat Schlueter, who works extraordinarily hard as well; and Scott Nance, a member of my staff as Kevin is a member of Mr. Kolbe's staff; and I want to thank them for their efforts. We could not do this job effectively without their help and without their caring and without the very long hours that they put in day after day, night after night, to make sure this bill comes to the floor in a credible fashion.

Mr. Chairman, let me make perhaps a few other comments while we are waiting. The legislation before us does, in fact, provide for Treasury law enforcement, critically important, important with respect to Customs, to make sure that what is coming into our country comes in properly, that the proper duties are paid, that the items that are excluded from importation do not come in and that smuggling does not occur. They obviously work hand in hand with others, with INS, with DEA, with Water Patrol in carrying out the efforts to make sure that our borders are secure.

In addition, the Bureau of Alcohol, Tobacco and Firearms headed by John Magaw is an extraordinary agency which has, as I have said in times past, dealt with some of the most dangerous and demented criminals in America, those who want to use weapons of, if not mass destruction, wide destruction such as the bombing of the Oklahoma office building that killed so many of our Federal workers and public citizens. It is appropriate that we fund ATF at levels that gives them the opportunity to do the job that we have given them.

And then I would, before yielding to the gentlewoman from California (Ms. ROYBAL-ALLARD), mention the Secret Service, one of the premier law enforcement agencies in our Nation. Most of us view the Secret Service as a protective agency. They do that function. They protect our President, they protect our Vice President, their families, and they protect, of course, visitors to our shore, foreign leaders.

But they also carry out very, very critically important law enforcement responsibilities, not the least of which is the protection of our currency. The American dollar, as we know, Mr. Chairman, is the standard throughout the world for value and for monetary systems. If it were not for the Secret Service and their protection of the integrity of that currency, the international monetary situation would not be nearly as good as it is.

□ 1615

Mr. Chairman, I am very pleased to yield such time as she may consume to my good friend, the gentlewoman from California (Ms. ROYBAL-ALLARD), one of the leaders on our subcommittee, and, I might say, for those of us who have been here for some time, the distinguished daughter of a distinguished member, Ed Roybal, who chaired this subcommittee and who, through the years, taught me the ropes.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in reluctant opposition to H.R. 2490, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 2000.

This is my first year as a member of the Committee on Appropriations, and as a member of the Subcommittee on Treasury, Postal Service, and General Government, I had high hopes of supporting this bill throughout the legislative process. The bill reported out of our subcommittee was a sound one, unanimously supported by the subcommittee members. It maintained current services for the important agencies within the jurisdiction of the bill.

Unfortunately, during consideration by the full Committee on Appropriations, nearly $240 million was cut from the bill at the direction of the Republican leadership. Responding to a small minority of the Republican party which sought to control the budget process this year, this cut was passed by the Committee on Appropriations on a party line vote. This cut would prevent us from going forward with reforms of the Internal Revenue Service passed just last year.

By cutting $100 million from GSA's repair account, we adopt a policy that will only end up costing the American taxpayer much more in the long run for increased repair costs made necessary by deferred maintenance. This reduction in GSA's budget is in addition to the fact that no funding is provided in the bill this year for new courthouse planning and construction.

This lack of funding affects my district very directly because the proposed new Federal courthouse in downtown Los Angeles is first on the priority list. In fact, the Los Angeles courthouse was officially out of space in 1995, and the current facility has life-threatening security deficiencies, according to the U.S. Marshall's Service.

Finally, I was also extremely disappointed that the full committee voted to strike a provision that the gentleman from Virginia (Mr. WOLF) and I included at subcommittee giving the Office of National Drug Control Policy the authority to address underage drinking in their youth antidrug media campaign.

Research has shown that alcohol is an important gateway drug leading to the use of other illegal drugs. Young people who drink are 22 times more likely to smoke marijuana and 50 times more likely to use cocaine than those who do not drink.

Conducting an antidrug media campaign that does not address the linkage seriously hampers its overall effectiveness, and I will continue to work with the gentleman from Arizona (Chairman KOLBE) and others to include this important message in our antidrug strategy.

In short, this was originally a good bill, but pressure from the Republican right wing has turned it into a bad bill. I urge my colleagues to oppose this bill, to send the message that we need to fund our agencies adequately.

I sincerely hope that we will come to our senses later in the legislative process and make this bill the bipartisan product that it once was and still can become.

Mr. PRICE of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Chairman, let me just say once again that I think this is a good bill. I hope it will be supported by Members. I would join with the gentleman from Maryland (Mr. HOYER) in my thanks to the staff on both sides of the aisle who have done such a good job to get us to this point. They are the unsung heroes of this legislation. I thank them, those that are around me and those on the other side, for the fine job they have done.

Mr. THUNE. Mr. Chairman, I rise today to address concerns I have with H.R. 2490, the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 2000.

While I appreciate the hard work of my colleagues on this bill, I object to the process that allows for a pay raise without a vote of the members. The term cost-of-living adjustment may sound more appealing than the term pay raise. Despite the difference of means, the end is the same. And I object to the end at issue here, which is an increase in congressional pay. I am disappointed that the only opportunity I have to oppose the cost-of-living adjustment is on a procedural vote.

South Dakota farmers and ranchers are experiencing historically low commodity prices. Social Security recipients are being asked to live with a 2.7 percent cost-of-living adjustment, but Members of Congress are prepared to accept a 3.4 percent, $4,600 pay raise.

Three years ago, I took a pledge not to accept any pay raise Congress may vote for itself. I took that pledge because I believed Members of Congress were not under-compensated for the work they were doing. I believed then and I believe now that a pay raise for Congress is inappropriate. I therefore will continue to contribute any raise I receive as a Member of this body to a non-profit organization. Any adjustments in congressional pay should be based upon merit, reflecting the demands of the job as well as contemporary economic conditions.

Traditionally, this bill has been the vehicle for addressing the automatic cost-of-living adjustment for Members. Although I will support the Committee's efforts to craft a sound bill, I am disappointed the process used today prevented a vote on whether to bring this bill to

the floor for consideration in its current form. To me, it would have been wholly appropriate to have included a provision denying Members of Congress an automatic pay increase. For these reasons, I voice my disappointment and vote against the previous question on the rule.

Mr. HILL of Montana. Mr. Chairman, I rise in strong opposition to the COLA increase for Members of Congress permitted by the FY00 Treasury Postal Appropriations bill. On September 30, 1997, I voted against a similar bill which contained a $3,100 annual pay raise for Members of Congress.

At that time, I believed that is was wrong for me to accept a pay raise until the Congress balanced the federal budget. Two years later even though we have now balanced the budget, I still do not believe that Members of Congress should have an automatic pay raise. I think that we should have an up or down vote on all pay changes.

Leadership of both parties have sought to avoid such an up or down vote. Since I have been blocked from such a vote, I voted against the motion for the previous question to permit a rule to be offered allowing such an up and down vote.

Because that motion passed, I then voted against the rule on a voice vote because it did not permit such an up or down vote. Failure to allow an up or down vote on this issue only serves to increase cynicism towards the political process and confirms the feelings of many voters that their representatives are out of touch. This process needs to be reformed. Members of Congress should be on record with the citizens of their districts as to whether they believe an increase to our salary is justified.

Mr. MORAN of Kansas. Mr. Chairman, I rise in opposition to this procedural motion which precludes consideration of a cost of living increase for Members of Congress. Failure to allow an up or down vote on this issue only serves to increase cynicism towards the political process and confirms the feelings of many voters that their representatives are out of touch. This process needs to be reformed. Members of Congress should be on record with the citizens of their districts as to whether they believe an increase in their salary is justified. Given the opportunity, I would vote "no."

I believe that fiscal discipline must start with elected officials. At a time when farmers and ranchers are struggling, our domestic oil and gas industry is collapsing and rural hospitals and other health care providers are curtailing services, there is no place for a Congressional cost of living increase, especially one born in a cloud of secrecy.

Mr. HAYES. Mr. Chairman, I rise in opposition to the pending motion and hope that my colleagues will join me voting down the previous question.

It is my understanding that under current law a Cost-of-Living-Adjustment (COLA) is enacted annually. Mr. Chairman, unfortunately, the rule crafted for the Treasury-Postal Appropriations bill does not allow for members to vote up or down on this automatic COLA. This concerns me—I had hoped for an opportunity to vote against any sort of congressional pay raise for members of Congress. Consequently, Mr. Speaker, I can't support this rule and will vote against this motion.

Over the Independence Day recess, I visited farmers and manufacturers across the 8th District of North Carolina. These are hard-working, decent people, Mr. Chairman. During my stops, I was troubled by numerous stories of fleeting jobs.

While our nation's economy continues to grow, many rural Americans are struggling in their local economies. In the 8th District alone, double-digit unemployment is common. In our smaller, more remote communities economic development is virtually stagnant. Mr. Chairman, with so many of my constituents and rural Americans across the country struggling to make ends meet, it seems to me inappropriate to support a congressional pay raise. I urge my colleagues to join me in voting against this motion.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in reluctant opposition to H.R. 2490, the Treasury, Postal Service and General Government Appropriations Bill for fiscal year 2000.

This is my first year as a member of the Appropriations Committee, and as a member of the Treasury, Postal Service and General Government Subcommittee, and I have enjoyed working with Chairman JIM KOLBE, Ranking Democrat STENY HOYER and other members of the subcommittee. Chairman KOLBE put together a solid schedule of budget hearings, including a special hearing on ONDCP's anti-drug media campaign and a special hearing on integrity issues affecting the Customs Service. I also accompanied Chairman KOLBE on two "field trips" to see facilities the Secret Service and the Bureau of Alcohol, Tobacco and Firearms at work, and I came away with a much fuller understanding of the vital work these agencies perform on a day-to-day basis.

I had high hopes of supporting this bill throughout the legislative process. Certainly, the bill reported out of our subcommittee had much to commend it, including several provisions added at my request. It was a sound, bipartisan bill, unanimously supported by all members of the Treasury, Postal Service, and General Government Subcommittee. Chairman KOLBE and Ranking Democrat HOYER had worked in a bipartisan fashion to craft a bill that stayed within a tight 302(b) allocation of $13,562,000,000, while essentially maintaining current services for the important agencies and functions within the jurisdiction of the bill. These vital agencies include the Internal Revenue Service, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Customs Service, as well as the Executive Office of the President and numerous executive agencies.

I would specifically like to thank the Chairman for including report language addressing a serious issue regarding the Customs Service. During a special committee hearing, I raised questions about a portion of a report that had been prepared by the Treasury Department regarding the integrity of the Customs Service. I was particularly concerned about a portion of the report which said:

> Most serious, however, is the belief that inspectors who are hired locally, particularly along the Southwest border and assigned to the local ports of entry, could be at greater risk of being compromised by family members and friends who may exploit their relationships to facilitate criminal activities. Although they could not offer any solid evidence, Senior Customs officials expressed a real apprehension over the possibility that individuals were attempting to infiltrate Customs by seeking jobs as inspectors for the sole purpose of engaging in corrupt and criminal behavior.

At my request, the Committee included language taking strong exception to any implication that individuals of Hispanic background are particularly susceptible to corruption and laying out the Committee's expectation that the Customs Service should address unsubstantiated bias by senior Customs officials as it implements its anti-corruption strategy.

Additionally, I am grateful that the bill includes report language directing the General Services Administration to provide necessary funding for the renovation of a federal building located in my district in Downtown Los Angeles in its fiscal year 2001 budget submission. this project is absolutely critical for the safety of the 2,000 workers and 4,000 to 5,000 public visitors who occupy this building on an given day. The building, which currently houses branches of the Immigration and Naturalization Service, the Internal Revenue Service and other agencies, was originally built in 1963, and is in grave need of safety enhancements such as a building-wide fire alarm system, seismic strengthening, safety upgrades to the elevators and stairwells, as well as modifications to meet Americans with Disabilities Act requirements.

So I believe the bill had considerable merit as reported by the subcommittee, and that Chairman KOLBE and Ranking Democrat HOYER had crafted the best bill possible under tight budget constraints.

Unfortunately, during consideration by the Full Appropriations Committee, nearly $240 million was cut from the bill at the direction of the Republican leadership. Responding to a small minority of the Republication party who have sought to control the budget process this year, this cut was passed by the Appropriations Committee on a straight party-line vote, 33 to 26. While we were told that this reduction is necessary to relieve pressure on other appropriation bills, $240 million is merely a drop in the bucket of what is actually needed to make our other appropriation bills passable. However, $240 million is a very severe cut to our bill, which was already stretched to the limit.

A significant amount of this cut—$135 million—would come from the Internal Revenue Service. Just last year Congress passed the IRS Reform and Restructuring Act, which required the IRS to reorganize, and make significant changes to protect taxpayer rights and improve services. The cut of $135 million will completely jeopardize IRS's ability to follow through on these important reforms.

This cut also includes a $50 million reduction in IRS's funding for its Year 2000 conversion. If the IRS fails to complete its Y2K conversion on time, they will be unable to process returns and provide tax refunds to our nation's taxpayers during the 2000 tax season.

Another $100 million has been cut from the General Services Administration's Repair and Alterations account with the Federal Buildings Fund. This reduction will severely impair GSA's ability to provide adequate physical security and make the many needed repairs at

over 8,400 federal buildings throughout the country. I think we all recognize this as penny-wise and pound-foolish policy. Reducing funding now for GSA's Repairs and Alterations will only end up costing the American taxpayer much more in the long run for increased repair costs made necessary by deferred maintenance.

This reduction in GSA's budget is in addition to the fact that no funding is provided in the bill this year for new courthouse planning and construction. The lack of funding for the courthouse construction program is particularly distressing given the fact that other federal law enforcement spending has increased significantly over recent years, putting significant stress on the courts. With no funding for modern court facilities, the ability for the Justice Department and our federal judges to deal efficiently with their caseloads is made increasingly difficult. In addition, according the GSA, delaying funding of new courthouse projects increases costs by an average of 3 to 4% annually—meaning that the federal government will have to pay significantly more for the same projects in years to come.

I am personally very concerned about this lack of funding, as the proposed new federal courthouse in downtown Los Angeles, located in my district, is the first on a priority list agreed to by GSA and the Administrative Office of the U.S. Courts for FY 2000. A new courthouse is desperately needed because the existing facility, built over 60 years ago, lacks the necessary courtroom space to accommodate its rapidly increasing workload. In fact, the Los Angeles courthouse was officially ''out of space'' in 1995. This lack of space has created delays, inefficiencies, and a huge backlog of cases. Accordingly to the Judicial Conference of the U.S., the current facility has ''critical security concerns,'' including ''life-threatening'' security deficiencies, which have been documented by the U.S. Marshalls Service. For example, prisoners facing trial must be transported to various courtrooms from secure detention facilities at remote locations. This process is expensive and difficult for the U.S. Marshalls Service, and it is potentially threatening to visitors in crowded corridors, including, in some cases, witnesses at the same trials. The U.S. Attorneys office must also cope with assembling the elements of a successful prosecution with staff and resources scattered at locations throughout the Los Angeles area.

I believe these cuts adopted by the full Appropriations Committee place in jeopardy the ability of the important agencies within our bill to fulfill their vital missions. For that reason, I must reluctantly oppose the bill in its present form.

Finally, I was also extremely disappointed that the full committee voted to strike a provision that Congressman FRANK WOLF and I had included at subcommittee giving the Office of National Drug Control Policy the authority to address underage drinking in their youth Anti-Drug Media Campaign. This provision was critical because, according to General McCaffrey, the Director of ONDCP, he lacks the legal authority to address alcohol in the media campaign. Even more important is that research has shown that alcohol is an important ''gateway drug,'' leading to the use of other, illegal drugs. In fact, General McCaffrey has stated that alcohol ''is the biggest drug abuse problem for our adolescents and it is linked to the use of other illegal drugs.'' For example, more than 67% of kids who start drinking before age 15 end us using illicit drugs. Additionally, ONDCP's own data shows that young people who drink are 22 times more likely to smoke marijuana and 50 times more likely to use cocaine than those who don't drink.

Conducting an anti-drug media campaign that does not address this linkage seriously hampers the effectiveness of the $1 billion, taxpayer funded effort. Until we incorporate this message into our anti-drug campaign, parents and children will be deprived of the basic fact that underage drinking, while dangerous in and of itself, may also lead kids to a lifetime of illicit drug dependence.

In short, this was originally a good bill. But pressure from the Republican right wing has turned it into a bad bill. The IRS and our important law enforcement agencies like the Secret Service and the BATF are on the brink of being unable to fulfill the responsibilities we have given them. Further, we have adopted a penny-wise, pound-foolish policy for the General Services Administration, both in terms of vital new construction as well as on-going maintenance and repairs for the huge inventory of federal buildings where our constituents do their business every day.

I urge my colleagues to oppose this bill to send the message that we need to fund our agencies adequately, and I sincerely hope that we will come to our senses later in the legislative process and make this bill the bi-partisan product that it once was and still can become.

Mrs. MALONEY of New York. Mr. Chairman, I rise in reluctant opposition to the Treasury-Postal appropriations bill.

I agree with what many of my colleagues have said about the cuts in this bill, and for that reason I cannot support it.

Still, it is difficult for me to oppose this bill because it was essentially a good bill before it reached the full committee. And as a strong advocate for cleaner elections and vigorous enforcement of election laws, I am particularly pleased by the provisions in this bill dealing with the Federal Election Commission.

The Federal Election Commission, in the words of a former Member of this body, is the ''one agency that Congress loves to hate.''

For too long, Congress has failed to give the FEC the resources and tools it needs to do its job.

So, I am very pleased that the committee has elected this year to fund the FEC at a level that is nearly equal to the agency's budget request. For the first time in years, the committee has decided to give the FEC the money it needs to enforce the law.

But not only does this bill fully fund the FEC, it also contains several provisions that will help the agency operate more efficiently.

This bill will mandate electronic filing by campaign committees that reach a certain threshold set by the agency. In addition, it creates a system of ''administrative fines''—much like traffic tickets, which will let the agency deal with minor violations of the law in an expeditious manner. Finally, it will permit campaign committees to file with the FEC on an election-cycle basis, as opposed to the current system which requires calendar-year reporting.

These are all common-sense, bipartisan reforms that will give the FEC more time to investigate serious violations of the law. All of these reforms were recommended by an audit conducted by the independent firm of PricewaterhouseCoopers and are supported by the FEC itself.

Mr. Speaker, a strong FEC is critical to the integrity of our electoral process. Our election laws are meaningless if we are not willing to give the FEC the tools and the resources it needs to enforce them.

While I continue to believe that we must do more to clean up our elections—and I call on the leadership to bring campaign finance reform legislation to the floor as soon as possible—I do applaud the committee for taking this one small step that will enable the FEC to operate more efficiently.

I thank the gentleman from Arizona (Mr. KOLBE) and the gentleman from Maryland (Mr. HOYER) for their leadership on this issue.

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

The CHAIRMAN. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

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

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, may reduce to a minimum of 5 minutes the time for voting on any postponed question immediately following another vote, provided the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, 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, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $134,206,000.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $31,017,000, to remain available until expended: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated shall be used to support or supplement the Internal Revenue Service appropriations for Information Systems.

AMENDMENT OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. VELÁZQUEZ:

Page 3, line 9, insert before the period at the end the following:

: *Provided*, That, of the total amount provided under this heading, $3,000,000 shall be for grants authorized in part 2 of subchapter III of chapter 53 of title 31, United States Code (relating to money laundering and related financial crimes)

Ms. VELÁZQUEZ (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 New York?

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, the Velázquez-Bachus amendment designates $3 million within the funds appropriated for the Treasury Department for fiscal year 2000 to provide grants to State and local law enforcement agencies and prosecutors to investigate and prosecute money laundering and related financial crimes.

I would like the record to reflect also that the most influential Members of the House with respect to anti-money laundering policies support this amendment, including the gentleman from Iowa (Chairman LEACH), the ranking member, the gentleman from New York (Mr. LAFALCE), the gentlewoman from New Jersey (Mrs. ROUKEMA), and my cosponsor, the gentleman from Alabama (Mr. BACHUS).

This grant program is authorized by legislation that I sponsored in the 105th Congress, the Money Laundering and Financial Strategy Act of 1998. I am offering this amendment for the same reason the gentleman from Alabama (Mr. BACHUS) and I have worked for years to get a money laundering strategy bill through Congress, because money laundering is one of the most destructive criminal elements that face our country.

About 5 years ago I began working with law enforcement officials in my district to address the growing problem of money laundering in the neighborhoods I represent and throughout New York City. These neighborhoods are home to many hard-working low-income families. The tragedy is that they are also home to hundreds of money wire services that transfer up to $1.3 billion in illegal drug proceeds to South America.

The success of drug dealers, arms dealers, and organized crime organizations is based upon their ability to launder money. Through money laundering, drug dealers transform the monetary receipts derived from criminal activity into funds with a seemingly legal source.

For a moment, just consider the sheer size and changing nature of money laundering enterprises. In just the United States alone, estimates of the amount of drug profits moving through the financial system have been as high as $100 billion. It is staggering. Now consider the burden of local law enforcement officials. They need our help. In fact, since the passage of the Money Laundering and Financial Strategy Act, my office has received calls from local and State law enforcement officials from across the country asking how they can apply for these grants.

Let me be clear, this is not funding for another government program. This amendment provides money directly to the States and local law enforcement agencies that are waging the war on crime. There is a lot of talk in this Congress about giving the States and local governments more control and about giving Federal money back to the communities, but now Congress has failed to appropriate a mere $3 million for grants to assist our State and local officials to fight money laundering. How do we expect our local police departments and prosecutors to fight crime networks that have access to more money than some States when we cannot make a $3 million commitment?

Money laundering has devastating consequences for our communities because it provides the fuel for drug dealers, terrorists, arms dealers, and other criminals to operate and expand their operations. The dealers that sell drugs on our streets and in our schools rely on money laundering to disguise their illegal profits and continue their operations.

Dirty money can take many routes, some complex, some simple, but all increasingly inventive, the ultimate goal being to hide its source. The money can move through banks, check cashers, money transmitters, businesses, and even be sent overseas to become clean, laundered money.

The tools of the money launderer can range from complicated financial transactions carried out through webs of wire transfers and networks of shell companies to old-fashioned currency smuggling, and so the tools of law enforcement to combat money laundering must be at least as sophisticated, if not more so.

Anti-money laundering legislation and funding for programs to combat money laundering are vital law enforcement weapons in the war on drugs. That is why we must begin to fund these grants and allow the States and local law enforcement officials to begin to even the playing field in their battle against drug dealers.

I urge the passage of the Velásquez-Bachus amendment.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition not because I disagree with what the gentlewoman from New York (Ms. VELÁZQUEZ) is trying to do. I rise in opposition not because I do not agree with the merits of the program that she discussed.

As she has told us, this is a program that I think has a lot of merit, and this program had very strong bipartisan support when we passed the Money Laundering and Financial Crimes Strategy Act of 1998, because it did permit the Treasury Department, in consultation with Justice, to develop a grant program for State and local agencies to go after money laundering activities, which we know is a very serious problem, and is really at the root, the heart of the problem with our drug trafficking. If we cannot get at the money, we cannot really stop the drug trafficking.

The Federal government alone cannot do this, it takes State and local agencies to do it, so the intent was very, very good. The problem that we have is a very simple one of budgetary constraints that are faced by this committee. Because it was a new program, we did not provide funds for this.

I just would want to mention to the committee that we have made a very substantial cut in this particular line of Treasury, more than, I think, I would like to see. The request was for $53.5 million. We initially at the subcommittee level provided $35.9 million. We have taken another $4.5 million out of there in the full committee. That reduction was part of what we did in order to bring us down to the level necessary to meet the 1999 appropriated levels.

The concern that I would have about designating $3 million out of what has been a shrinking pot here, or a shrinking piece of the pie, for the Justice Department for these operations is that we are going to cut deeply, I fear, into some of the other programs that are covered by this, which of course includes the modernization, the human resources reengineering project which is going on Treasury-wide to try to bring about a new personnel system within the department. They are continuing their Y2K conversion, their productivity enhancements, all the things we have directed them to do.

I fear that if we designate this amount of money, we are going to be cutting someplace else. It does mean a cut from someplace else because we have not changed the total amount available to the Department.

So I understand what the gentlewoman is trying to do. It is a program that I have a lot of interest in, and I think many of us sympathize with this. But I just believe that under the circumstances, it would be inappropriate for us to try to earmark this amount in this relatively small departmental appropriation. For that reason, I would oppose it.

Ms. VELÁZQUEZ. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to say to the gentleman that the Treasury Department has informed us that they would be able to find the $3 million within the existing levels for these $3 million grants.

I just would like to add that appropriation bills are about priorities. If fighting money laundering in this Nation is not a priority, then we should get our priorities in line.

□ 1630

Mr. KOLBE. Mr. Chairman, reclaiming my time, I appreciate the gentlewoman's comments. I would still argue that as we start to earmark particular amounts of departmental monies, it is going to make it that much more difficult for them to meet their other requirements and that is the only reason I oppose the amendment.

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

Mr. Chairman, last Congress the House authorized the Money Laundering Financial Crimes Strategy Act of 1998, of which the gentlewoman from New York, Ms. VELÁZQUEZ, was a cosponsor, along with the distinguished gentleman from Alabama (Mr. BACHUS), who will also be speaking. I do not know whether the gentlewoman from New Jersey (Mrs. ROUKEMA) was a cosponsor as well. Apparently.

I understand what the gentleman from Arizona (Mr. KOLBE) is saying, but I am rising in support of this amendment. This bill created a national strategy to fight money laundering at the local level and attack drug trafficking at its source. Let me say to the gentlewoman from New York so she understands, the gentleman from Arizona has been an extraordinarily strong supporter of the financial crimes enforcement unit that is in this bill, FinCEN, that the gentlewoman is probably familiar with. So the gentleman has been very concerned about money laundering. I know the gentleman has a concern also about the levels in the bill. He and I at least momentarily disagree, and I think we can do this at this point in time.

The bill on the floor does not include funding for these grants, and I think that is an oversight on our part. I think we should have included the money, and that is why I am supporting this amendment. Money to fund the grants was included by the President in this budget and in the Treasury Department's budget proposal, but the committee chose not to fund it.

To remedy this, the gentlewoman from New York (Ms. VELÁZQUEZ), the gentleman from Alabama (Mr. BACHUS), the gentlewoman from New Jersey (Mrs. ROUKEMA) and others have offered this amendment to earmark $3 million to the general fund of the Treasury Department to finance it.

Mr. Chairman, I have not been in touch with the Treasury Department, but the gentlewoman from New York has, and indicates that it is in their budget. They believe they can afford it and can support it in the context of their bill.

In my opinion, Mr. Chairman, we need to give local law enforcement the tools to fight these crimes which are the basis of the drug problem in our communities making money and then converting that money so that it can be used legally. The funding in the amendment would give local agency the tools to fight the root of the drug problem. It would target high-intensity drug trafficking areas.

Because of that, and because I think it is so critically important, and because I know the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Banking and Financial Services, and the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services have been strong supporters of this legislation.

And I believe that we have such a broad base of support for this legislation, I would hope that the chairman of the subcommittee would see his way clear to letting this be adopted and then seeing how we can work between now and conference.

Mr. Chairman, I rise in support of this amendment and urge my colleagues to adopt it.

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

Mr. Chairman, when we talk about drug trafficking, I think some of us think of it as a one-way street. We think of the drugs coming in. Drug trafficking is a two-way street. The drugs come in and the money goes out. We seize, by some estimates, as much as 30 percent of the drugs entering our country. We seize less than one-fourth of 1 percent of the money that leaves the country.

Now, we can continue to put young men in jail, catching them pushing drugs on the street; and we can continue to fill up our prisons, but we have to start doing some new things. The legislation that the gentlewoman from New York steered through this House and through the Senate was considered ground breaking at the time, and that is what the New York Police Department described it as.

Mr. Speaker, we authorize $3 million, and I would say that we cannot afford not to spend this money. Where we get it, that is a decision of the appropriators. But I can tell my colleagues that we had numerous hearings on this legislation. It is good legislation. I think it is foolhardy for us to take so much time, so much consideration, have law enforcement agents from all over this Nation testify in five different hearings, carefully construct legislation that this Congress felt very good about and which passed I think without a dissenting vote, and then not to fund it. It makes absolutely no sense.

We are talking about a threat to every one of our communities, and we are talking about addressing the flip side of this threat, the money laundering side, which has not been seriously looked at or combatted. And we now have an opportunity, through the expenditure of just a small amount of money, to move in that direction.

I want to say that I do not think we have a choice here. I do not think this is a situation where we do not have the money. I will leave my colleagues with this: a drug dealer last year was convicted of pushing drugs and the testimony revealed that he made $3 million in less than a month pushing drugs in one of our large cities. One drug dealer in one city made $3 million pushing drugs and we are talking about $3 million.

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

Mr. Chairman, I rise in strong support of the Velázquez-Bachus amendment which would earmark $3 million of appropriated fiscal year 2000 Treasury Department funds to provide grants to States and local law enforcement agencies and prosecutors to investigate and prosecute money laundering related to financial crimes.

Mr. Chairman, money laundering activities allow drug traffickers, arms smugglers, tax cheats, and many other criminals to fund and profit from their illicit activities. In my congressional district in Queens in the neighborhood of Jackson Heights, the seriousness of the drug money laundering problem is highlighted by the widespread use of money remitters and their agents by organized narcotics traffickers to send the proceeds of drug sales back to drug source countries.

Mr. Chairman, the grant program funded by this amendment is part of an overall strategy to help provide local law enforcement officials greater access to Federal law enforcement resources in their ongoing battle against

money laundering activity, and so I strongly urge all of my colleagues to support the Velázquez-Bachus amendment.

Mr. Chairman, let me just add that I know that the gentlewoman from New York (Ms. VELÁZQUEZ) has been working on this issue for a number of years, at least 7 years here in the House. And we are not talking about a great deal of money in the overall picture of the budget, but an amount of money that can go a long way to helping us curtail the drug importation and exploitation of many people in my district.

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

Mr. Chairman, I speak in strong support of this amendment. It is very simple. If we want to fight drugs, we have got to vote for this amendment because money laundering equals the drug trade. And as has been already stated, this is a high priority by anybody's standards.

Certainly, I want to join my colleague on the Committee on Banking and Financial Services, the gentleman from Alabama (Mr. BACHUS) as he congratulated the gentlewoman from New York (Ms. VELÁZQUEZ) for the good work that she has done on money laundering. Her bill, just to remind or refresh the memories of our colleagues, the Money Laundering and Financial Strategy Act, was passed last year and it was signed into law in October of 1998, and it was passed easily with strong support. But we cannot have that bill on the ledger here without financing it and implementing it, and that is what we are saying here.

The gentlewoman from New York talked about the administration and its responsibility to formulate a comprehensive anti-money laundering strategy and, by the way, we must also stress for all our colleagues this is not a Federal program. This is to give money to local law enforcement. It is putting money back at the local level where we can do the best possible in those high-risk areas to combat that money laundering. The need is very great, and it is pressing and it is growing.

Mr. Chairman, I want to refresh the memory of both my colleagues on the Committee on Banking and Financial Services as well as others about the hearings that were held in my committee, the Subcommittee on Financial Institutions and Consumer Credit, on this subject of money laundering.

The amount of money being laundered in the United States is estimated, conservatively, I might say, to be in the hundreds of billions of dollars. Law enforcement, that is, U.S. Attorneys, Customs and even Treasury, told us at these hearings that the lifeline of the drug trade is money laundering. The lifeline of drugs is money laundering.

In addition, we were also told that approximately $30 billion in cash is being smuggled out of the U.S. on an annual basis. And it is obviously no small problem. It is growing and it is huge.

One thing is very clear from the subcommittee hearings. If the drug lords, and I want to stress this, it is very clear for anybody that is knowledgeable on this subject, if the drug lords cannot launder the proceeds from the drug sales, they are out of business. Law enforcement has made this point time and again.

Now, this amendment earmarks $3 million of Treasury Department's funds for local law enforcement to fight that money laundering. I want to stress with reference to some statement by the gentleman from Arizona (Chairman KOLBE) and his observation about the Treasury's lack of action, I also am not satisfied with the Treasury Department in the money laundering field. They are very late in issuing the national anti-money laundering strategy required by the Velázquez bill of last year. Their report was due, or strategy was due, in February of this year.

But Treasury is also late in finalizing the money services business regulations and we were promised, both in writing as well as at the hearings, a written response by June 1 to give us some idea as to when Treasury would be acting on these statutory requirements. But I want the gentleman from Arizona to know as chairman of the subcommittee that nothing yet has been received, despite repeated promises.

This amendment will make it clear to Treasury that Congress is serious about money laundering, and it will help us focus the Treasury Department on this important issue.

Mr. Chairman, I urge a strong vote for this amendment.

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

Mr. Chairman, there are several different types of crime, but the vast, vast preponderance of crime involves money. Money.

If we go to law enforcement officials, whether Federal, State, local, and ask them what is the best way to detect crime, they would say ''follow the money.'' Follow the money. That is what we want to do. And that was the reason that the Congress in October of 1998 passed the Money Laundering and Financial Strategies Act of 1998, so that the Federal law enforcement officials, the State law enforcement officials, the local law enforcement officials could also do together jointly what they thought would be most effective: follow the money.

□ 1645

The difficulty is, to follow the money, we need a little bit of money. The difficulty is, in order to have a cooperative strategy involving the Federal, State, and local governments, as is called for by a section of the October, 1998, act, that section of the October, 1998, act must be funded.

The amendment of the gentlewoman from New York (Ms. VELÁZQUEZ) simply says, amongst the monies that already have been determined should be appropriated by the Subcommittee on Treasury, Postal Service, and General Government for the Treasury Department, of that amount $3 million should be designated for what local law enforcement officials think is the most important act that can be done to detect crimes involving money, that is, follow the money.

Vote for the Velázquez amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

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

Mr. Chairman, I rise as a member of the Subcommittee on Treasury, Postal Service, and General Government in strong support of the measure that we are now debating.

This is a responsible bill that maintains fiscal discipline, fully funds all programs and activities under its jurisdiction at current year levels while targeting resources to critical activities. This bill is a very, very important measure that continues to fund important government operations.

I want to commend the chairman and the ranking member for the efforts in which they have put this measure together. We all understand that this is done under the auspices of retaining the tight fiscal caps. Difficult decisions have been made in putting this bill together.

I want to compliment both the majority and the minority staff for the quality of this measure. It does move the process forward, and I rise in strong support.

Mr. Chairman, I rise as a Member of the Subcommittee in strong support the FY 2000 Treasury, Postal Service and General Government Appropriations Bill.

This is a responsible bill that maintains fiscal discipline, fully funds all programs and activities under its jurisdiction at current year levels while targeting resources to critical activities, such as enforcing our gun and tobacco laws, combating illegal drugs, ensuring that the Customs Services' trade automation system, a system vital to maintaining the flow of goods into and out of the United States remains functional and providing vital funds necessary to continue the implementation of the Internal Revenue Service Restructuring and Reform Act.

For example, we provide:

$12.6 million (over last year) to enforce Brady Law violations to keep convicted felons from obtaining guns; investigate illegal firearms dealers; and join forces with state and

local law enforcement and prosecutors to fully investigate and prosecute offenders. Total funding is $12.6 million, the same as the President's request.

$11.2 million (over last year) to expand the Youth Crime Gun Interdiction Initiative to 10 cities (total of 37), including rapid gun tracing analysis for state and local law enforcement and 60 new ATF agents to work in task force operations with local law enforcement illegal firearm successful investigations. Total funding is $45.2 million, the same as the President's request.

$5.2 million (over last year) to implement tobacco tax compliance provisions of the 1997 budget agreement. The same as the President's request.

$10 million (over last year) for the Drug Free Communities Act. Total funding is $30 million, $8 million over the President's request.

$10 million (over last year) for ONDCP's media campaign to reduce and prevent drug use among youth. Total funding is $195 million the same as the President's request.

$108 million (over last year) to continue implementation of the IRS Restructuring and Reform Act.

$200 million for the final phase of ensuring IRS information systems are Y2K compliant.

In addition, this bill reinforces Congress' strong commitment to our nation's children by ensuring that low-income Federal employees have the resources they need to obtain safe and affordable child care.

I want to thank the Chairman and the Ranking Member for their efforts in this regard.

Mr. Chairman this is a good bill, even if it is not a perfect bill, but it is a bill that has been crafted in a bipartisan and thoughtful fashion.

I urge my colleagues to support this legislation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; not to exceed $2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $30,716,000.

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed $6,000,000 for official travel expenses; and not to exceed $500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, $112,207,000.

Mr. MALONEY of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from South Carolina (Mr. Spratt) and I have prepared an amendment to provide information to poor and elderly Americans who rely on kerosene fuel to heat their homes.

Specifically, the amendment that we would have offered would transfer money from the Treasury's general operating funds to the Internal Revenue Service's Processing, Assistance, and Management funds so that the IRS may conduct a study of the fuel.

A study is needed because the effects of dyed kerosene, particularly for individuals who heat their homes with unvented heaters, are as yet undetermined; and under the 1997 Taxpayer Relief Act, Congress is pressing home heating customers to use red-dyed kerosene fuel to heat their homes.

The 1997 tax bill established a 24 cents per gallon tax on kerosene fuel to deter fraud. Some customers, however, do not use red-dyed fuels to heat their homes because they are unsure of its safety or because area manufacturers have not yet made red-dyed fuel available to them.

Unfortunately, the two alternatives in the 1997 bill that Congress made available to those who use red-dyed fuel are not feasible for many low income and elderly people because, under the 1997 tax bill, individuals unable to buy red-dyed fuel can only purchase clear kerosene tax free by purchasing at a blocked pump or by applying for a refund through their annual tax return.

Low income and elderly Americans do not have the means to transport the kerosene from blocked pumps to their homes and, based on their income level, do not file tax returns. As a result, they must have the fuel delivered to their homes, and they end up paying the 24 cents per gallon tax.

While this situation is an unintended consequence of the bill, the individuals who are shouldering this tax burden are among our country's most vulnerable populations, and they are paying a tax that they were never meant to pay.

Congress should not push poor and elderly Americans to use dyed kerosene fuel to heat their homes when Congress has not taken the opportunity itself to ensure its safety.

Through conversations on both sides of the aisle, we understand that we will seek to address this problem through the conference committee, and we look to seeing that there is the funding necessary for a study to determine the safety of the burning of the undyed fuel, as I had indicated.

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

Mr. MALONEY of Connecticut. I certainly yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Chairman, I would like to commend the gentleman from Connecticut for taking this initiative and also to say that this is an important problem for some people that have no other alternative but to use kerosene.

There was no intention to impose a 24 cents tax on them. We gave them an out, namely, to use red-dyed kerosene. But even the oil refineries do not want to market that kind of kerosene yet, because they are not sure of the consequences of using it.

I have had people call me and report to me problems where they have used red-dyed kerosenes, odors that come from the heaters. There is smoke. There is a ceramic residue. The wicks clog up. We are just waiting on a disaster to happen here.

Before Congress imposes this requirement on people, we ought to know what we are talking about, and that is all that we are asking for, a study by the IRS.

Mr. KOLBE. Mr. Chairman, will the gentleman from Connecticut yield?

Mr. MALONEY of Connecticut. I certainly yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I appreciate what both the gentleman from Connecticut (Mr. MALONEY) and the gentleman from South Carolina (Mr. SPRATT) said, and I think they have highlighted an important problem. I want to assure them that I will work with them in the conference committee to try to craft the right language that can get this study done that I think does need to be done.

Mr. SPRATT. Mr. Chairman, if the gentleman from Connecticut will yield, I thank the gentleman from Arizona (Mr. KOLBE) very much for his cooperation.

Mr. HOYER. Mr. Chairman, if the gentleman from Connecticut (Mr. MALONEY) will yield, I want to thank the gentleman from Connecticut and the gentleman from South Carolina (Mr. SPRATT) for raising this issue.

As someone who has been involved in this, I have a lot of marinas in my district on the Chesapeake Bay and the Potomac River and Patuxent River. We have the fuel, commercial and recreational fuel, and that of course is colored as well. Not, obviously, the same issue but a similar one that I have been involved in. I think that the gentlemen's initiatives on this are very well taken. I look forward to working with my colleagues to see if we can get this problem resolved. I thank the gentlemen for their efforts.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, $23,000,000, to remain available until expended.

FINANCIAL CRIMES ENFORCEMENT NETWORK;

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and

financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $29,656,000, of which not to exceed $1,000,000 shall remain available until September 30, 2002: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

VIOLENT CRIME REDUCTION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 103–322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(1) As authorized by section 190001(e), $122,000,000; of which $26,800,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms, including $3,000,000 for administering the Gang Resistance Education and Training program; of which $4,200,000 shall be available to the United States Secret Service for forensic and related support of investigations of missing and exploited children, of which $2,200,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended; of which $64,000,000 shall be available for the United States Customs Service; and of which $27,000,000 shall be available for Interagency Crime and Drug Enforcement.

(2) As authorized by section 32401, $10,000,000 to the Bureau of Alcohol, Tobacco and Firearms for disbursement through grants, cooperative agreements, or contracts to local governments for Gang Resistance Education and Training: *Provided*, That notwithstanding sections 32401 and 310001, such funds shall be allocated to State and local law enforcement and prevention organizations.

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that the bill through page 34, line 6 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The text of the remainder of the bill through page 34, line 6 is as follows:

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109, $82,827,000, of which up to $16,511,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2002: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement training activities in foreign countries undertaken pursuant to section 801 of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–32; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with the Bureau of Alcohol, Tobacco and Firearms: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $24,310,000, to remain available until expended.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For expenses necessary for the detection and investigation of individuals involved in organized crime drug trafficking, including cooperative efforts with State and local law enforcement, $48,900,000, of which $7,827,000 shall remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $201,320,000, of which not to exceed $10,635,000 shall remain available until September 30, 2002, for information systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms; including purchase of not to exceed 812 vehicles for police-type use, of which 650 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $15,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and provision of laboratory assistance to State and local agencies, with or without reimbursement, $567,059,000; of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, supplies, and other similar costs of State and local law enforcement personnel, including sworn officers and support personnel, that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in fiscal year 2000: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of ''Curios or relics'' in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority who has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service; including purchase and lease of up to 1,050 motor vehicles of

which 550 are for replacement only and of which 1,030 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $40,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service, $1,708,089,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account, and of which $3,000,000 shall be derived only from the Harbor Services Fund; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; not to exceed $4,000,000 shall be available until expended for research; not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081; not to exceed $8,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation; and not to exceed $5,000,000, shall be available until expended, for repairs to Customs facilities: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs; including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $109,413,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that is one of a kind and has been identified as excess to Customs requirements and aircraft that has been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of the Treasury, during fiscal year 2000 without the prior approval of the Committees on Appropriations.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $181,319,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 2000 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2000 appropriation from the General Fund estimated at $176,919,000, and in addition, $20,000, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for tax returns processing; revenue accounting; tax law and account assistance to taxpayers by telephone and correspondence; programs to match information returns and tax returns; management services; rent and utilities; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,270,098,000, of which up to $3,700,000 shall be for the Tax Counseling for the Elderly Program, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; issuing technical rulings; examining employee plans and exempt organizations; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,301,136,000, of which not to exceed $1,000,000 shall remain available until September 30, 2002, for research.

EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE

For funding essential earned income tax credit compliance and error reduction initiatives pursuant to section 5702 of the Balanced Budget Act of 1997 (Public Law 105–33), $144,000,000, of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,394,540,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service; including purchase of not to exceed 777 vehicles for police-type use, of which 739 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $20,000 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year, $662,312,000: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2001.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $4,923,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 110. Any obligation or expenditure by the Secretary of the Treasury in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 2000, shall be made in compliance with reprogramming guidelines.

SEC. 111. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 112. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 2000 in this Act for the enforcement of the Federal Alcohol Administration Act

shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 113. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, and United States Secret Service may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices, Office of Inspector General, Financial Management Service, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 115. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 116. (a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS FOR EMPLOYEES OF THE OFFICE OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—During the period from October 1, 1999 through January 1, 2003, the Treasury Inspector General for Tax Administration is authorized to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the plan to establish and reorganize the Office of the Treasury Inspector General for Tax Administration (referred to in this section as the ''Office'').

(b) DEFINITION.—In this section, the term ''employee'' means an employee (as defined by 5 U.S.C. 2105) who is employed by the Office serving under an appointment without time limitation, and has been currently employed by the Office or the Internal Revenue Service or the Office of Inspector General of the Department of the Treasury for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(5) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(6) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under 5 U.S.C. 5753 or who, within the 12-month period preceding the date of separation, received a retention allowance under 5 U.S.C. 5754.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Treasury Inspector General for Tax Administration may pay voluntary separation incentive payments under this section to any employee to the extent necessary to organize the Office so as to perform the duties specified in the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206).

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations available for the payment of the basic pay of the employees of the Office;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under 5 U.S.C. 5595(c); or

(ii) an amount determined by the Treasury Inspector General for Tax Administration, not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under 5 U.S.C. 5595 based on any other separation.

(d) ADDITIONAL OFFICE OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments that it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Office shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay that would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the United States Government, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Office.

(f) EFFECT ON OFFICE OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Office.

(2) USE OF VOLUNTARY SEPARATIONS.—The Office may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 117. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the $1 Federal Reserve note.

SEC. 118. (a) Subsection (c) of section 5547 of title 5, United States Code, is amended by adding at the end the following:

''(3)(A) Subject to regulations prescribed by the Office of Personnel Management, if premium pay for a pay period consists (in whole or in part) of premium pay for protective services, then—

''(i) premium pay for such pay period shall be payable without regard to the limitation under paragraph (2); except that

''(ii) premium pay shall not be payable to the extent that the aggregate of the employee's basic pay and premium pay for the year would otherwise exceed the annual equivalent of the limitation that (but for clause (i)) would otherwise apply under paragraph (2).

''(B) For purposes of this paragraph—

''(i) the term 'protective services' refers to protective functions authorized by section 3056(a) of title 18 or section 37(a)(3) of title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)(3)); and

''(ii) the term 'premium pay' refers to premium pay under the provisions of law cited in the first sentence of subsection (a).''.

(b) This section and the amendment made by this section—

(1) shall take effect on the first day of the first pay period beginning on or after the later of October 1, 1999, or the 180th day after the date of enactment of this Act; and

(2) shall apply with respect to premium pay for service performed in any pay period beginning on or after the effective date of this section.

SEC. 119. (a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS FOR EMPLOYEES OF THE CHICAGO FINANCIAL CENTER OF THE FINANCIAL MANAGEMENT SERVICE.—During the period from October 1, 1999, through January 31, 2000, the Commissioner of the Financial Management Service (FMS) of the Department of the Treasury is authorized to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the closure of the Chicago Financial Center (CFC) in a manner which the Commissioner shall deem most efficient, equitable to employees, and cost effective to the Government.

(b) DEFINITION.—In this section, the term ''employee'' means an employee (as defined by 5 U.S.C. 2105) who is employed by FMS at CFC under an appointment without time limitation, and has been so employed continuously for a period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code,or another retirement system;

(2) an employee with a disability on the basis of which such employee is or would be eligible for disability retirement under the retirement systems referred to in paragraph (1) or another retirement system for employees of the Government;

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who has previously received any voluntary separation incentive payment from an agency or instrumentality of the Government of the United States under any authority and has not repaid such payment;

(5) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(6) an employee who during the 24-month period preceding the date of separation has received and not repaid a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, has received and not repaid a retention allowance under section 5754 of that title.

(c) AGENCY PLAN; APPROVAL.—

(1) The Secretary, Department of the Treasury, prior to obligating any resources for voluntary separation incentive payments, shall submit to the Office of Management and Budget a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) The agency's plan under subsection (1) shall include—

(A) the specific positions and functions to be reduced or eliminated;

(B) a proposed coverage for offers of incentives;

(C) the time period during which incentives may be paid;

(D) the number and amounts of voluntary separation incentive payments to be offered; and

(E) a description of how the agency will operate without the eliminated positions and functions.

(3) The Director of the Office of Management and Budget shall review the agency's plan and approve or disapprove such plan, and may make appropriate modifications in the plan including waivers of the reduction in agency employment levels required by this Act.

(d) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) A voluntary separation incentive payment under this Act may be paid by the agency head to an employee only in accordance with the strategic plan under section (c).

(2) A voluntary incentive payment—

(A) shall be offered to agency employees on the basis of organizational unit, occupational series or level, geographic location, other nonpersonal factors, or an appropriate combination of such factors;

(B) shall be paid in a lump sum after the employee's separation;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

(ii) an amount determined by the agency head, not to exceed $25,000;

(D) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under the provisions of this Act;

(E) shall not be a basis for payment, and shall not be included in the computation of any other type of Government benefit;

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(G) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(e) ELIGIBILITY FOR PAYMENTS.—Payments under this section may be made to any qualifying employee who voluntarily separates, whether by retirement or resignation, between October 1, 1999, and January 31, 2000.

(f) EFFECT ON SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with any agency or instrumentality of the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to FMS.

(g) CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, FMS shall remit to the Office of Personnel Management for deposit in the Treasury to the credit of Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final annual basis pay for each employee covered under subchapter III of chapter 83 or chapter 84 of title 5 United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) For the purpose of paragraph (1), the term ''final basic pay'' with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(h) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this Act. For the purposes of this subsection, positions shall be counted on a full-time equivalent basis.

(2) The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this section are met.

(3) At the request of the Secretary, Department of the Treasury, the Office of Management and Budget may waive the reduction in total number of funded employee positions required by subsection (1) if it believes the agency plan required by section (c) satisfactorily demonstrates that the positions would better be used to reallocate occupations or reshape the workforce and to produce a more cost-effective result.

This title may be cited as the ''Treasury Department Appropriations Act, 2000''.

The CHAIRMAN. Is there any amendment to that portion of the bill?

The Clerk will read.

The Clerk read as follows:

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $93,436,000, of which $64,436,000 shall not be available for obligation until October 1, 2000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2000.

This title may be cited as the ''Postal Service Appropriations Act, 2000''.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law; including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $52,444,000: *Provided*, That $10,313,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $9,260,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That

the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $810,000, to remain available until expended for required maintenance, safety and health issues, and continued preventative maintenance.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,617,000.

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $345,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisors in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,840,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $4,032,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $6,997,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $39,448,000, of which $8,806,000 shall be available for a capital investment plan which provides for the continued modernization of the information technology infrastructure.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $63,495,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of chapter 35 of title 44, United States Code: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further*, That the preceding proviso shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (title VII of division C of Public Law 105–277); not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $52,221,000, of which $31,350,000 shall remain available until expended, consisting of $2,100,000 for policy research and evaluation, of which $1,000,000 is for the National Alliance for Model State Drug Laws, $16,000,000 for the Counterdrug Technology Assessment Center for counternarcotics research and development projects, and $13,250,000 for the continued operation of the technology transfer program: *Provided*, That the $16,000,000 for the Counterdrug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: *Provided further*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $192,000,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of enactment of this Act: *Provided*, That up to 49 percent may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided further*, That, of this latter amount, $1,800,000 shall be used for auditing services: *Provided further*, That, hereafter, of the amount appropriated for fiscal year 2000 or any succeeding fiscal year for the High Intensity Drug Trafficking Areas Program, the funds to be obligated or expended during such fiscal year for programs addressing the treatment and prevention of drug use shall not be less than the funds obligated or expended for such programs during fiscal year 1999 without the prior approval of the Committees on Appropriations.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and other purposes, authorized by Public Law 105–277, $225,000,000, to remain available until expended: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the funds provided, $195,000,000 shall be to support a national media campaign, as authorized in the Drug-Free Media Campaign Act of 1998: *Provided further*, That of the funds provided, $30,000,000 shall be to continue a program of matching grants to drug-free communities, as authorized in the Drug-Free Communities Act of 1997.

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, $1,000,000.

This title may be cited as the ''Executive Office Appropriations Act, 2000''.

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that the bill through page 63, line 13 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The text of the remainder of the bill through page 63, line 13 is as follows:

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28, $2,674,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $38,152,000, of which no less than $4,866,500 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $23,828,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

To carry out the purpose of the Federal Buildings Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), the revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation, and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings, including grounds, approaches, and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $5,245,906,000, of which: (1) $8,000,000 shall remain available until expended for construction of nonprospectus construction projects; (2) $559,869,000 shall remain available until expended for repairs and alterations, which includes associated design and construction services: *Provided*, That funds made available in any previous Act in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committee on Appropriations of a greater amount: *Provided further*, That the amounts provided in this or any prior Act for ''Repairs and Alterations'' may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading ''Repairs and Alterations'', may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2001, and remain in the Federal Buildings Fund, except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading ''Repairs and Alterations'' or used to fund authorized increases in prospectus projects: *Provided further*, That the General Services Administration is directed to use funds available for Repairs and Alterations to undertake the first construction phase of the project to renovate the Department of the Interior Headquarters Building located in Washington, D.C.; (3) $205,668,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $2,782,186,000 for rental of space which shall remain available until expended; and (5) $1,590,183,000 for building operations which shall remain available until expended, of which $1,974,000 shall be available until expended for acquisition, lease, construction, and equipping of flexiplace telecommuting centers, including $150,000 for the center in Winchester, Virginia, and $200,000 for the center in Woodbridge, Virginia: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,245,906,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation; procurement and supply; Government-wide responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses, $110,448,000, of which $12,758,000 shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $33,317,000: *Provided*, That not to exceed $15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,241,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 2000 for Federal Buildings Fund activities may be

transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2001 request for United States Courthouse construction that (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2001 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under 40 U.S.C. 757 and sections 5124(b) and 5128 of Public Law 104–106, Information Technology Management Reform Act of 1996, for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading ''Federal Buildings Fund, Limitations on Availability of Revenue'', claims against the Government of less than $250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 408. Funds made available for new construction projects under the heading ''Federal Buildings Fund, Limitations on Availability of Revenue'' in Public Law 104–208 shall remain available until expended so long as funds for design or other funds have been obligated in whole or in part prior to September 30, 1999.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $27,586,000 together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Trust Fund, to be available for the purposes of Public Law 102–252, $1,000,000, to remain available until expended.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, $1,250,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $180,398,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $13,518,000, to remain available until expended.

RECORDS CENTER REVOLVING FUND

(a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury a revolving fund to be available for expenses and equipment necessary to provide for storage and related services for all temporary and pre-archival Federal records, which are to be stored or stored at Federal National and Regional Records Centers by agencies and other instrumentalities of the Federal government. The Fund shall be available without fiscal year limitation for expenses necessary for operation of these activities.

(b) START-UP CAPITAL.—

(1) There is appropriated $22,000,000 as initial capitalization of the Fund.

(2) In addition, the initial capital of the Fund shall include the fair and reasonable value at the Fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the Fund. The Archivist of the United States is authorized to accept inventories, equipment, receivables and other assets from other Federal entities that were used to provide for storage and related services for temporary and pre-archival Federal records.

(c) USER CHARGES.—The Fund shall be credited with user charges received from other Federal government accounts as payment for providing personnel, storage, materials, supplies, equipment, and services as authorized by subsection (a). Such payments may be made in advance or by way of reimbursement. The rates charged will return in full the expenses of operation, including reserves for accrued annual leave, worker's compensation, depreciation of capitalized equipment and shelving, and amortization of information technology software and systems.

(d) FUNDS RETURNED TO TREASURY.—

(1) In addition to funds appropriated to and assets transferred to the Fund in subsection (b), an amount not to exceed 4 percent of the total annual income may be retained in the Fund as an operating reserve or for the replacement or acquisition of capital equipment, including shelving, and the improvement and implementation of the financial management, information technology, and other support systems of the National Archives and Records Administration.

(2) Funds in excess of the 4 percent at the close of each fiscal year shall be returned to the Treasury of the United States as miscellaneous receipts.

(e) REPORTING REQUIREMENT.—The National Archives and Records Administration shall provide quarterly reports to the Committees on Appropriations and Government Reform of the House of Representatives on the operation of the Fund.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $6,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading in Public Law 105–277, $4,000,000 are rescinded: *Provided further*, That the Treasury and General Government Appropriations Act, 1999 (as contained in division A, section 101(h), of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) is amended in title IV, under the heading ''National Historical Publications and Records Commission, Grants Program'' by striking the proviso.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $9,114,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $90,584,000; and in addition $95,486,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which $4,000,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B) and 8909(g) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and

expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2000, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $960,000; and in addition, not to exceed $9,645,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided,* That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $9,740,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $36,489,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the ''Independent Agencies Appropriations Act, 2000''.

The CHAIRMAN. Are there amendments to that portion of the bill?

PARLIAMENTARY INQUIRY

Mr. HOYER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Chairman, we have an amendment that will be offered and then withdrawn to title I. Now I know we are past title I.

The CHAIRMAN. Does the gentleman from Michigan (Mr. BARCIA) ask unanimous consent to return to an earlier title to offer his amendment?

Without objection, the gentleman is recognized for 5 minutes.

Mr. KOLBE. Mr. Chairman, I reserve the right to object.

Mr. HOYER. Mr. Chairman, will the gentleman yield to me under his reservation?

Mr. KOLBE. I yield under my reservation to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, the gentleman from Michigan (Mr. BARCIA) has great concern about a case I have been working with him on. I apologize. He wanted to offer the amendment, and I suggested that he offer it and then withdraw it, which he has agreed to. But he wants to raise the issue. It deals with a Customs matter in which his constituents, he believes, were mistreated. He simply wants to make that point. I have assured him that we will then work on the issue.

Mr. KOLBE. Continuing under my reservation, Mr. Chairman, I would just note that the gentleman from Michigan (Mr. BARCIA), if he intends just to discuss this, can just strike the last word and discuss the issue. My concern is, about doing this, is if somebody else comes back and says they want to come back.

Mr. HOYER. Mr. Chairman, I think the chairman raises a good point. I ask the gentleman from Michigan to withdraw his unanimous consent and move to strike the last word so we can discuss the matter.

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

The gentleman from Georgia (Mr. CHAMBLISS) was to be here on the floor also, because he actually represents the individuals involved and was to have spoken with the chairman, I believe, at this point. I believe he is probably en route to the floor.

I have an amendment which the gentleman from Georgia (Mr. CHAMBLISS) was going to co-author which would increase the amount of appropriations for salaries and payroll by $150,000 to include in this appropriation bill the ability of the U.S. Customs Service to settle an egregious action which was taken by a customs official in the Chicago office at O'Hare Airport. I believe it was the constituent of the gentleman from Georgia (Mr. BISHOP) as well as the constituent of the gentleman from Georgia (Mr. CHAMBLISS) who traveled to Africa, paid the government in Africa of Cameroon some $116,000 in trophy fees for hides and horns and other animals that were taken and harvested there.

□ 1700

When the Customs official ordered this cargo destroyed, she was out of line because it was the official jurisdiction of the U.S. Fish and Wildlife Department.

And so these two individuals are going to have a very difficult time. Even if they spent the same amount of money, they could not be guaranteed to harvest those animals, and certainly the costs that are involved in their trip as well are tremendous. The fact is everything was legal. They had their sitings permits; all of the paperwork was in order and in the crates of the cargo. This individual just went out and ordered these two crates to be destroyed, and they were subsequently placed in a landfill.

Several Members of Congress contacted Customs and indicated that the cargo would still be good; that they were, in fact, preserved before shipment from Africa to the United States and before they were placed in a landfill. And we had instructed that Customs official to get a shovel and go out and attempt to relocate those two crates. It was very valuable cargo.

We have very difficult regulations with the Customs Service. In the case of negligence of an employee, the Secretary of the Treasury is authorized to reimburse up to an amount of $1,000 per individual per claim. And since the value of the cargo is $116,000, involving two individuals, it would be almost impossible to recover those costs without congressional action.

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

Mr. BARCIA. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to commend the gentleman. The gentleman came up to me on the floor about 2 months ago, I believe, and brought this matter to my attention, and I shared his anger and outrage at the apparent treatment that has occurred here. When I say apparent, it is simply that I have not personally verified all the facts, but the gentleman from Michigan (Mr. BARCIA) and the gentleman from Georgia (Mr. CHAMBLISS) are both men of great integrity.

I know the gentleman from South Carolina (Mr. SPRATT) is also very concerned about this, as is the gentleman

from Georgia (Mr. BISHOP) is also very concerned about this.

I personally have been pursuing this with Customs and with Mr. Kelly. I know that Mr. Kelly, the commissioner of Customs, is very concerned about this matter and shares the outrage of the gentleman from Michigan and the gentleman from Georgia about what apparently has occurred. They are in the process of trying to come to grips with this.

Unfortunately, the timing is not as good as it should have been; better to have met last week than next week, but my staff is pursuing a meeting, as the gentleman knows, and I hope the gentleman from Georgia (Mr. CHAMBLISS) knows, because we have been in touch with his staff, a meeting next week, with Customs and with the four gentlemen who have been so involved in this, along with myself, and hopefully either the chairman or a member of the chairman's staff so that we can continue to pursue this and get to the bottom of it.

The gentleman from Michigan and the gentleman from Georgia, the two gentlemen from Georgia, I suppose, and the gentleman from South Carolina are absolutely correct if individuals were treated in the manner that we believe they were. It was outrageous, unacceptable, and the citizens involved deserve compensation for their loss.

Mr. Chairman, the gentleman from Michigan wanted to offer an amendment which set a specific dollar value for the loss.

The CHAIRMAN. Time of the gentleman from Michigan (Mr. BARCIA) has expired.

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

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

Mr. CHAMBLISS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from Michigan had an amendment to set a specific amount of damages for the two parties that were most directly affected here. I indicated to him that I would not be able to support that at this time, simply because I do not know what the amount of damages are. Quite obviously, on the floor it is difficult to assess the amount of damages of a claim, and there are thousands of claims, of course, against the government; and if we did that on a regular basis, it would be chaotic. That does not, however, diminish in any way the absolute justice in the amendment.

I am going to be working very, very hard to try to get to the bottom of this. And I say to my friends from Michigan and Georgia that their prosecution of this matter is obviously very vigorous, very focused, but very appropriate; and I look forward to working very closely with them so we can come to the bottom of this. And whatever we assess as the damages, we will work with them towards making sure that their constituents and people with whom they are involved are made whole to the extent they can be.

Mr. CHAMBLISS. Mr. Chairman, reclaiming my time, I just want to say that I associate myself with all of the remarks of both my friend from Maryland and my friend from Michigan. This was a very egregious and intentional and, frankly, malicious act, I think, on the part of this particular employee of the Customs Service.

And I want to also say very publicly that were it not for the intervention of our friend, the gentleman from Maryland (Mr. HOYER), in this, I am not sure we would even be at the point we are today, where they have recognized the issue and recognized the problem. And I thank him for his diligent efforts on behalf of our folks back home in this regard.

We will continue to pursue this with the gentleman at this meeting next week. I hope we are able to come to some satisfactory resolution of it. Because if we are not, then I think we will be back here in this same venue the next time we are able to, to ensure that our folks are well compensated and well taken care of for a malicious intentional act on the part of this employee.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 2000 for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Buy American Act (41 U.S.C. 10a–10c).

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. 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, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to 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.

SEC. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:
Strike section 509.

Ms. DELAURO. Mr. Chairman, I offer this amendment on behalf of myself and several of my colleagues on both sides of the aisle. It is a bipartisan measure which would strike the provision in this bill which prevents health plans which participate in the Federal Employee Health Benefits Program from providing coverage for abortion services. On a more basic level, this amendment would restore fairness to the women serving in the Federal Government.

As we all know, this bill provides funding for the Federal Employees Health Benefits Program, the network of health insurance plans for Federal employees, dedicated people who serve the public around the Nation, in Maryland and in Virginia, and our staffs right here in the House. They depend on the FEHBP for their medical care. That includes 1.2 million women of reproductive age.

Until November 1995, Federal employees could choose a health care plan which covered the full range of reproductive health services, including abortion, just like every other employee in

this Nation. Now our Federal employees no longer have that right. They are unable to choose a health care plan which includes coverage of this legal, and I repeat, this legal medical procedure.

I would remind my colleagues that the right to choose has been upheld by the Supreme Court. It is protected by the United States Constitution. It is only July, but already we have been to the floor far too many times fighting to protect women's health against the personal agendas of some of our colleagues.

To my colleagues who oppose this amendment, let me stress that I respect their beliefs, but it is unfair to foist those beliefs on others who may not share the same views and who are paying for the health care plans of their choice.

Restricting access to abortion is dangerous to women's health. According to the American Medical Association, funding restrictions like the ones in this bill makes it more likely that a woman will continue a potentially life-threatening pregnancy to term or undergo abortion procedures that would endanger their health. Coverage of abortion services in Federal health plans does not mean that the government or the taxpayer is subsidizing abortion. I would bet that we will hear that argument repeated over and over again today.

When an individual agrees to work for the government, he or she receives a salary and a benefit package. The health benefit, like the salary, belongs to the employee and not the government; and employees are free to use both as they see fit. The government contributes to premiums of Federal employees, and the employees purchase private health insurance and pay the rest of the premium. Each employee has the power to choose a health plan that best fits his or her needs. If employees do not want to choose a plan with abortion coverage, they do not have to. The choice is available.

Approximately one-third of private fee-for-service plans and 30 percent of HMOs do not provide for abortion coverage, but Federal employees are left with no choice and no option if tragedy strikes.

Let me read to my colleagues a short excerpt from a letter from one family affected by this restriction. It is a woman from Alabama, and she says, ''My doctor told me that my twins, which were boys, suffered from Twin-to-Twin Transfusion Syndrome. Both babies shared the same blood vessels. Because of this, the baby on top was giving his blood and water to the baby on the bottom. The smaller twin was about one month smaller in size than the larger twin. The doctor said the larger twin was growing too fast. After consulting with the doctor, my husband and I decided that the best thing to do would be to end the pregnancy. It was the hardest decision of my life.''

This family thought that in fact that they were covered by their insurance. This was right after the Congress made their decision to restrict this kind of coverage. What happened to this family is unbelievable. They had to file for bankruptcy. And I will quote the last line of the letter from this woman. ''Families like ours should not have to go bankrupt in order to receive appropriate medical care.''

I offer this amendment on behalf of my colleagues, as I said. But let me just say that when an individual does work for the government, they ought to be allowed to take their salary and their benefit package and have the choice of what kind of coverage meets their family needs. We must allow them to have the choice in that decision. It is unfair to ask people to spend the kinds of hours that they do day in and day out, who want to be loyal public servants, and to deny them what, in fact, they are willing to pay for and what they are paying for.

By singling out abortion for exclusion from health plans that cover other reproductive health care, it is dangerous and it is desperately unfair to these employees. I urge my colleagues to give our public servants the right to choose the health care that is best for them. I urge my colleagues to support this amendment.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and, in doing so, I want to make it clear that my position is not because of where I come from on this issue. As I think many of the Members know, I have regarded myself as pro-choice, in that I believe a woman should have the right not only to choose, but certainly in the case of coverage by a Federal health benefit should have the right to have this kind of coverage.

However, having said that, I rise in opposition to this because I believe that it goes to the very heart of this bill and the balance that I think is in this bill. If this were a freestanding bill, I would be joining with the gentlewoman from Connecticut. But it is not; it is on this piece of legislation, which has been historically a magnet for a lot of the abortion issues that we have discussed in this body.

□ 1715

The bill that we have before us today is balanced, balanced in the sense that it reflects exactly what this body and the Congress and the President of the United States signed into law last year. That is, it continues a prohibition which has existed since 1995 in the Congress against Federal health benefit funds being used to pay for an abortion.

On the other hand, it also includes a provision that was adopted last year which we have come to know as the Lowey amendment, which provides for contraceptive coverage for women who are covered under the Federal Health Benefits Plan. So there is a certain symmetry to this. We do not fund an abortion procedure, but we do say that we will fund contraceptive coverage.

In any event, it is my view that this battle, having been fought very hard in the House and the Senate last year and with the administration, that we ought to accept the bill that we have already adopted. We should leave these two provisions, both of them, in the bill. We should leave this section 509; and later, when we get to the section dealing with contraceptive coverage, we should leave that in the bill.

I hope my colleagues, regardless of where they come down on this issue, would vote as I intend to do, which is to vote to retain both of these provisions.

Mr. Chairman, legislating is the art of the possible. Legislating on appropriations bills particularly is the art of the possible. There are balances, there are compromises that have to be made. There are trade-offs which have to be made. We have to get a bill that can pass not only the House, that can pass the Senate, that can get through a conference committee, be passed again by the House and the Senate and be accepted by the President of the United States.

I believe that these provisions, both of which did that last year, got through the House, got through the Senate, were adopted in the conference, and were signed into law by the President. We should retain these provisions in the legislation.

I hope my colleagues would reject this amendment to strike section 509.

Mr. Chairman, may I ask unanimous consent that all debate on this amendment and all amendments thereto close in 45 minutes and the time to be equally divided between the two sides?

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

There was no objection.

Mr. HOYER. Mr. Chairman, I guess that gives us 22½ minutes apiece; am I correct?

The CHAIRMAN. That is correct.

The Chair will assume that the time will be controlled by the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Arizona (Mr. KOLBE).

Ms. DELAURO. Mr. Chairman, I yield 2¼ minutes to the gentleman from Maryland (MR. HOYER).

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

Mr. Chairman, this is not a new issue for anybody on this floor. I join in supporting and, as a matter of fact, I cosponsored the amendment of the gentlewoman from Connecticut (Ms.

DELAURO). I would just take a brief time to reiterate why.

Some very close friends of mine have a view different than mine, and I respect their view and I hope they respect mine, with respect to the termination of a pregnancy, for important reasons.

It is my view, however, Mr. Chairman, that this issue does not deal with that directly; and the reason is this: It is my belief that a Federal employee covered by the Federal Employee Health Benefit Plan has, as a part of their compensation package, three things.

They, first of all, have their salary, the money they are paid directly. No one would get up on this floor, it seems to me, and say that we ought to take a portion of that salary and ensure that they do not spend it for x, y, or z. Surely those who say that they want to have tax cuts because they want to leave more money in the pockets of those Americans so that they can choose how to spend their money would not support that effort.

Secondly, a Federal employee has their retirement benefit. Obviously, that is a valuable part of their compensation package. It will in retirement provide them with the, in effect, income in retirement that they earned during their working years.

Thirdly, they have the Federal Employee Health Benefit Plan. We should not tell them how to spend that portion of their compensation. We ought to allow them the option to purchase such policy as they choose because it is part of their compensation and is their money, not ours. We made a deal with them. We said, if they work for us, this is what we will pay them. They ought to have the option to spend it as they see fit.

I support the amendment of the gentlewoman.

Mr. KOLBE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in very strong opposition to this radical amendment. As all of my colleagues know, the provision that the gentlewoman seeks to strike has been included in this legislation for years and, as we all know, this is a highly controversial issue. The debate we are engaging in is not one involving the legality of abortion. It is about using taxpayer dollars to pay for abortions.

While the availability of abortion on demand is a very controversial issue in the United States, with many Americans feeling very strongly that it should not be allowed and some feeling very strongly that it should be allowed, the issue that the gentlewoman brings up this afternoon is indeed not very controversial, with the vast majority of Americans feeling very strongly that taxpayer dollars should not be used to fund abortions in the United States of America.

Now, some people may try to claim that this is just another medical procedure. And we all know seriously, Mr. Chairman, that this is not just another simple medical procedure. It is a very unique medical procedure where one of the participants in the procedure ends up dead.

The Supreme Court itself, the Supreme Court that created legalized abortion in the United States, has actually ruled on this issue. In upholding the Hyde amendment, which prohibits abortion funding in programs funded by the Labor HHS bill, the Court said: ''Abortion is inherently different from other medical procedures because no other procedure involves the purposeful termination of a potential life.''

Now, I, as a medical doctor, would argue that the unborn baby in the womb is not a potential life. It meets all of the medical criteria of a life, the criteria that I used to use as a practicing physician to determine whether somebody is alive or dead: a beating heart, active brain waves. Indeed, with modern ultrasound technology today, as early as 8, 9, 10 weeks we can see them moving around their arms.

Clearly a very controversial issue, and the gentlewoman brings this up now. I believe very strongly that our colleagues should reject this amendment. We should not allow taxpayer dollars to be used for this purpose.

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

Mr. WELDON of Florida. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I understand the position of the gentleman. I ask this legitimately because the gentleman heard my argument.

Mr. WELDON of Florida. Mr. Chairman, reclaiming my time, I have to apologize to the gentleman. I was preparing my remarks, and I did not listen to his argument.

Mr. HOYER. Mr. Chairman, if the gentleman would continue to yield, what I essentially said was that the money spent on the Federal Employee Health Benefit Plan, in other words, the gentleman is saying Federal tax dollars, the money we spend toward the retirement program and the salary, are all a part of the compensation package of the employee.

Now, the salary is paid directly. I put it in my pocket. No one could refer to that as Federal tax dollars that were given to me and put in my pocket. But surely my point would be, my colleague would not tell me or anybody else tell me that I can only spend that money in this way or that way. In fact, a woman could spend her part of her salary to accomplish a legal objective with which my colleague would disagree, I understand.

My question to my colleague is, how do we differentiate that part of the compensation package, albeit it is paid directly to the insurance company, because it is put all together?

Mr. WELDON of Florida. Mr. Chairman, reclaiming my time, I appreciate the argument of the gentleman; and it is a legitimate part to bring forward in the debate.

We in the Congress established the compensation package, and I think there is clearly a difference between the two. While I do not think American taxpayers could in any way object to how they use the money that is in their pocket, many American taxpayers I believe would object very, very strongly to this benefit being included. And that is the essence of my argument.

This is a very, very controversial issue. It divides the Nation, as we all know. I feel that it is best for this particular piece of legislation that we reject the amendment and we stay with the language that exists, though I appreciate the argument of the gentleman and though I respectfully disagree.

Ms. DELAURO. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

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

Mr. Chairman, as a woman that God has created, and many of us around this world, many of us feel very passionately that we have the right to choose, to choose with our God and our husband or significant other whether we will, in fact, bear children and whether we will, in fact, bring that pregnancy to term.

I rise today in support of the DeLauro amendment, and I am proud to be a cosponsor of that amendment.

1.2 million Federal employees, women of reproductive age, do have the will but not the right to use their health plan for the health benefit that they would choose if they wanted to have an abortion. 1.2 million women, many of whom work in this House of Representatives, cannot choose a health plan and use an abortion coverage.

As was mentioned by our ranking member, when we hire an employee, as employees all over the country know, they have a choice as to which plan they want to pick and which services they want to use in their health care plan.

What we are saying in this amendment is give the women of the Federal Government who work all over this country, some 1.2 million of them, that same opportunity.

Every employee in this country has a right to choose the health care plan with the full range of reproductive health services, including abortion, except Federal employees. I find that inherently wrong, as a woman, as a

mother, as one who God has made to be able to reproduce.

It is unfortunate this amendment has to come before this House. This bears repeating. It is a medical procedure that is legal, an abortion.

I know, in my history as a 20-year public employee, we are not going to change people's opinion one way or the other on abortion. It is a very private, personal decision that each individual must make.

But the amendment is a good one. Let us not deny the 1.2 million Federal employees all over this country and, yes, who work for this Congress the opportunity to pick the health coverage that they want.

Mr. Chairman, let us support the DeLauro amendment. Let us support the 1.2 million women who serve our country across this country.

The CHAIRMAN. The Chair will advise all Members that the gentlewoman from Connecticut (Ms. DELAURO) is controlling time on her side and the gentleman from Arizona (Mr. KOLBE) is controlling time on his side.

Ms. DELAURO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the introducer of the amendment that I strongly support for yielding the time to me and for introducing it.

Mr. Chairman, this amendment would simply prevent discrimination against Federal employees in their health care coverage.

□ 1730

It was 4 years ago when Congress voted to deny Federal employees abortion coverage that was already provided to most of the country's workforce through their private health insurance plans. Incidentally, before that it was provided in the Federal employee plans. This decision was discriminatory and it was another example of Congress chipping away at the benefits of Federal employees and their right to choose an insurance plan that best meets their health care needs.

The coverage of abortion services in Federal health plans would not mean that abortions would be subsidized by the Federal Government as has been mentioned. The government simply contributes to the premiums of Federal employees in order to allow them to purchase health insurance. This contribution is part of the employee benefit package, just as an employee's salary or retirement benefits.

Currently, let us remember that approximately two-thirds of private fee-for-service health insurance plans and 70 percent of HMOs provide abortion coverage. When this ban was reinstated 4 years ago, 178 FEHBP plans, that means Federal Employee Health Benefit Plans, out of 345 offered abortion coverage. Women had the choice. They had the choice to decide whether to participate in a plan with or without the coverage. Thus, an employee could choose a plan with abortion coverage or not.

Congress denied Federal employees their access to abortion coverage, thereby discriminating against them and treating them differently than the vast majority of private sector employees. I frankly think it is insulting to Federal employees that they are being told that part of their own compensation package is not under their control.

Mr. Chairman, approximately 1.2 million women of reproductive age rely on FEHBP for their health coverage, 1.2 million women without access to abortion coverage. Without access, their constitutionally protected right to choose is effectively denied.

So I indeed urge my colleagues to support the DeLauro amendment and ensure that Federal employees are once again provided their legal right to choose.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in strong opposition to the DeLauro amendment. This amendment has been offered, and defeated, for the last 4 years. But our pro-choice colleagues are at it again, trying to force taxpayers to fund abortion.

According to a New York Times/CBS poll, and I quote, ''Only 23 percent of those polled said the national health care plan should cover abortions, while 72 percent said that those costs should be paid for directly by the women who have them.''

When an ABC News/Washington Post poll asked Americans if they agree or disagree with this statement, ''The Federal Government should pay for an abortion for any woman who wants it and cannot afford to pay,'' 69 percent disagreed.

The Center for Gender Equality has reported that 53 percent of women favor banning abortion except for rape, incest and life of the mother exceptions. The pro-life language in the bill that the gentlewoman from Connecticut seeks to gut includes these exceptions. Obviously, if 53 percent of women favor banning abortion aside from these exceptions, then they would not want their tax dollars paying for abortion-on-demand as this amendment intends.

In a Gallup poll from May of this year, 71 percent of Americans supported some or total restrictions on abortion. Do these citizens want their hard-earned tax dollars to pay for abortion for any reason, as the DeLauro amendment calls for?

Mr. Chairman, I ask, should taxpayers, our constituents, be forced to underwrite the cost of abortions for Federal employees? I urge my colleagues to vote ''no'' on the DeLauro amendment.

Ms. DELAURO. Mr. Chairman, I yield myself 10 seconds. Taxpayers are not paying for these abortions. Federal employees who are female contract with the Federal Government. They get a salary and a benefit package. They then should have the opportunity to choose a health care package which ought to include abortion services.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise to support my colleague's motion, because I believe that the approximately 1.2 million women of reproductive age who rely on FEHBP for their medical care should have the option of choosing a health plan which includes coverage for abortion. My colleagues are not surprised to hear me say this, because it is well-known that I am pro-choice. In fact, some of them may be tired of seeing me stand to speak about the right to choose and in fact I must tell them, I share that weariness. Many of us are tired of constantly battling over these issues. But I do so because I do believe that it is America's families, husbands and wives, moms and dads, who should be making decisions about abortion, not those of us who serve in the Congress. I have fought my entire tenure in Congress to allow women their right to choose, without fear, without shame.

I also believe that our approach should be not to make abortion less accessible or more difficult but less necessary. If we agree, pro-choice, pro-life, that our goal should be less abortion, then our focus must be on what we can do to further that goal.

We should increase access to contraception as we have done in this bill, and I thank the gentleman from Arizona for his important work in including that provision in this bill. If we want to make abortion less necessary, we have to send a clear signal. Americans want us to work together toward a solution, not beat each other to death about abortion.

So I believe that making abortion inaccessible is not the answer. Contraceptive methods may fail, pregnancies may go unexpectedly and tragically wrong. No matter how good the contraceptive technology and how much education we do, some women will just need abortions. And abortion must remain safe and legal. I oppose my colleagues excluding abortion, among the most common surgeries for women, from health care coverage. And I support allowing Federal employees to have the option of abortion coverage in their health plans.

Mr. Chairman, I join my colleagues in supporting the DeLauro motion to strike.

Ms. DELAURO. Mr. Chairman, I yield myself 15 seconds. In terms of polling data, 54 percent of respondents in a recent poll opposed proposals that would

prevent health plans from providing coverage of abortion services for Federal employees. So there appears to be a difference in numbers that are out there. But that is not the issue. Polling data is not the issue.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding me this time and for her leadership on this issue and so many others.

I rise in strong support of the DeLauro-Morella amendment. I would like very much to be associated with the comments of my colleague on the other side of the aisle, the gentlewoman from Maryland, when she spoke of the discrimination against female Federal employees because of the action of this Congress which the DeLauro amendment would address.

I would like to put this vote in perspective. It is the 122nd vote on choice since the beginning of the 104th Congress. This Congress has acted again and again to eliminate a woman's right to choose, procedure by procedure, restriction by restriction.

Mr. Chairman, it was only 3 short years ago that I received a notice in the mail that my health insurance coverage, by law, would no longer cover abortion. It was one small notice in the mail but one giant step backward for a woman's right to choose.

A Federal employee no longer gets a choice. Federal employees cannot purchase, with their own money, insurance coverage for abortion services. This amendment would not require coverage for abortion, it would simply allow an insurance company to cover abortion.

This amendment also does not require a Federal employee to choose a health plan which offers abortion coverage because a Federal employee may choose a plan that does not cover abortion.

This amendment is about making a choice and letting the marketplace work without interference from the Federal Government. I urge a ''yes'' vote on the DeLauro amendment.

Mr. KOLBE. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding me this time.

First, Mr. Chairman, let me point out again, as was noted by the gentleman from Florida (Mr. WELDON), that the parameters of the compensation package, including the health package, are established not by the collective bargaining procedure, not by the Office of Personnel Management but by the Congress. That goes for the entire spectrum of benefits, whether it be the money, the health benefits, the retirement package—so we are right and this is the proper place to deal with this issue and to come to a conclusion on it.

I do rise in very strong opposition to the DeLauro amendment. This is not the first time we have dealt with this. For the last four appropriations bills that have been signed into law, this language has been rejected and the underlying pro-life language which proscribes funding for abortion except in cases of rape, incest or life of the mother has been put into law. This was also in effect from 1984 through 1993, and hopefully in fiscal year 2000 it will be again.

Let me remind Members, as well, that 72 percent of the money that is used towards the purchase of the health plan comes from the taxpayer, not from the premium payer. The remainder comes, about a quarter of it, from the premium payer, but almost three-fourths of the money is a direct subsidy from the United States taxpayer. This amendment would strike the Hyde amendment of the Federal Employees Health Benefits Program. Again, I hope that Members will vote against it.

Mr. Chairman, let me also point out, it is bad enough from our perspective on the pro-life side that abortion on demand is the Supreme Court-imposed policy of our land. It was not voted into policy by the Congress, nor by the States. It was imposed upon us—forced on America—by the U.S. Supreme Court in 1973. But we do not have to pay for it. That is the issue squarely before this body today.

Many of us have profound, conscientious objections to abortion. We believe it is killing. We believe it is the taking of an innocent and defenseless human life. We believe abortion exploits women, and hurts them both emotionally and physically. The pro-life language in this bill ensures that all of us who believe that abortion is killing and dangerous to women will not be complicit, will not be party to the taking of that innocent, unborn child's life.

Let me remind Members as well that more and more people in America, and the polls clearly reflect this, are coming to the inescapable conclusion that abortion methods are acts of violence against children, against little kids. Abortion, rather than the language in the bill, abortion itself is discriminatory against children who cannot defend themselves, boys and girls of all races who cannot say, ''Hey, wait, what about me?'' I think at a time when we know more about the unborn child's life in fetology, at a time when we have a window to the womb with ultrasound and can watch with incredible clarity an unborn child moving, sucking his or her thumb at the very earliest stages, to turn around and say that we can poke holes in that child and stab that child and kill that child, I think, is unspeakable.

I have spent my 19 years in Congress working on human rights issues. I believe this is the most egregious human rights abuse on the planet, because it is so often disguised and masqueraded as somehow being a right is abortion. It is indeed violence against babies.

I would just ask Members, remember what abortion methods are actually done. As soon as we get into the rhetoric of choice and all of the numbing rhetoric that makes us look askance rather than at the reality of abortion, then we are able to put it out of mind, put it under the table and fail to realize that dismemberment and chemical poisonings are terrible things. And that is what abortion is.

Look at dismemberment abortions—commonplace all over America. A loop-shaped knife is hooked up to a hose, into a suction device that is 20 to 30 times more powerful than the average vacuum cleaner, and then that child's body is literally hacked to death. That is violence, I say to my colleagues.

One of the Members on the pro-abortion side just threw her arm as if to say I should go jump in a lake. But this is the reality whether you like it or not.

I have viewed the ''Silent Scream'' produced by Dr. Bernard Nathanson, a former abortionist, who wrote in the New England Journal of Medicine, ''I've come to the agonizing conclusion that I have presided over 60,000 deaths,'' and then he quit doing abortions. This is a man who founded NARAL, a group that is backing the DeLauro amendment. He gave up doing abortions and now supports life. One of the things that made him give it up was that he saw that abortion in America and healing are schizophrenic. In some operating rooms physicians desperately try to save unborn children, in other operating rooms they hack off their limbs and decapitate babies.

□ 1745

He produced a video called The Silent Scream and another video that followed it in which he used real-life ultrasound. He used the ultrasound and chronicled an abortionist hacking that baby to death. And, as my colleagues know, I have been in the movement, the pro-life movement, for 25 years. Until I saw that, it did not even hit me as to how hideous this process, this violence against children, really is.

So dismemberment is not a pretty thing—it doesn't get any uglier—and to pay for it on demand because the child is, quote, unwanted, and then reduced to an object that can be thrown away and be treated as junk, is inhumane.

Then look at the saline abortions. High concentrated saltwater is injected into the baby's amniotic sac. The baby swallows that water and dies a slow, excruciatingly painful, death. It takes 2 hours for the baby to die from the caustic effects of saline abortions. It is legal; it is being done. If the DeLauro

amendment passes, my colleagues and I in this Chamber will have to pay for it, and that is outrageous.

And then partial-birth abortions. In recent years, finally, Members have begun to see the reality of abortion when we talked about partial-birth abortion where the baby is more than half born, legs outside the mother's womb, literally in view, plain view, and then the brain is punctured with scissors, and the brains are literally sucked out.

That is the reality. We can talk all about choice and use all the sophistry from here to kingdom come, but the reality of what the abortionist does when he plies his or her craft is the killing of innocent human life. That is violence against children. That is a human rights abuse. Someday, I do not know when, someday I believe there will be an overwhelming consensus that we should not have been doing that for so long.

We have 40 million kids in this country who have died from abortions since 1973. That is more than the combined populations of many of our States who have been killed by dismemberment, chemical poisoning or some other hideous means. To tell us we have to fund it goes beyond the pale.

I urge a strong no vote on the DeLauro amendment.

Ms. DELAURO. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I rise in favor of the DeLauro amendment and against the provision in this bill that denies women who are Federal employees a constitutional right that other citizens of this country currently enjoy.

Now I would say to my friend who had 8 minutes of graphic testimony to share with us that partial-birth abortions are banned. I even voted to ban such partial-birth abortions.

So that is not the reality, and neither is it the reality that Federal funds are being used for abortion services. If in fact they were, then the Hyde amendment of 1974 would apply, and we would not have this amendment on the floor.

The only reason we have this amendment on the floor is because these are not Federal funds. This is the compensation that Federal employees receive for work that they provide to the citizens of this country. They receive compensation the same way that every other working family does, salary, health benefits, retirement; and with virtually every other working situation, every other employer, there is some subsidy of that health benefit. But this is their income, and my colleague has no more right to restrict what they can do with their private income than he does to restrict what other families receiving income from the private sector are able to do.

Now let me also share with my colleagues some reality, what this really means, and I will get a little graphic, too, although not nearly as graphic as my friend from New Jersey has gotten.

I received a letter from a constituent from northern Virginia who happened to be a Federal employee. She writes:

I was 20 weeks pregnant when I got the bad news. My baby had Trisomy 18, a fatal genetic defect that causes the heart and lungs to fail after birth. There is no possibility that a baby can survive after birth. My doctor strongly recommended that I terminate the pregnancy. He was astounded to learn that the insurance company was not the problem because our insurance covered abortion services for situations like this. The problem was the United States Government and specifically the United States Congress. My husband and I were faced with a terrible decision, go to term with a baby that could not possibly live or spend a year's worth of our savings to terminate the pregnancy. I could not face the thought of spending another 5 months pregnant knowing my baby would not live.

Imagine having to explain, Mr. Chairman, this is reality, having to explain to everyone who asked, which people do, that we have not chosen a name or made any preparations because the baby is not going to live. This law amounts to discrimination against Federal Government employees, against Federal female government employees. It is absolutely wrong. This amendment should be approved; the provision should be struck.

Mr. KOLBE. Mr. Chairman I yield 2½ minutes to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I rise in opposition to the DeLauro amendment. As Members of Congress from across the country, we come representing various positions on the life issue, but the fundamental question presented to us by this amendment is should the Federal Government be in the business of subsidizing abortions.

Make no mistakes. Taxpayers do pay for the salaries and benefits of Federal workers. The taxpayers are our employers, and they do have the right to decide what benefits that they offer.

This amendment is supposedly about fairness, being fair to women who choose to have an abortion. I ask my colleagues this: How is it fair to ask millions of Americans who oppose abortion because they believe it is the taking of human life to pay for the very procedure they oppose? In addition to taxpayers' funds paying for abortion, insurance premiums contributed by all Federal employees would also be used to subsidize abortions on demand.

In a 1994 poll published by the Journal of American Medical Association, only 4 percent of the respondents answered that they thought the government should pay for the expense of an abortion. A New York Times poll indicated that 72 percent of poll respondents said the cost of abortion should be paid for directly by the women who have them, not by a national health plan. And, remember, we are not taking the choice away. All we are saying is do not ask taxpayers to pay for it.

Regardless of one's position on life issues, it is frankly surprising that there would be a push to ask taxpayers of America who subsidize 72 percent of the purchase of Federal employees health insurance to pay for abortions. In fact, this amendment would create a situation in which Americans, both Federal and others who are struggling to make ends meet, are asked to subsidize the abortion decision of a Federal worker who may make five times as much as they do. Regardless of the salary level, it is fundamentally unfair to ask Americans to subsidize a procedure which ends with the taking of a human life.

To conclude, I ask all of my colleagues on both sides of the aisle, both sides of the issue, to oppose this unfair and unreasonable amendment.

Ms. DELAURO. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I thank the gentlewoman for yielding this time to me and for her leadership on this issue. I rise in strong support of the DeLauro amendment and oppose this continuing discrimination against women who are Federal employees by denying those women enrolled in the Federal Employee Health Benefit Plan access to abortion services.

Until 4 years ago, Federal employees, like their private sector counterparts, could choose a health plan which covered the full range of reproductive services including abortion. Two-thirds of private health plans and 70 percent of HMOs today provide abortion services. We are not talking here about the government or the taxpayer subsidizing abortion. Federal employees purchase their own private health insurance. The government contributes to the premium. The health benefit, like their salary, belongs to the employees. Employees who do not choose a plan with abortion coverage are not required to.

This provision discriminates again women in public service. It is egregious, reprehensible and arrogant that Members of Congress think they have a right to tell women who in many cases have dedicated their lives to public service that they do not have the choice of receiving legal abortion services.

The real agenda here, of course, is to make the women's constitutional right to an abortion as difficult as possible. Since some Members cannot amend the Constitution to appeal the constitutional right, they will do everything

possible to place roadblocks in the way of women who want to exercise their constitutional right to have a an abortion.

I can respect honest disagreement. They should amend the Constitution, if they can. We will oppose that, we will have an honest debate, and the American people will make a decision. But do not skulk in the rear and use a thousand different ways to violate women's constitutional rights.

Ms. DELAURO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, this body is made up of 435 Members, 22 of which are in the health profession, and 10 are medical doctors. Yet today we stand ready to determine the type of reproductive health services Federal employees should be provided, basically infringing upon the rights of women, their doctors and health plans to make this determination.

I believe that public policy should advocate the provision of comprehensive reproductive health care services in a manner that protects the essential privacy and rights of our Nation's women. Unfortunately, provisions in this legislation would work to chip away at this very important principle.

I believe that we must uphold the constitutional protections provided to women by giving doctors the ability to consider a woman's life, extenuating circumstances such as rape or incest and health when making reproductive health decisions.

The significance of this issue comes to light when we answer the following questions:

First, who does it affect? 1.2 million of our Nation's women of reproductive age who rely on FEHBP for their medical care.

Second, why should plans participating in FEHBP provide expanded reproductive health coverage? Attempts to prohibit comprehensive coverage discriminate against women in public service who are denied access to legal health services and procedures based on who they work for. Federal employees, like private sector workers, should be able to choose an insurance plan that covers a full range of reproductive health services including abortion. Approximately two-thirds of private fee for service plans and 70 percent of HMOs provide such coverage.

Lastly, how will expanded reproductive health coverage make a difference? These women, along with those in private insurance plans, currently spend 68 percent more in out-of-pocket health care costs than men, and much of this gap is due to reproductive health services.

I urge the adoption of this amendment.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, the gentleman from New Jersey (Mr. SMITH) talked about violence in very graphic terms, violence to unborn children. Well, let us talk about violence. Maybe he could explain about violence to the parents of Becky Bell, Karen and Bill Bell, whose 17-year-old daughter died from a botched illegal abortion. Maybe Becky's doctor could come and talk about what happened inside of her and the ripped organs and the bleeding that she had before she died from having that abortion. Maybe we can have doctors come in and talk about what happens when a hanger is used by a desperate woman who cannot bring another baby into poverty, who has gone through everything to try and get a legal abortion and now has taken things into her own hands.

□ 1800

We have seen the violence against women who are deprived of a safe and a legal, a legal procedure.

All we are asking is that women who are Federal employees, whose doctor says they can have an abortion, who have discussed it probably with their families, who have talked to their rabbis, who are denied that, that is what I call violence against women.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just want to remind Members that the language in the bill constitutes the Hyde amendment of the Federal Employees Health Benefits Program. On average, approximately 72 percent of the money that is in the federal health plan system comes from the U.S. taxpayers, and the premium payers donate the remainder of that amount of money.

An earlier speaker spoke about violence. So let me remind you that many women are dying from so-called safe and legal abortions, as well. There are many of them. One recent mother-victim is the woman who was butchered by an abortionist in Arizona. This woman who died of a botched abortion by a totally legal, so-called reputable abortionist. She bled to death, so both mother and baby were the victims of that violence.

Let me again remind Members that approximately 40 million children have died from abortion in this country, a staggering loss of babies through dismemberment, chemical poisoning, and other types of poison shots.

Do not make us subsidize any more child killing.

Ms. DELAURO. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the DeLauro-Morella amendment to strike the ban on abortions in this bill. I applaud this stalwart commitment to stop discrimination, discrimination by the far right that would place 1.2 million women in the Federal government that work for this government, discriminate against them and them alone.

The reality is that the Congress' political antics have no place in a woman's health care decisions, reproductive or otherwise. Let us be very clear about this, a woman's health decisions should be made between herself and her doctor, not by the Federal government, and certainly not by Members of Congress.

Mr. Chairman, women in public service deserve a full range of reproductive health care services, including abortion. They deserve this in their Federal health plans, no different from a worker in private industry. Please vote for the DeLauro amendment.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Chairman, I just think we ought to be honest about this debate. There is nothing in law today that prohibits women who work for the Federal government from obtaining an abortion. There is nothing in the legislation that is before us that would overturn Roe versus Wade. Every Federal employee has the opportunity to procure an abortion if she chooses to terminate the life of her child. So I think we ought to be honest about the debate.

The question is whether the taxpayers of the country are going to subsidize that process. I think, just in the way that they would not want to subsidize the purchase and ownership of a slave, they would not want to subsidize and purchase an abortion. A majority of American taxpayers do not want to see their tax dollars going to fund someone else's abortion.

So let us simply be honest about the debate. This is not whether we can have abortions in America. The question is whether we are going to subsidize abortions for people who work for the Federal government. I do not think we should do that. I think if they make that choice, they should pay for it out of their own pocket.

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

The CHAIRMAN. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 2 minutes.

Ms. DELAURO. Mr. Chairman, we have heard several different arguments in this debate. I, too, agree we must be very honest in this debate. It comes down to a simple fact, that no amount of debate will change the fact that many of my colleagues just fundamentally oppose a woman's right to choose.

Like it or not, abortion is a legal medical procedure. The majority of Americans support keeping it a legal medical procedure. This amendment

would simply ensure that Federal employees have access to that legal medical procedure. It would not require a health plan to offer abortion coverage, it does not require any employee to choose a health plan which covers abortion. It simply ensures that our Nation's public servants have the choice to health insurance which would provide coverage of legal, doctor-recommended abortions which are necessary to preserve a woman's health.

This is not a question of taxpayer money being used to subsidize abortion. The health insurance premiums are earned by employees of our government every bit as much as their paycheck. The paycheck and the premium belong to the employee, not to the government and not to the taxpayers. What right do we have to dictate what someone can or cannot do with the paycheck or with the health benefit that they receive?

This amendment is about basic fairness, about allowing the women who serve in our Federal Government to choose a health insurance plan which covers an important aspect of women's health.

Under the existing language in the bill, health plans cannot cover an abortion, even when a doctor tells a patient that it is needed to preserve the mother's health. Why are women who work in the Federal government treated as second-class citizens? This is not acceptable.

I urge my colleagues, do not impose their personal beliefs on our public servants. Give women the dignity of being able to choose for themselves. Support this amendment to strike this dangerous provision.

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

Mr. Chairman, I am not against a woman's right to choose. I am not even against a woman's right to have insurance coverage for abortion procedures when they are deemed necessary. But Mr. Chairman, I am not entirely, in this instance, a free agent in the sense that as chairman of this subcommittee, I believe I have a responsibility to bring a bill to the floor which can and will pass this body, as well as the Senate, and be enacted into law.

This body has debated this issue on many numerous occasions. I have been on the other side of this issue. But I believe that the will of this body ought to stand at this point. I believe that this bill is balanced in the coverage, the provision that prohibits Federal funding for abortions, but on the other hand, permits contraceptive coverage. I would certainly vote against any effort to strike that provision from this bill.

I believe we should keep this bill intact as it is. I hope that my colleagues will join me in voting to keep this provision in the bill so that we may pass a piece of legislation that can ultimately be enacted into law. It is for that reason that I urge a ''no'' vote on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in support of the amendment offered by several Members on the Appropriations Committee—Representatives DELAURO, MORELLA, HOYER, GREENWOOD, MORAN, KILPATRICK, and LOWEY. This amendment strikes Section 509 of the Federal Employee Health Benefits Program that prohibits coverage of abortion services for those covered by the plan. For those who rely on the Federal Employee Health Benefits Program for their medical care, they are unable to take advantage of the same reproductive health care services that are available to private sector employees.

Approximately 1.2 million women rely on this program for their medical care. Some of these women work here in this Congress as members of our respective staffs. Until 1995, federal employees could select health care plans that covered the full range of reproductive services, including abortion.

The current provision discriminates against women in public sector service. Federal employees should not be denied this legal health procedure simply because of the political nature of abortion. For a government employee faced with the decision about a serious fetal health condition, this provision leaves her with few options.

Although 509 does contain exceptions for cases of rape and incest or in cases where the life of the mother is in danger, this language contains no health exception. This omission places many women in the painful decision to continue a potentially health-threatening pregnancy.

This section places federal employees on unequal footing with private sector employees, many of whom receive health care coverage from private fee-for-service plans or from HMO's. Approximately two-thirds of private fee-for-service plans and seventy percent of HMO's provide abortion coverage.

It is rather ironic that we have been debating patient protection legislation because many of us believe private insurance companies and HMOs need to provide specialized services as needed by patients. Yet, the Federal Employee Health Benefits Program, our health plan for our employees, does not provide a specialized service that is provided by the HMOs.

Like most health insurance plans, the Federal government contributes to the premiums, but the employees purchase private health insurance. For those employees who do not want a plan with abortion coverage, they may simply choose not to.

I hope that my colleagues support this amendment because it does not in any way mean that the government is subsidizing abortion services. There are specific limitations governing the conditions which a woman would be eligible for those services—rape, incest, danger to the life of the mother, and certain health conditions.

Please support the DeLauro-Morella-Hoyer-Greenwood-Moran-Kilpatrick-Lowey amendment to this bill. Let's extend coverage for the full range of reproductive health services, including abortion services to our employees.

Ms. DEGETTE. Mr. Chairman, this is an amendment about restoring equal access and equal rights to women and families who devote their careers to public service. There are over 1 million women of child bearing age who are enrolled in the Federal Employees Health Benefits Program that are being denied comprehensive access to reproductive health care.

Three years ago, Congress decided that federal employees do not deserve the same rights that private sectors employees have—the right to choose and pay for a health plan that covers a full range of reproductive services, including abortion.

Opponents will try to mislead their colleagues and the American people by arguing that this amendment means that taxpayers will pay for abortions. That is absolutely not true. Federal employees purchase private health insurance of which the government contributes a share to the premium. The health benefit, like the salary, belongs to the employee. Employees are given the freedom to choose from a range of health plans and the Delauro amendment merely ensures that an employee can choose a health plan that does or does not cover abortion.

Until this anti-choice Congress succeeds in making abortion illegal, they are intent on making it more dangerous and difficult. I believe as should anyone in this body who cares about the health of American women and their families, that abortions should be safe, legal and RARE.

Last year, Congress was right to pass legislation to cover prescription contraceptives for federal employees. Let us value the nation's public servants—not turn their health care coverage into yet another political game. I urge my colleagues to stand up for the reproductive health care needs of America's women and vote yes on the DeLauro amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Connecticut (Ms. DELAURO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. DELAURO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 230, not voting 16, as follows:

[Roll No. 301]

AYES—188

Abercrombie	Boyd	Davis (IL)
Ackerman	Brady (PA)	Davis (VA)
Allen	Brown (FL)	DeFazio
Andrews	Brown (OH)	DeGette
Baird	Campbell	Delahunt
Baldacci	Capps	DeLauro
Barrett (WI)	Capuano	Deutsch
Bass	Cardin	Dicks
Becerra	Carson	Dingell
Bentsen	Castle	Dixon
Berkley	Clay	Doggett
Berman	Clayton	Dooley
Biggert	Clement	Ehrlich
Bishop	Clyburn	Engel
Blagojevich	Condit	Eshoo
Blumenauer	Conyers	Etheridge
Boehlert	Coyne	Evans
Bonilla	Cramer	Farr
Boswell	Cummings	Fattah
Boucher	Davis (FL)	Filner

Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Hastings (FL)
Hill (IN)
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Horn
Houghton
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kelly
Kennedy
Kilpatrick
Kind (WI)
Kuykendall
Lantos
Larson
Lazio
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, George
Minge
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Sisisky
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Wise
Woolsey
Wu
Wynn

NOES—230

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonior
Bono
Borski
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Coburn
Collins
Combest
Cook
Costello
Crane
Crowley
Cubin
Cunningham
Danner
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Ewing
Fletcher
Forbes
Fossella
Fowler
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kasich
Kildee
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller, Gary
Moakley
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Portman
Radanovich
Rahall
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Baldwin
Barton
Brown (CA)
Chenoweth
Coble
Cooksey
Cox
Frost
Gilchrest
Hilliard
Latham
Luther
McDermott
McNulty
Quinn
Thurman

□ 1828

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

Mr. RYAN of Wisconsin. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage the gentleman from Arizona (Mr. KOLBE) in a colloquy.

Mr. KOLBE. Mr. Chairman, if the gentleman will yield, I am pleased to join the gentleman from Wisconsin (Mr. RYAN) in a colloquy.

Mr. RYAN of Wisconsin. Mr. Chairman, the committee has included language in its report directing the U.S. Customs Service to continue to provide service to the Port of Racine, Wisconsin, and that any change in service shall only be an improvement.

I would like to clarify the term ''service'' as used in the committee's report. The Port of Racine is a growing area. It is home to modern industrial corporations and businesses that depend on continuous availability of Customs' services to ensure the rapid clearance of cargo to support their business operations in what has really become a growing business hub. The importance of having Customs' presence in Racine cannot be underestimated, given the growth of just-in-time manufacturing that allows very little room for delays in the delivery of trade goods in the Racine community.

I recognize that the committee has attempted to ensure with the report language that Racine will continue to be well served. However, I would like an assurance that there will be no attempt to reduce the level of services, including, perhaps, the closing of the Customs office in Racine. Can the gentleman from Arizona (Chairman KOLBE) provide such assurances that this is the intention of the committee by this report language?

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

Mr. RYAN of Wisconsin. Yes, I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I thank the gentleman from Wisconsin for yielding to me. He has spoken with me at some length about this issue. I believe that he has raised some very, very good points; and I appreciate the tenacity with which he has pursued this.

I want to share with the gentleman my understanding of the need to ensure that Racine does continue to be served by the U.S. Customs Service.

The committee does not, as I think the gentleman knows, as a matter of fact, support specific designations or expansions of Customs' districts or ports in this appropriations bill. It is the intent of the committee that timely services at the Port of Racine will not be adversely affected in any way.

I, therefore, would emphasize for the RECORD that this committee would expect to see and approve any Customs' proposal before actions are taken to close the offices of the Port of Racine or to otherwise change service in any way to Racine.

No action could be taken by the Customs Service until it has been proven to the satisfaction of the committee that no reduction in timely service to Racine would result.

I would also commit to the gentleman from Wisconsin that we will work in close consultation with him to ensure that, if there were to be any proposed changes, that they are in the best interest of Racine and of the business community there.

Mr. RYAN of Wisconsin. Mr. Chairman, reclaiming my time, I would like to thank the gentleman from Arizona for his support and his willingness to work with us on this very, very important matter. I look forward to reviewing any possible proposal from the Customs Service before anything would be implemented.

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that the bill through page 99, line 20 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The text of the remainder of the bill through page 99, line 20 is as follows:

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2000 from appropriations made available for salaries and expenses for fiscal year 2000 in this Act, shall

remain available through September 30, 2001, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 513. Notwithstanding section 515 of Public Law 104–208, 50 percent of the unobligated balances available to the White House Office, Salaries and Expenses appropriations in fiscal year 1997, shall remain available through September 30, 2000, for the purposes of satisfying the conditions of section 515 of the Treasury and General Government Appropriations Act, 1999.

SEC. 514. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93–400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2000 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 610. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) that do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 611. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 612. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 613. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2000, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 614 of the Treasury and General Government Appropriations Act, 1999, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2000, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 614; and

(2) during the period consisting of the remainder of fiscal year 2000, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2000 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2000 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1999 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1999, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1999, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1999.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the word ''office'' shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 615. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 616. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for fiscal year 2000 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 617. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 618. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2000 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 619. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: *Provided*, That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 620. None of the funds appropriated in this or any other Act shall be used to acquire information technologies which do not comply with part 39.106 (Year 2000 compliance) of the Federal Acquisition Regulation, unless an agency's Chief Information Officer determines that noncompliance with part 39.106 is necessary to the function and operation of the requesting agency or the acquisition is required by a signed contract with the agency in effect before the date of enactment of this Act. Any waiver granted by the Chief Information Officer shall be reported to the Office of Management and Budget, and copies shall be provided to Congress.

SEC. 621. None of the funds made available in this Act for the United States Customs Service may be used to allow the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 622. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 623. Section 627(b) of the Treasury and General Government Appropriations Act, 1999 (as contained in section 101(h) of division A of Public Law 105–277) is amended by striking ''Notwithstanding'' and inserting the following: ''Effective on the date of the enactment of this Act and thereafter, and notwithstanding''.

SEC. 624. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or

persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 625. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 626. No funds appropriated in this or any other Act for fiscal year 2000 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.'': *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 627. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 628. (a) IN GENERAL.—For calendar year 2001, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 629. None of the funds appropriated by this Act or any other Act, may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 630. The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

SEC. 631. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 632. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 633. (a) In this section the term ''agency''—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 634. None of the funds made available in this or any other Act with respect to any fiscal year may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person's delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: *Provided*, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: *Provided further*, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.

SEC. 635. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Providence Health Plan;

(B) Personal Care's HMO;

(C) Care Choices;

(D) OSF Health Plans, Inc.;

(E) Yellowstone Community Health Plan; and

(2) any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 636. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, funds made available for fiscal year 2000 by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of $800,000 including the salary of the Executive Director and staff support.

SEC. 637. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Executive department and agency is hereby authorized to transfer to the ''Policy and Operations'' account, General Services Administration, with the approval of the Director of the Office of Management and Budget, funds made available for fiscal year 2000 by this or any other Act, including rebates from charge card and other contracts. These funds shall be administered by the Administrator

of General Services to support government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives and the Chief Information Officers Council for information technology initiatives). The total funds transferred shall not exceed $7,000,000. Such transfers may only be made 15 days following notification of the House and Senate Committees on Appropriations by the Director of the Office of Management and Budget.

CHIEF FINANCIAL OFFICER IN THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 638. (a) IN GENERAL.—Section 901 of title 31, United States Code, is amended by adding at the end the following:

''(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be designated or appointed by the President from among individuals meeting the standards described in subsection (a)(3). The position of Chief Financial Officer established under this paragraph may be so established in any Office (including the Office of Administrator) of the Executive Office of the President.

''(2) The Chief Financial Officer designated or appointed under this subsection shall, to the extent that the President determines appropriate and in the interest of the United States, have the same authority and perform the same functions as apply in the case of a Chief Financial Officer of an agency described in subsection (b).

''(3) The President shall submit to Congress notification with respect to any provision of section 902 that the President determines shall not apply to a Chief Financial Officer designated or appointed under this subsection.

''(4) The President may designate an employee of the Executive Office of the President (other than the Chief Financial Officer), who shall be deemed 'the head of the agency' for purposes of carrying out section 902, with respect to the Executive Office of the President.''.

(b) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the President shall communicate in writing, to the Chairman of the Committee on Appropriations of the House of Representatives, Chairman of the Committee on Government Reform of the House of Representatives, and the Chairman of the Committee on Governmental Affairs of the Senate, a plan for implementation of the provisions of, and amendments made by this section.

(c) DEADLINE FOR APPOINTMENT.—The Chief Financial Officer designated or appointed under section 901(c) of title 31, United States Code (as added by subsection (a)), shall be so designated or appointed not later than 180 days after the date of the enactment of this Act.

(d) PAY.—The Chief Financial Officer designated or appointed under such section shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(e) TRANSFER OF FUNCTIONS.—(1) The President may transfer such offices, functions, powers, or duties thereof, as the President determines are properly related to the functions of the Chief Financial Officer under section 901(c) of title 31, United States Code (as added by subsection (a)).

(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office the functions, powers, or duties of which are transferred under paragraph (1) shall also be so transferred.

(f) SEPARATE BUDGET REQUEST.—Section 1105(a) of title 31, United States Code, is amended by inserting after paragraph (30) the following new paragraph:

''(31) a separate statement of the amount of appropriations requested for the Chief Financial Officer in the Executive Office of the President.''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Section 503(a) of title 31, United States Code, is amended—

(1) in paragraph (7) by striking ''respectively.'' and inserting ''respectively (excluding any officer designated or appointed under section 901(c)).''; and

(2) in paragraph (8) by striking ''Officers.'' and inserting ''Officers (excluding any officer designated or appointed under section 901(c)).''.

ELECTRONIC FILING THRESHOLD

SEC. 639. Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

''(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

''(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so under the regulation promulgated under clause (i).

''(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

''(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.''.

ALTERNATIVE PROCEDURES FOR IMPOSITION OF PENALTIES FOR REPORTING VIOLATIONS

SEC. 640. (a) IN GENERAL.—Section 309(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(4)) is amended—

(1) in subparagraph (A)(i), by striking ''clause (ii)'' and inserting ''clauses (ii) and subparagraph (C)''; and

(2) by adding at the end the following new subparagraph:

''(C)(i) Notwithstanding subparagraph (A), in the case of a violation of any requirement under this Act relating to the reporting of receipts or disbursements, the Commission may—

''(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

''(II) based on such finding, require the person to pay a civil money penalty in an amount determined under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate.

''(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity for the determination to be made on the record.

''(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination in the district court of the United States for the district in which the person is found, resides, or transacts business, by filing in such court (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.''

(b) CONFORMING AMENDMENT.—Section 309(a)(6)(A) of such Act (2 U.S.C. 437g(a)(6)(A)) is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after January 1, 2000.

CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS

SEC. 641. Section 304(b) of such Act (2 U.S.C. 434(b)) is amended by inserting ''(or election cycle, in the case of an authorized committee of a candidate for Federal office)'' after ''calendar year'' each place it appears in paragraphs (2), (3), (4), (6), and (7).

PROFESSIONAL LIABILITY INSURANCE

SEC. 642. (a) IN GENERAL.—Section 636 of the Treasury Postal Service, and General Government Appropriations Act, 1997 (5 U.S.C. prec. 5941 note) is amended in the first sentence by striking ''may'' and inserting ''shall, subject to the availability of appropriations,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, or the date of enactment of this Act, whichever is later.

SEC. 643. IN GENERAL.—Hereafter, an Executive agency which provides or proposes to provide child care services for Federal employees may use appropriated funds (otherwise available to such agency for salaries) to provide child care, in a Federal or leased facility, or through contract, for civilian employees of such agency.

(b) AFFORDABILITY.—Amounts so provided with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) REGULATIONS.—The Office of Personnel Management shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) DEFINITION.—For purposes of this section, the term ''Executive agency'' has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

COMPENSATION OF THE PRESIDENT

SEC. 644. (a) INCREASE IN ANNUAL COMPENSATION.—Section 102 of title 3, United States Code, is amended by striking ''$200,000'' and inserting ''$400,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect at noon on January 20, 2001.

The CHAIRMAN. Are there any amendments to that portion of the bill?

AMENDMENT OFFERED BY MR. WELDON OF FLORIDA

Mr. WELDON of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WELDON of Florida:

In section 635 (relating to contraceptive coverage), redesignate subsection (d) as subsection (e) and insert after subsection (c) the following new subsection:

(d)(1) None of the funds appropriated by this Act may be used by the Office of Personnel Management to enter into or renew a contract with a health benefits plan which does not offer health plan enrollees at the time of enrollment the option of choosing an enhanced benefit described in paragraph (2) in lieu of the contraceptive coverage mandated by this section.

(2) An enrollee may elect enhanced benefits for any one of the following categories of benefits: dental, optometry, prenatal, infertility, or prescription drug. Each enhanced benefits option shall be designed by the plan involved and shall be equivalent in value to what the plan spends for the average enrollee who chooses the contraceptive coverage.

(3) Nothing in this subsection shall be considered to require a plan to offer an enhanced benefits option for any category of benefits for which no coverage would otherwise be available under the plan.

Mr. WELDON 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 gentleman from Florida?

There was no objection.

Mr. KOLBE. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Arizona reserves a point of order.

Mr. WELDON of Florida. Mr. Chairman, last year, Congress adopted the Lowey mandate that all FEHBP plans include coverage of contraceptive care. This year, that language was considered in the base text of the bill. There are millions of Americans who object to being forced to subsidize, through higher premiums, contraceptive benefits for other plan enrollees, for one reason or another, including many Federal employees.

They have many reasons to object to being forced to subsidize these benefits. They may have moral and religious objections. They may be a single person, and they feel that they should not be forced to subsidize this benefit. They may be an infertile couple facing the tragedy of having to pay tens of thousands of dollars in medical bills for infertility work-ups while they are simultaneously paying a higher premium for this benefit for others.

Why should those older Federal employees who may be beyond the child-bearing years pay the higher premium when they might prefer better dental care coverage or preventive care?

My amendment ensures that Federal employees are given the choice of opting out of this mandate of contraceptive benefits. My amendment would give enrollees the choice to select the contraceptive benefit currently required in the bill, or they could, if they preferred, exercise and choose enhanced dental, optometry, prenatal, infertility, or prescription drug benefits.

My amendment will not result in additional costs to plans, because the language in my amendment calls for these benefits to be of equivalent value of what the plan spends for the average beneficiary choosing the contraceptive benefit.

My amendment does not require a plan to offer any new benefits that they do not already offer. Plans could opt to provide these enhanced benefits through lower copays for doctors visits or lower copays for prescription drugs. They could enhance preventive care benefits like providing free dental checkups. I believe that my amendment is a significant improvement over the base text language.

I understand the decision of the gentleman from Arizona (Chairman KOLBE) to raise a point of order against my amendment. I will, therefore, withdraw my amendment from consideration. But I would encourage members of this subcommittee to consider language such as this when they go to conference or when they take this bill up next year.

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

Mr. WELDON of Florida. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for withdrawing his amendment. As the gentleman knows, I would have supported the chairman's point of order. But I do want to commend the gentleman. Significantly, Federal employees do not have the dental benefits that are available in some other policies.

I think the gentleman raises a good issue, not in the context he raises it, he and I would disagree on that, but in a separate context outside of that. I think that it is a good issue, and I am pursuing it, along with others.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman from Maryland (Mr. HOYER) for his input. I would be very happy to work with him on this issue in the future.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT NO. 10 OFFERED BY MR. SESSIONS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. SESSIONS:

Strike section 644 (relating to compensation of the President).

Mr. SESSIONS. Mr. Chairman, this amendment strikes section 664, which doubles the President of the United States' salary from $200,000 to $400,000 effective January 20 at noon in the year 2001.

I believe that doubling the President's salary in an era when we are expected to make tough, responsible decisions to save the American people's money, to save Social Security, and to ensure a smaller, smarter, common sense budget, means that we did not attempt to invoke reason or balance in this process.

Our amendment is sponsored by the National Taxpayers Union, Citizens Against Government Waste, and Americans for Tax Reform.

I am joined in this effort by the gentleman from South Carolina (Mr. SANFORD).

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Chairman, I concur wholeheartedly with what the gentleman from Texas (Mr. SESSIONS) said and what this amendment is about. As the gentleman suggested, it is simply about leaving the presidential salary at $200,000 rather than doubling it to $400,000. That has absolutely nothing to do with Bill Clinton. It has absolutely nothing to do with George Bush. It has everything to do with George Washington.

Because our Founding Fathers, and George Washington in particular, went to absolutely great degrees to make sure that we did not elect a king but that we had representative government.

The idea of representative government was that it would be of the people, by the people, for the people. Instead, we have gone from there to the point where, and as we all remember, George Washington was going through the checkout line at the grocery store, and he could not remember how much a gallon of milk cost.

People have become very removed in this political process from what regular day people feel. So what this amendment is about is simply trying to keep some small thread of connection between elected leadership and what people feel on a daily basis.

This is very much a back-of-the-envelope kind of write-up here, but what it points to is that the President's compensation is about $20 million. I think that that is the back of the envelope. An average CEO compensation, according to Forbs magazine is $2.3 million. So I think that he is adequately paid.

Let me just walk through a few of these numbers. The numbers up here,

we begin with the White House. If a corporate CEO is paid, he has to go out and rent a place or buy a place. One gets a pretty nice pad, if one wants to call it that, if one is staying down at the White House. One has a staff of about 100 on the domestic side. One has got cooks. One has got housekeepers. One has got calligraphers. One has got a pool. One has got a hot tub. One has got a bowling alley. One has got a theater. One has got a few goodies in there. It costs about $10 million to run. That is not including security. That is just, again, on the domestic side.

One also has a vacation home. It is called Camp David. I do not know exactly what it costs to run, but I do know that if one is to go into the mountains and rent a vacation place like that that had stables, a tennis court, a swimming pool, a theater, it would run one maybe $10,000 a week. So let us just throw it in at $40,000 a month. So that would be about $480,000 of compensation there.

One has got a plane called Air Force One. It is a pretty nice jet. One can go with Marine One. I do not know what the numbers would be in terms of operating costs. An executive jet would run one $5,000 an hour. A 747 would surely run one a lot more than that.

One has got a retirement plan. Every President, after he becomes President, gets $151,000 a year for the rest of his life in a pension plan.

□ 1845

And if we were to blow that number backward, what that means is that wealth is accruing at about the rate of $275,000 a year on top of the $200,000 base pay the President is already getting.

There is the Presidential office, the Presidential library, there is unlimited earning power after they get out of office. There is a fair bit of prestige. We have the Ronald Reagan National Airport, the Ronald Reagan Federal Building, the Ronald Reagan Aircraft Carrier. The President gets a few benefits and he has a chance to affect public policy.

The point of all that is that the President is by no means undercompensated, and I think that is what the heart of the gentleman from Texas is trying to get at.

Mr. SESSIONS. Mr. Chairman, reclaiming my time, what we have talked about tonight is we believe this decision to raise the rate of pay for the President of the United States, doubling it from $200,000 to $400,000, should be challenged by Members of Congress.

Mr. HOYER. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I moved my place and I went over to the seat on the other side of the aisle so I would have a better opportunity to see this sort of monologue stand-up comedy routine that we had. It was a great routine. But I thought to myself, I wonder if the President calls up the comptroller at Stanford and says, ''By the way, can I send you a picture of Air Force One, and maybe you can even get a picture of the White House, because it's a worth a lot, for my tuition payment this semester.'' And the bursar at Stanford is going to say, ''Send money.''

My colleagues, with all due respect, let us look at what we are talking about. The President of the United States in 1969 had his salary set at $200,000. Now, hear me now, my colleagues. The Founding Fathers, not in the Constitution, but in their early legislation set the President's salary in 1789 at $25,000 cash money that he was paid. Twenty-five thousand dollars 210 years ago. In today's dollars our Founding Fathers set the President's salary at $4 million per year.

Frankly, when I go to the grocery store, I do not say, ''Hey, I am a Congressman. I have a heck of a good office, I've got a great view there and all kinds of things, so can I get my groceries for that?'' No. They say, ''Give me the money.''

We have an insurance executive in America who made last year $400 million. Now, my colleagues, Mr. SUNUNU, whose son is a Member of Congress, testified, and he is the one that, by the way, said that the President's salary effectively in 1789 was in today's dollars $4 million per year.

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

Mr. HOYER. I yield to the gentleman from South Carolina.

Mr. SANFORD. Mr. Chairman, I would just say to the gentleman that I think that one has to look at how George Washington got around. He did not get around in Air Force One; he did not get around in Marine 1. He got around on a horse.

Mr. HOYER. Reclaiming my time, Mr. Chairman, is it the gentleman's perception that George Washington said, ''I know Air Force One is out at Andrews, but I am a good guy, and I am just not going to use it''? Because if that is the gentleman's perception, I must inform him, with all due respect, that Air Force One was not there to use. But I have a sneaking hunch if he had had a horse that flew, he would have used it.

Mr. SANFORD. If the gentleman will continue to yield, I would agree with him on that, but I guess the point I'm getting at, as we both know, there was no White House when George Washington was here. There are a number of different things that go into the package now.

Mr. HOYER. Has the gentleman noticed the House that George Washington lived in?

Mr. SANFORD. Mount Vernon.

Mr. HOYER. It was not a bad place.

Mr. SANFORD. His own, though.

Mr. HOYER. Yes. How did he support that house?

I do not want to get into that, but the fact is, the point I am making is that $400,000 is a very significant sum of money, but it is only 10 percent of what our Founding Fathers determined the President ought to be paid. Ten percent.

Of course we have him live in the White House, but that is the People's house, America's house. The President lives there because that is where we tell him to live. Of course we fly him on an airplane, because he has international global responsibilities, and we want him to get from place A to place B safely and fast so he can conduct the People's business.

Of course he has benefits of being the President of the United States, which he will lose when he leaves that office. Of course I agree with the gentleman from South Carolina (Mr. SANFORD) on that.

But the fact of the matter is, the President of the United States, unlike the Congress, that has had numerous raises since 1969 when we were making $42,500, we will now be making approximately 3½ times that, the President has not had a raise in that period of time. If we did 3½ what we have gotten, clearly the President would be making about $750,000.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. HOYER) has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. Mr. Chairman, I tell my colleague from South Carolina that if the President had gotten simply a cost of living adjustment since 1969, he would be making $758,000 today. Just a cost of living.

So I think the chairman, the gentleman from Arizona (Mr. KOLBE), has been very modest in his proposal. And as a matter of fact, all the testimony before the Committee on Government Reform, chaired by the gentleman from Indiana (Mr. BURTON), was that a higher salary was justified.

So I enjoyed the back of the envelope presentation. I tell the gentleman from South Carolina, notwithstanding the fact that it was written on the back of the envelope, it was not given at Gettysburg, and may not last quite as long. I think his compilation was interesting but not particularly relevant.

It is important for us, I think, to compensate the President not in the sense of a king or lavishly, but certainly appropriately as it relates to the rest of the people in government. And as the gentleman knows, the Speaker makes $175,000. In 1969 the Speaker was making less than half of that.

So it is appropriate, in my opinion, to at this point in time, for the next President, this will not affect, as the gentleman knows, the incumbent

President. Under the Constitution, we cannot do that and should not be able to do that. But this will reflect an appropriate salary for arguably the person who has the toughest job in the world and on whom billions of people rely for good judgment and honest service.

So I would hope that the House would reject this amendment and approve the committee's recommendation.

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

Mr. Chairman, I will not take all that time, and I would agree with many of the things that the gentleman from Maryland said. He makes very good points in the fact that we by no means want to have an underpaid President of the United States.

I guess the only point I was trying to make is that, A, there are a number of other ways that one is compensated besides just the base pay, and there are some benefits that, frankly, come with the job of being the President of the United States. I guess that was all I was trying to point out.

And, too, I would point out the fact that I know of no poor Presidents. Thomas Jefferson, in other words, if we look back into the history books, Thomas Jefferson basically died broke. I am not suggesting that we want that to be the case, by any means, but that was the end of public service for him.

That is not at all the case with modern-day public servants. We do not hear any stories of past Presidents being poor Presidents. In fact, Ronald Reagan makes, when he was giving speeches, was making about $2 million per speech. And there was the big write-up on the speech George Bush gave in Japan wherein he took stock in lieu of the speech, and it turned out to be worth $13 million.

So these guys do pretty well on their compensation package that seems to follow their time in office, and that is all I am trying to suggest.

I guess tied to that would be the fact that I do not know of a shortage of people running for President. When compensation is out of whack in a given job, we generally do not see people seeking that job. But that is not at all the case that we see these days in Washington in terms of people seeking the office.

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

Mr. SANFORD. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding. Let me respond to two points.

First of all, I will tell my colleague that there would be no shortage of people who would be President of General Motors if they paid at $100,000. We could get a president of General Motors, perhaps not a very good one.

There would be no shortage of players to play on the Washington Wizards for $100,000. Now, the fact is, the gentleman and I both know they would not win any games, ever, but there would be five players on the court.

So I would make that point. We are not recruiting anybody if we paid them zero.

Let me make another point. The gentleman talks about former Presidents. President James Carter, who was relatively wealthy when he came to the office, that is correct, but there is a perfect example of someone who has used his time in a voluntary way to make life better for his fellow citizens here and around the world.

So I understand the gentleman's point, and people do different things. Both President Bush and President Reagan did make a lot of money in speeches. Maybe this President and future Presidents will do the same. But I think we ought to, nevertheless, appropriately compensate them relative to what the rest of us in government make.

Because if an individual had the responsibility that the President of the United States has, they would be paid millions and millions of dollars in the private sector for comparable responsibility. I do not think we ought to do that. That is not appropriate, the gentleman is right. People should not seek this to become millionaires.

Mr. SANFORD. Reclaiming my time, Mr. Chairman, I would simply say that the gentleman from Maryland raises great points. I guess it is just a philosophical divide on this particular one issue.

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

Mr. SANFORD. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, I think this debate has been worthy. I think we have gone through the process. Hearings have been held on this matter.

I believe that it is an honest request that we would ask Members of Congress to take seriously that which they have before them, to make a determination about whether we are going to double the President's salary. I believe in a time when we are trying to do the responsible thing, it does not pass the smell test to think that we would double someone's salary.

With that said, I hope that this debate has ended.

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

Mr. Chairman, I was also enjoying the recitation that the President has as fringes, but that is not the point. We do not know who the President of the United States will be after the 2000 election, and this will strictly apply solely to that individual and his successors.

Now, there has only been a few times in American history that salaries have been increased. George Washington's salary was mentioned. By the way it, is $4.6 million adjusted for inflation, states the Congressional Research Service and the Office of Personnel Management. The Constitution authorizes in Article II that "The President shall, at stated times, receive for his services, a compensation: . . ." Washington was an outstanding President. The first Congress set his compensation at $25,000.

I heard this comment that several post war Presidents were not very poor. Well, they sure were in the 19th century. When General Grant was dying of cancer he worked all days and nights to finish his memoir. Why? Because his spouse had no money. And there were, in the 1850s, presidential widows with no pensions. Mary Lincoln was one of them. We have solved that problem.

And also in this century we have had widows that lived on very little. That should not be a factor for a President of the United States when they serve their country ably. And whether ably or not when they give the service, they are the People's choice.

□ 1900

We do not choose Presidents. The people do.

Based on the testimony we had before our Subcommittee on Government Management, eleven chiefs of staff representing every administration since Lyndon Johnson—three Democratic Presidents and three Republican Presidents—all of them were unanimous that the President's compensation should go to $400,000. Some of them thought it should go to $500,000. We took the $400,000 and felt that was appropriate.

Now, in addition to what was said about the salaries early in the government, it was not just the President of the United States that received $25,000 which is now equal to $4.6 million. John Adams earned $5,000 a year as Washington's Vice President, John Jay received $4,000 a year as the first chief justice of the United States.

If we do not make an adjustment for the President, we are going to find that by 2002 the Speaker, the Chief Justice, and the Vice President will have a higher salary than the President of the United States.

It is not unreasonable to come in this chamber and ask our colleagues to support $400,000. Why? Because it is the right thing to do. We cannot always say that Presidents of the United States will match the salaries of many of our corporate heads in this country and even the compensation of a few university presidents. A handful are in that range.

So I would hope my colleagues would vote down this particular amendment. I do not think it is appropriate. We have to face up to it. Times change. Congress first faced up to increasing

the compensation in the Grant administration. And the latest facing up to the realities of presidential compensation was in the Lyndon Johnson administration. LBJ signed our act which doubled the salary from $100,000 to $200,000 a year. That decision benefited the three Democratic Presidents and the three Republican Presidents who occupied the White House since Johnson's time.

$400,000 is appropriate because there has been steady inflation in this country, and $400,000 is about what $200,000 would really be back in 1969, when the latest law was passed. I think there is a need for equity between the heads of each of the three branches of government. So I think this is in order for the chief of the executive branch, which every one of us knows is the most complex job and most amazing managerial job.

It does not mean Presidents have been good managers. Some of them have been horrible managers. We will deal with that matter later in the year. But the fact is they have the responsibility. They have to make key decisions. They are tough decisions: life, death, dollars, no dollars for programs. I think we know that. Many people do not.

Some see the Presidency as ''fun and games.'' There are probably some White House occasions when a President, who has worked a 12 hour day is not excited by being the gracious host four or five more hours. ''How glorious,'' people think.

We must compensate the individual who has the popular vote from the American people to represent our country with honor at home and abroad. Presidents also have children in school, as we have with this President, and tuition is high.

So vote down this amendment and let us be sensible about it and give the next President a raise.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I just want to make a couple of things very clear. I do rise in opposition to this amendment. I do believe this is not about, and I think all of us would agree with this, this is not about the current occupant of the White House. This salary change would not affect that individual.

I think there are some other points that go along with that, and that is that this is the right time to do this. This is the right time to do this for a couple of reasons. One, we are 18 months away from an election and having another President. That gives us a moment to look at this for the future.

Another reason that we need to think about it now is that, unlike Members' compensation where the courts have ruled that, under the 28th amendment, a cost-of-living adjustment is not a change or a compensation, the Constitution is very clear, there can be no change to the President's compensation during the term of office. So that, if we do not do this now, we are really looking at 2005 as the next time any kind of change could be made to the compensation of the President.

The gentleman from California (Mr. HORN) I thought speaks both very eloquently and clearly about why this is justified. And his subcommittee has done some yeoman's work on this, as the work of his subcommittee I think has brought us where we are today and caused us to include this in our bill.

As he has pointed out and the gentleman from Maryland (Mr. HOYER) has pointed out, the President's salary has not been adjusted since 1969. That is quite a time. And as I have just pointed out, if we do not make this adjustment now, this one, which, by the way, has no effect on the appropriations bill for this year and only for part of the following year, that is anything after January 20, 2001, if we do not make the change now, we are looking, as the gentleman from California (Mr. HORN) has pointed out, at a situation where the Speaker of the House and the Vice President would actually be making more than the President of the United States might by the year about 2003.

Now, if we go back to the last time we adjusted the President's salary in 1969 and we gave just the cost-of-living adjustments that other Federal employees have had since that time, the salary today would be $726,000. If the salary had kept pace with inflation, it would be $936,000, which suggests that we have perhaps not kept Federal employees in pace with inflation. Or, stated another way, in today's dollars the value of that $200,000 that we paid in 1969 is $45,367.

Or we can look at the last time there was a formal recommendation on President's pay, and that was 1989 when the Commission on Executive, Legislative and Judicial Salaries met and they recommended the President's pay be increased from $200,000 to $350,000. If we assumed inflationary adjustments just since that time, the same inflationary adjustments that the Federal employees have had, the President's salary would be approximately $458,000.

So I think that by any measure that we look at this, by purchasing power, by what we paid in 1969 and what it might have been adjusted, what we recommended in 1989 and how that might be adjusted, we are considerably under that level.

But, Mr. Chairman, there is a more substantive reason for this. The United States is the preeminent power in the world. We are the major power in the world. And I believe that the job of the Chief Executive of the United States is an incredibly important and difficult job. There is not going to be any compensation that we can pay that can cover that, in my opinion.

And as has been pointed out correctly by the gentleman from South Carolina (Mr. SANFORD), there are a lot of things that the President of the United States enjoys that are not available to the rest of us. But, nonetheless, the President has to think about his future, about his retirement, about his family, about how he covers those expenses during time in office and after the time in office.

If we are going to attract the right people to run for office, whether it is this office or the President's office, we have to, I think, have compensation that makes sense. And when we are paying the President of the United States less than we pay in many cases branch managers of banks, it simply makes no sense to me.

I believe that this compensation is long overdue. It is a modest increase. I believe that it is fully justified under any analysis that my colleagues might give to this issue.

I hope we will defeat this amendment.

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

Mr. Chairman, I appreciate the opportunity to come down. I have listened attentively to the speakers who have preceded me. I rise in opposition to the amendment.

Sitting here listening to my good friend, the gentleman from Arizona (Mr. KOLBE), I am reminded of the scope and breadth of the President's responsibilities. Whoever the occupant of this office is is required to know things related to the minutia of trade agreements to nuclear waste responsibilities, to the minutia again of START contracts, to environmental questions in Antarctica, to what it takes for NASA to put a missile or a space shuttle up in the air.

The responsibilities bearing on the occupant of the office of President of the United States are enormous, and we need to compensate this person accordingly.

Just for comparison's sake, I wanted to go through a couple of the other countries of the world who also compensate their chief executive.

For instance, Hong Kong, arguably a country far smaller than the United States, pays its chief executive over $400,000 a year.

The country of Israel, whose economic challenges, security issues and the like and population is nowhere near the breadth and scope of ours, they pay their executive $90,000 a year.

Panama, a country that we have a long historical association with, pays its chief executive $180,000 a year. We are currently paying the President of the United States $200,000 a year, essentially equivalent to the amount that the President of Panama is earning.

The responsibilities of the President of Panama, are they equivalent to the responsibilities of the President of the United States? On a comparative basis alone, this body should move forward

expeditiously to increase the rate of pay for the President of the United States.

I also want to associate myself with the remarks of the gentleman from Arizona (Mr. KOLBE). What we pay will be reflected in the quality of the person we get. That is a dictum of business that has been proven year after year, decade after decade, century after century. We need to take advantage to the extent we can.

And $400,000 is lot of money, but not for this job. Whoever the occupant of this office is, is gone from their family, loses any semblance of private life, is at the beck and call of the people of the United States, and stands under enormous stress day after day after day. We need to compensate this person appropriately. We need to have people who are good people in this office. We need to pay them to sacrifice their personal lives and come to the service of their country.

I think the amendment, however well-meaning, does not serve that purpose; and I oppose it.

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

Mr. Chairman, I also rise in opposition to this amendment. Serving with the gentleman from California (Mr. HORN) on his committee, I think he has done the country and the Congress a great service in bringing this issue to the forefront at this particular moment, for the precise reasons as the gentleman from Arizona (Mr. KOLBE) mentioned. If we do not do it now, we will not be able to do it successfully for another 5 years. This is not a raise for the incumbent President. It is for the next President.

I have to confess to my fellow colleagues that last week I had the occasion to spend the week with the President and sort of live in his shoes, if you will. It is a 20-hour-a-day job. There are a myriad of issues, great and small, that he must deal with every day.

Obviously, his full commitment has to be to the job of executing the administration of the government of the United States. I would hope that we would want our Chief Executive to dedicate himself fully to that and think of nothing materialistic in his nature because this is, without a doubt, the most important office in the world. I think we, as Americans and Members of Congress, ought to be proud to say that.

I understand that there are some Members of Congress that like to put a dollar value on public service. But I remember several years ago a story told to me at a hearing by the then and present Chief Justice of the United States. We were talking about pensions and salaries at that hearing, and he remarked to me that he was a little disappointed as Chief Justice because that day when he returned to the court he was going to lose his Chief Clerk. And we all know the Chief Clerk is an excellent law student out of law school who serves with the Chief Justice for a period of a year or two. And he said it was ironic how he was losing his Chief Clerk, who in the next day who would be earning in excess of two times the salary of the Chief Justice of the United States.

He threw out another important figure to me, that when we take the comparison of the entire Bar of the United States, the Chief Justice does not earn in up to the 75th percentile of the earning capacity of the Bar of the United States.

And of course, the President of the United States, if we made that comparison to CEOs of corporations or, as the gentleman recently said, to other chief executive officers of what we would call minor states in the world, it is ludicrous the $200,000 that was allocated in 1969 for this President.

I would just suggest one other thing. We heard value for inflation. If we took the stock market of 1969 at $200,000 and the stock market today, the President's salary would be over $2 million.

□ 1915

I do not know what measure we should use, but clearly there are few constituents of mine, I am sure, and many constituents of my colleagues that do not consider the salary of $200,000 as extravagant for the President of the United States.

There is a special thing about being President. I learned it on the trip this week. It is not necessarily the individual. It is that office. Wherever he went and whoever he talked to, those people would remember until the day they died that they had an opportunity to meet and shake hands and welcome the President of the United States.

We ought to be proud of that fact and we as Congressmen should not pander to the sympathies of Populism that says no pay, nothing. I know people who would accept the presidency for zero. The power is extraordinary, and if you were wealthy, you could afford it. But this is a country of average, common people and let us hope that common men can aspire to be President, and if they ever do, the salary of $400,000 a year at the end of this millennium will not sound like very much.

I urge my colleagues on both sides to put aside our foolishness and stay with this bill and set the salary of the President of the United States at $400,000 a year.

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

Mr. Chairman, this is an issue that I think reasonable people can disagree on. I respect my colleagues for bringing forward this amendment, but I wholeheartedly disagree with them on this particular issue at this time.

As we look through history, we look back to 1873 when the salary was $50,000; it was 36 years later that salary was moved to $75,000; in 1949 it went to $100,000; 20 years later to $200,000, and it has not been changed for 30 years.

We do not run for office and people do not aspire to serve in government for the money. If we did this for the money, we would be doing something else. I took a pay cut to come here. A number of my colleagues did that. We do it for the ability to serve. But the President of the United States I think arguably has the most challenging job on this planet. We do not want that individual worried about pinching pennies, worried about their financial future, the future of their kids, worried about putting their kids through college, about maintaining their homes back in their native States.

We do not want only the wealthy to be able to aspire to the presidency because they can afford the other entertainment expenses that go along with this because their expenses could be cut in any given year.

To give my colleagues a global perspective, it has been mentioned that the President of Hong Kong, not even an independent country, the Chancellor there gets $400,000 a year, in excess. The President of Japan, a country smaller than ours, an economy smaller than ours, $381,000 year. The President of Singapore gets almost a half million dollars a year in annual salary. The President of Switzerland gets more than our President gets today, $230,000. The President of Taiwan gets over $300,000 a year. This is not out of line. This is a reasonable, incremental increase that is commensurate with what we have done in the past to provide for our chief elected officers.

I do not want government on the cheap, but I want that person in the Oval Office, of whatever party, of whatever persuasion, to not have to worry about the financial aspects of the job. I want him to concentrate on running the country. I think the increase that is in this bill, that has gone through extensive hearings, that is supported by the gentleman from California (Mr. HORN) of the authorizing subcommittee and others, is the right approach at this time. I ask my colleagues to reject this amendment.

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

Mr. Chairman, I would say that I was undecided on this issue before a few minutes ago. I have tried to listen to the debate on both sides.

Over the past few weeks, I have had conversations with friends of mine, and I will tell my colleagues what their advice was. They said, ''Don't vote for a pay raise.'' They said that this is not a popular thing to do. We have discussed certain things and they have actually said, ''This is how I feel. My gosh, don't

get out on the floor of the House and say that,'' because it is not a popular thing.

Let us just sit back for a minute and imagine that we did not know how much the President of the United States made. Let us start from that reference point. We would consider certain things. We would look at what our forefathers paid the first President. That would be one calculation. I am sure major league baseball players would come into it. I am sure there would be other people that would say they ought to take the job for free. Most people that now run for President, they are independently wealthy and they could afford to do that. There are some that are not. If we wanted to approach it is to take the job for free and we would rule out anyone who was not a multimillionaire, that is the way some people might like it. But again, go back. We do not know what the President makes. What do you think we would guess he makes? I have asked some people that and the figure a million dollars is the most often response. ''I think the President ought to make a million dollars.''

Now, we will discuss an amendment in a few minutes that the gentleman from Vermont (Mr. SANDERS) is offering as to whether or not we have oversight when we pay out a billion dollars. We deal in those type figures. It is important that we focus on this figure and what the President makes.

I will agree with the gentleman from Virginia that there are certain people that come here in all honesty and argue that $200,000 is fine. But when you talk to executives, when you talk to professionals, I think that they would probably tell you that the President ought to make a million dollars.

I will not be doing the popular thing. I will be opposing this amendment. But in doing so, I will be doing the right thing, because I think the President of our country, the leader of the free world, ought to make at least what is proposed in this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SANFORD. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 246, further proceedings on the amendment offered by the gentleman from Texas (Mr. SESSIONS) will be postponed.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey:

In section 635 (relating to contraceptive coverage), strike paragraph (2) of subsection (b) and insert the following:

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs or moral convictions.

In subsection (c) of such section 635, strike ''prescribe'' and insert ''prescribe or otherwise provide for''.

Mr. KOLBE. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Arizona reserves a point of order.

Mr. SMITH of New Jersey. Mr. Chairman, let me be very brief. This should be and I hope it will be a noncontroversial amendment.

Mr. Chairman, the effect of the policy enacted last year and carried over in this bill is to force health plans participating in FEHB to cover controversial abortifacients, such as the new ''morning after'' pill, Preven. Preven and some other new drugs, as we all know, destroy a developing embryo. They are really not contraceptives, but unfortunately they are included in this bill.

While I oppose that mandate as bad public policy, I am not here today in an effort to strike it or even to limit it. Rather, I want to ensure that the conscience protection does what many already believe that it does, and that is to protect individuals in plans with moral or religious objections from the requirements of the mandate.

This is a conscience clause. Right now the FEHB mandate lacks adequate conscience protection for some of the potential sponsors of health plans and individual providers who are opposed to providing such drugs and devices. As we know from the language of the bill, five religious plans are exempt by name as well as any existing or future plan if the plan objects to such coverage on the basis of religious beliefs. Left out is ''moral convictions.'' We believe, I believe, they should be protected as well.

Finally, the conscience protection for individual providers also needs to be expanded and clarified to protect any health care worker—I repeat any health care worker—including physicians, nurses, pharmacists and physician assistants.

The second part of my amendment provides conscience protection to everyone in health—all health care workers who might object on either moral or religious grounds to the contraceptive mandate. I would hope that this amendment would be agreed to.

POINT OF ORDER

Mr. KOLBE. Mr. Chairman, I make a point of order against the amendment. Again, this was just handed to us.

I make a point of order against the amendment, because it appears to me that it proposes to change existing law and constitutes legislation on an appropriations bill and would violate clause 2 of rule XXI.

The rule states that an amendment to a general appropriations bill shall not be in order if changing existing law imposes additional duties. This adds a word, in this case, to the current legislation, by adding ''moral convictions.'' For that reason, it would seem to impose an additional requirement on the Office of Personnel Management that administers these plans and in my view it would, for that reason, violate clause 2 of rule XXI. I would make that point of order.

Mr. SMITH of New Jersey. Mr. Chairman, if I could be heard, I would very briefly say that this is not legislating on an appropriations bill but merely perfecting legislation permitted to remain.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. HOYER. Mr. Chairman, I too have just seen the amendment, but it does appear to require action beyond what would be solely a perfecting amendment with respect to the paragraph 2 that is being added, in that the plan objects to such coverage on the basis, one would have to make a judgment as to the objection, the reason for the objection, and, therefore, it imposes an additional duty on the administrator. Under those circumstances, it seems to me that this would be in violation of the rule cited by the gentleman from Arizona.

The CHAIRMAN. Does any other Member wish to be heard?

Mr. KOLBE. Mr. Chairman, I would like to be heard additionally.

Again, I would point out that the legislation as it exists now refers to any existing or future plan if the plan objects to such coverage on the basis of religious beliefs. That clearly is a particular limitation and says none of the funds appropriated may be used for that purpose.

Now we have added in an additional duty to the Office of Personnel Management, by saying ''moral convictions.'' So they clearly have additional responsibilities that are going to be required in order to carry this out.

In addition, subsection (c), and I am not sure I understand exactly what the impact of this is, but by striking ''prescribe'' and inserting ''prescribe or otherwise provide for'' would seem also to require some additional duties, and I believe that this clearly is additional legislation, additional duties.

The CHAIRMAN. Are there any other Members who wish to be heard? If not the Chair is prepared to rule.

The amendment must be judged against all the language found in section 635. Such language covers contraceptive ''coverage'' and ''moral convictions'' as addressed in the pending text. The amendment appears to be merely perfecting and the Chair overrules the point of order.

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I was walking in, I heard the amendment, part of the

amendment, but I would like to address the first portion of the amendment as I believe I heard it. I believe the gentleman is attributing to a plan a conscience. We debated this point quite fully in the last session of the Congress. And, in fact, we were quite concerned that a plan could suddenly develop a conscience and not allow this service to be provided, and, therefore, working in a bipartisan way with Members on both sides of the aisle, there was an agreement that any individual provider could opt out as long as that plan would provide the service.

□ 1930

So I would like to ask the gentleman how a plan could suddenly develop a conscience, number one.

Now I would like to continue. Number two, I would like to make another point. It is my understanding, Mr. Chairman, that 1.2 million Federal employees currently have this service covered. There has not been any concern; there has not been any criticism. Under the conscience clause included in this provision, which the chairman has included in his mark which has been brought to this floor, it is my understanding that there are no other plans that have requested to even be part of the conscience clause. There were religious plans included in the conscience clause that was developed, and it is my understanding from talking to the Federal Employee Health Benefit Plan that no other plans have asked to be included in the conscience clause in the exemption.

So, Mr. Chairman, every once in a while we tend to pass legislation that really works, that is really providing a service, that is basic health care for women, and based upon all the information that I have there has been no objection.

So, therefore, Mr. Chairman, I would just ask us to allow a program that is really working, that is providing basic health care for women, to move along as it is. And I would like to work with the gentleman, as I mentioned many times, in preventing unintended pregnancy, and it seems to me that one of the best ways to do this is to provide for contraceptive services. That is the way we reduce the number of abortions and prevent unintended pregnancies.

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

Mr. Chairman, we had a very extensive debate on this issue last year. The extensive debate really dealt with the gravamen of the central point of the providing of contraceptive services through the insurance plans. Very frankly, the gentleman from New Jersey (Mr. SMITH) and I, as many people in this body know, are very close personal friends and work very closely together, and I have the greatest respect and affection for him, but we disagree on this issue. We have a different perspective.

But during the course of that debate and during the course of the compromise on trying to come to grips with how to provide for what the overwhelming or significant majority of this House believed ought to be provided in the health care plans available Federal employees was the fact that we ought not to have insurance companies who had a religious affiliation and religious base do something that was inconsistent with their religious tenets. Most of us agreed that that was appropriate. What the gentlewoman who worked so hard on this amendment and so effectively on this amendment said when developing a conscience, the gentleman from New Jersey now seeks to add moral conviction to the language that exists for religious organizations.

Now, clearly, executives of insurance companies have moral convictions; clearly, employees of insurance companies have moral convictions. But those moral convictions, I would suggest to my colleagues, are probably pretty diverse. And the executive vice president in charge of negotiations with the Federal Employee Health Benefit Plan may have one moral conviction, and the operating vice president may have another moral conviction. Now I am not sure whether the stockholders would vote on what a moral conviction is at any given time, but clearly, in fairness, that is an impractical standard to add to the standard that exists.

What we were trying to do is make sure that religiously based and centered insurance offerers were not compelled to do something that was against their religious beliefs. We all understand that. But I defy anybody to explain to me how one is going to determine on insurance plan A or B or C that are not religious affiliated what their moral convictions are without, in effect, polling or voting or having included in their charter something that says moral convictions.

The fact of the matter is that we had this debate last year, and we rejected this proposal because of the lack of clarity in the proposal.

So I would hope my colleagues would reject this again this year because, quite clearly, it goes far beyond the exemption that we all agreed was appropriate; that is, the religious-based exemption, and goes to a further step, which moral convictions are critically important. Hopefully, all of us hold moral convictions; and, hopefully, as I said, insurance executives hold moral convictions as well. But they do not operate, unlike religiously based insurance companies, to promote their moral convictions. They hopefully operate legally, ethically and morally, but they operate to offer insurance programs to their clients. And, therefore, Mr. Chairman, this amendment, while I frankly would call it an imperfecting amendment, Mr. Chairman, in that it adds a provision that will be extraordinarily if not impossible to apply and interpret, for that reason I would hope the House would reject this amendment.

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

Mr. Chairman, I rise in support of the Smith amendment. I believe the Smith amendment is a significant enhancement to the current conscience clause language in the bill. The current conscience clause language does not sufficiently cover all those individuals who would like to take a moral as well as a religious exemption.

It is well known that some of these products that are being referred to as contraceptives are not in reality contraceptives but are abortifacients, and this indeed causes many people who are of strong personal moral conviction, pro-life, or people who take a very strong religious perspective on this issue to have a problem, and I believe the gentleman's amending language is a significant improvement over the underlying bill.

Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I just want to point out to our colleagues that there are at least four laws, and I can give my colleagues all the citations, and I will put them in the RECORD, where plans organizations and institutions can raise objections on either moral or religious grounds.

Why ''moral'' was left out is a gaping oversight, and I hope it was an oversight, and to suggest that people with moral convictions should not be able to express them and somehow manifest them, maybe through a vote of the board of directors or in some other way, would be wrong and would disenfranchise people, especially those who do not believe in God. Say someone is an agnostic, but has a strongly held conviction about a certain practice. To disenfranchise that person would be wrong.

Let me also point out that the language of this amendment says, the underlying language says, the prescriber, the doctor that writes the prescription, does not have to do so if he or she, as a matter of moral conviction, does not want to prescribe an abortifacient, for example, an abortion-producing pill or drug. Well, everyone else in the line, including the dispenser, the person that actually gives the abortion chemical, cannot conscientiously object and say, ''Wait a minute, I'm all for family planning, but this crosses the line.''

And there is a case of that right now that just made the Associated Press, and it was in the San Diego Union Tribune, of five nurses who quit their positions at a county-run health clinic because they did not want to be compelled to dispense abortifacients. These are women who routinely counsel and provide family planning. They are all

for family planning, but they felt that they hit their breaking point when a clinical administrator said that they had to cross this line, and this could be the beginning.

Let us not compel people in the health care delivery service to do something against their deeply held convictions. This is a conscience clause. Unfortunately, we did not vote on anything comprehensive last year, as the membership will note. Much of this was done in conference. It is infirm as it exists today. We ought to make it a real conscience clause. Do not force people to do things they do not want to do. Please do not do that.

Mr. WELDON of Florida. Mr. Chairman, in closing let me just say that the gentleman's amendment, I believe, is a relatively modest amendment. By adding this moral clause I believe it will allow people to exercise their moral convictions and in many ways improve the underlying provisions in the language of the bill.

In 1998, Congress included an amendment in the Treasury-Postal Appropriations bill requiring almost all health plans that participate in the Federal Employees Health Benefits (FEHB) Program to provide "contraceptive coverage," including early abortifacient methods, to the same extent that they provide prescription drug coverage generally. (The Treasury-Postal Appropriations bill became law as part of the FY 1999 Omnibus Supplemental Appropriations Act, H.R. 4328, PL 105–277.)

The FY 2000 Treasury-Postal contains the same language.

The effect of this policy is to force health plans participating in FEHB to cover controversial abortifacients such as the new so-called "morning after" product, Preven, approved by the FDA for use as "postcoital emergency contraception." Preven and similar drugs work up to three days after unprotected intercourse or contraceptive failure to destroy a developing embryo. Clearly, this is not contraception but it is called contraception by the FDA.

The latest edition of the nation's leading embryology textbook explains the mode of action of such drugs: "The administration of relatively large doses of estrogens ("morning after" pills) for several days, beginning shortly after unprotected sexual intercourse, usually does not prevent fertilization, but often prevents implantation of the blastocyst." K. Moore and T. Persaud, The Developing Human: Clinically Oriented Embryology (6th ed.: 1998), p. 58.

The FEHB mandate lacks adequate conscience protection for some sponsors of health plans and individual providers who are opposed to providing such drugs and devices. Five religious plans are exempt by name, as well as any "existing or future plan, if the plan objects to such coverage on the basis of religious beliefs." Plans and individuals objecting to such coverage based on moral convictions should be protected as well, as they are under many state and federal laws.

The conscience protection for individual providers also needs to be clarified to protect any health care provider—including but not limited to physicians, nurses and physician assistants—who objects to providing these drugs or devices on the basis of religious beliefs or moral convictions. The current law only protects individuals who decline to "prescribe" such drugs and devices and may be interpreted too narrowly.

The conscience protection language enacted in 1998 and currently in this year's bill marks a departure from other federal conscience laws. The lack of an exemption for those whose moral convictions are offended by abortion sends the message that religious beliefs are the only foundation for respecting human life before birth. In fact, objections to the destruction of living human embryos—and, in particular, forcing taxpayers and others to support this killing—is widely opposed by many people. We saw this in 1996 when 256 Members of House Representatives voted against funding research in which human embryos are destroyed, discarded or even put at risk.

Prior to last year's enactment of the contraceptive mandate, most health plans participating in the Federal Employees Health Benefits (FEHB) Program paid for prescription drugs approved by the FDA as "contraceptives"—including abortifacients. In 1998, each woman who participated in FEHB and who used contraception already had the choice of at least three (3) plans which provided coverage for whatever prescription method she used.

Last year pro-life Members did not try to end this coverage, but to preserve the right of federal employees—including many women—to choose a health plan which did not cover abortion-inducing drugs characterized by the FDA as "contraceptives." That choice was taken away from Federal employees when the mandate was enacted.

One significant effect of the new coercive mandate was to force plans to cover—and force federal employees and taxpayers to pay for—the new "morning after" drug regimens such as Preven, which is to be taken after intercourse, or in the case of "contraceptive failure," to ensure that a developing embryo will be expelled and not implant in the mother's womb.

The controversy surrounding this drug is widespread. Many pharmacists, who have no objection to dispensing contraceptives, are strongly opposed to dispensing a drug which is primarily intended to kill a developing human embryo.

Outside the federal context, individual pharmacists have had their jobs threatened because of their refusal to provide so-called "emergency contraception."

Just this year, five nurses in Riverside, CA, quit their jobs at a county health department because of the department's insistence that they violate their religious beliefs and provide "emergency contraception." (These nurses had spent years working in family planning, telling women about contraception.)

Walmart, the nation's fifth largest distributor of pharmaceuticals, including contraceptives, recently announced that it would not dispense Preven in its stores because of concerns with objections from its customers.

Conscience clauses are common both in federal and state law and are based on respect for individual freedom and individual beliefs. Forcing someone to engage in activity that violates his or her deeply and conscientiously held beliefs is a violation of human rights and a gross abuse of the power of government.

Among the more recent conscience clauses enacted into law is legislation passed by Congress in 1996 to protect medical education programs from being required to provide abortion training. The exemption was provided regardless of whether their opposition is religiously or morally based. We recognized that abortion—the killing of an innocent human being—is simply not the kind of practice in which anyone should be forced to participate for any reason.

As Senator OLYMPIA SNOWE—who is also a supporter of the contraceptive mandate—said during the debate on the amendment to protect doctors and training programs from having to perform abortions:

This amendment accomplishes two things. One, it does protect those institutions and those individuals who do not want to get involved in the performance or training of abortion when it is contrary to their beliefs.

I do not think anybody would disagree with the fact—and I am pro-choice on this matter, but I do not think anybody would disagree with the fact that an institution or an individual who does not want to perform an abortion should do so contrary to their beliefs.

By mandating coverage of contraception and abortifacients by health plans, Congress has increased the pressure on individual physicians, nurses and pharmacists providing services under these plans to violate their own consciences. In fact, currently only those who may be asked to "prescribe" the drug have any conscience protection under the law, and unless they are familiar with it, they may not even know of their right to refuse.

In addition to the abortion training conscience protection described above, Congress provided conscience clauses for plans offered under Medicare+Choice if the sponsoring organization offering the plan objects on "moral or religious grounds." (42 U.S.C. §1395w–22(j)(3)(B))

Another section protects Medicaid managed care organizations from being required to "provide, reimburse for, or provide coverage of, a counseling and referral service if the organization objects to the provision of such service on moral or religious grounds." (42 U.S.C. §1396u–2(b)(3)

Also, in yet another section, Congress provided that Legal Services Corporation funds could not be used to attempt to "compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. . . . (42 U.S.C. §2996f(b)

Clearly federal law has established that conscience protection should not be limited to individuals, nor should it be limited to objections based on religious beliefs.

Ironically, some who support the mandate have been critical of attempts to clarify the conscience provisions in the mandate, claiming that it already exempts health plans with "moral or religious" objections (The Boston Globe, October 1, 1998) and that, under the mandate, "individual doctors and nurses can

refuse to provide contraceptives on moral grounds.'' (The New York Times, October 16, 1998). Neither of these protections is actually in the contraceptive mandate's conscience exemption. Presumably they would not object to their addition now.

While some pro-abortion Members may in fact believe that a drug which does not prevent fertilization but prevents implantation of an embryo is not an abortion-inducing drug, what these Members think is not important. What is important are the beliefs and convictions of those who will be required to carry out the mandate.

No one should be forced to do what he or she believes would cause the death of an innocent human being, particularly in the name of health care.

This is not, however, the view of those at the front of the fight for abortion on demand throughout pregnancy.

At a March 5, 1999, briefing sponsored by the Center for Reproductive Law and Policy (CRLP)—which has challenged state Partial-Birth Abortion Ban laws around the country—and the People for the American Way, Janet Benshoof, President of CRLP said, ''I don't think there should be conscience clauses.''

Do you?

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

Mr. Chairman, I rise in support of the Smith amendment. This amendment is common sense. It is not a threat to any contraceptive coverage. What it does is expand the choices of women and health providers. All this amendment does is add two simple things to the current conscience clause in the contraceptive mandate.

Number one, it expands the conscience protection to plans which object on moral not just religious grounds. Religion is not the only reason one would object to abortion, and this should be accounted for.

Number two, it expands the conscience protection not only to those who prescribe medication as in current law but also to those who provide for the abortifacient drug. All this means is that a nurse who does not prescribe but might be asked to administer an abortifacient drug has a right to refuse if it goes against her conscience.

Conscience clauses are common both in Federal and State law. They are based on respect for individual freedom and on individual beliefs. Forcing someone to engage in activity that violates his or her deeply and conscientiously held beliefs is a violation of human rights. It is a gross abuse of the power of government.

We have similar moral and religious provisions in conscience clauses in medical education programs, in the Medicaid managed care organizations law, in the Legal Services Corporation law. By mandating coverage of contraception and abortifacients by health plans, Congress has increased the pressure on individual physicians, nurses and pharmacists providing services under these plans to violate their own consciences. In fact, currently only those who may be asked to prescribe the drug have any conscience protection under the law, and unless they are familiar with it, they may not even know of their right to refuse.

If the contraceptive abortifacient mandate in this bill were imposed on all plans, the president of a business who objects or whose employees object to covering abortifacients would not be able to work with an insurance carrier to design a plan that reflects those convictions. The plan would have to cover them, and the business owner and the employees would have to pay for them. No one should be forced to do what he or she believes would cause the death of an innocent human being, particularly in the name of health care.

Mr. Chairman, this is a rational, common-sense reform. I urge my colleagues on both sides of the aisle to protect the consciences of all those in the medical profession and American women.

□ 1945

AMENDMENT OFFERED BY MRS. LOWEY TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. LOWEY to the amendment offered by Mr. SMITH of New Jersey:

In the text of the matter proposed to be inserted, on line 3, strike the words ''or moral convictions''.

Mrs. LOWEY. Mr. Chairman, I would like to explain the amendment.

Mr. Chairman, I have no objection to the part C of my good friend, which talks about implementing the section, ''Any plan that enters or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs and moral convictions.''

If an individual, be it another provider or a nurse, chooses not to provide this service, as long as the plan will continue to provide this service, we think this would be a perfecting provision. My objection, Mr. Chairman, is to to the first part, that a plan should develop a moral conscience.

We were very careful last year in crafting this to respect every plan's religious conviction. We included five religious plans: Providence Health Plan, Personal Care's HMO, Personal Choices, OSF Health Plans, Yellowstone Community Health Plan, and any existing or future plan, if the plan objects to such coverage on the basis of religious belief.

However, Mr. Chairman, in the year that this has been implemented there were no objections. There were no additional plans that appealed to be included in this opt out provision.

I have real concerns, Mr. Chairman, that we should suddenly give Blue Cross-Blue Shield or any other plans a conscience. I would expect that a plan that wanted to opt out because of their deeply held convictions would have done so in the last year.

This year, the religious exemption that is in effect today and is contained in the bill continues to specifically exempt the five plans, and again, beneficiaries who want contraceptive services but whose provider choose not to offer them can be referred to other providers by their health plan.

I want to also remind my colleagues, because this is a very important point, that providing coverage of contraception does not compel provision of services contrary to moral or religious convictions by any individual or health care provider. It merely requires the Federal Employees Health Benefit Plan to provide the coverage, write the check, in other words, for the contraceptives.

Again, OPM has reported that no other Federal employee health plan has requested a religious-based exemption, and no other plan has complained that the exemption is inadequate. No provider, no beneficiary, has complained.

So in conclusion, Mr. Chairman, many of us on both sides of the aisle worked very hard to be sure that the religious exemption was well thought out. It was extensively negotiated between the House leadership, the White House, and myself, and most importantly, it is working. It strikes the appropriate balance between the legitimate religious concerns of individuals and plans participating in FEHBP with an equally compelling public policy goal facilitating access to the broad range of contraceptive methods in order to reduce unintended pregnancies.

Again, I respect the personal views of my colleagues, on whichever side of the issue they fall. We should have respect for each other. But let us not impose our beliefs on any other individual. This provision is working. Let it continue to work. Please reject the motion and please accept this second degree, which we believe is a perfecting motion.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, it is Orwellian double speak—a gross distortion of reality to somehow suggest that pro-lifers are imposing our view in proffering this amendment when we are carving out a conscience clause so women and men, or by extension, groups of people, collections of people, who make up plans and administrators of plans don't have a contraceptive/abortion chemical mandate imposed upon them against their moral convictions. The imposition by force of law is by the pro-abortion side.

I happen to believe that people who object to abortion chemicals on a basis

other than religious beliefs should not have their deeply held moral convictions overruled.

Not all moral convictions are based on religions. Many of my deeply held beliefs on human rights, including for the unborn, were first arrived at that belief that the unborn child should be protected as a matter of human rights and moral convictions, not religion. Religion inspires a belief in the value of persons but others can value life absent religion.

Dr. Nathanson, I mentioned him earlier in the debate, was an atheist who came to his view concerning the value of an unborn child not based on religious beliefs. He did not believe in God. He had no religious beliefs. He came to that as a matter of moral conviction buttressed by science and logic.

This is an imposition of the contraceptive, but more importantly, from my point of view, the abortifacient, chemicals used early in pregnancies or early after fertilization to destroy the growing embryo. That is a terrible, terrible precedent to be set.

It is outrageous, I say to my colleagues. Where is the choice of those people who say no, I do not want to be involved with this? I think this is outrageous. To strike moral convictions, Mr. Chairman, would set us back in terms of conscience clauses.

Let me also point out to my colleagues that among the more recent conscience clauses enacted into law is legislation passed by Congress in 1996 to protect medical education programs from being required to provide abortion training. The exemption was provided regardless of whether their opposition was religiously or morally based. We recognize that abortion, the killing of an innocent human being, is simply not the kind of practice that should be forced on anyone.

Let me also point out that some of our friends on the other side of the issue, including Senator SNOWE, pointed out that institutions and individuals could be and should be protected.

Let me also point out to my colleagues that in addition to abortion training conscience protection that I just described, Congress has provided conscience clauses for plans under Medicare Plus Choice, if the sponsoring organization offering the plan objects on, and I quote, ''Moral or religious grounds; not just religious ground, moral or religious grounds.

Another section protects Medicaid managed care organizations from being required to provide reimbursement or provide for coverage of counseling and referral services if the organization objects to the provision of such service on moral and religious grounds. Moral and religious, they go hand-in-hand. But to just have one is to just have half a loaf.

Also, in yet another section, Congress provided that the Legal Services Corporation fund could not be used to attempt to compel any individual or institution to perform an abortion or assist based on religious beliefs on moral convictions.

I am amazed, I am shocked, I say to the gentlewoman from New York (Mrs. LOWEY), that she wants to strike moral convictions. Why should she impose her views on those who would otherwise not want to do it?

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

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, I would like to respond to the shock of my good friend and colleague, the gentleman from New Jersey (Mr. SMITH).

I would like to make it very, very clear that what our provision does is allow an individual, a person, a group of people, a provider, to have a religious or moral conviction. I respect that. I want to make that very clear, that be it a doctor or a nurse or a provider, that person, in our provision, certainly may have a religious or a moral conviction.

But I would like to remind my colleague what my provision does not do is allow a plan to have a moral conviction. A Blue Cross-Blue Shield, or another plan, in our judgment, in my judgment, it cannot have a moral conviction. If it has a religious objection, if it is religiously-affiliated, there were five plans that were included. Again, I would like to repeat, any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs, that plan can opt out. No one, not one plan in the past year, requested to opt out.

So Mr. Chairman, I would like to explain again, we are willing to accept their provision which perfects the one from last year, which gives any provider the right on religious or moral convictions to opt out. That is just fine. But a plan does not have a conscience, and there is no plan that requested to be included in this opt out provision.

Mr. HOYER. Reclaiming my time, Mr. Chairman, I want to ask my friend, the gentleman from New Jersey (Mr. SMITH), a question, because I know of his very sincere beliefs, and do not question them at all. I agree that we should not question moral convictions, either.

Is there a problem? Have we had some plan, an insurance company that deals with the FEHBP, i.e., a plan, come to us and say that they were being compelled to do something that they did not want to do?

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, the language in the amendment says ''Any existing or future plan.'' I think it wise and provided the future to anticipate.

I know of no plan at the moment to carried a plan may spent nor have I surveyed every plan but that does not mean it has not happened. That does not mean that sitting in the boardrooms around the nation men and women who offer specific plans haven't grappled with this and said, we have to provide this no matter what conditions it violates.

We have to provide maximum freedom in regard to a moral conviction for people who manifest opposition and dissent, and to opt out. And again, let me also point out that I did say with regard to the future plan. There could be plans that would love to participate in the Federal Employees Health Benefit Plan program but conclude wait a minute, there is a mandate there that violates our moral convictions.

And that is why I would hope and believe this should be a totally noncontroversial amendment, unless its opponents have designs on using the coercive power of the state to force compliance not withstanding moral convictions.

Mr. HOYER. Reclaiming my time, Mr. Chairman, I probably do not have much left, but I would say that the gentlewoman I think has tried to reach a resolution within the framework of what we know exists now.

I asked the gentleman if there was a plan, because if there is a problem and we are compelling them to do something that they have a moral conviction against, we ought to look at that. I agree with the gentleman from New Jersey. He is absolutely right.

On the other hand, apparently we do not at least now have a problem with respect to this. However, we may, as the gentlewoman from New York has pointed out, have a problem, and we want to make sure that not only do individuals not have to prescribe, but they do not have to involve themselves in providing.

The gentlewoman's amendment deals with individuals' rights to certainly say, no, I have a moral conviction or religious belief, and I am not going to do that. I really do believe the gentlewoman has tried to reach a middle ground, if any such exists; and I do not know that that is the case, but if any such exists on this particular issue, because I think in the first instance that problem does not exist, but on the second instance, it may exist and she provides a protection against it.

I would hope that we can adopt the gentlewoman's amendment.

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

Mr. Chairman, I certainly will not use the 5 minutes, but it seems to me this really is much ado about nothing; not that the issue is a nothing issue, but the distinctions that should be made.

Conscience and moral conviction are really facets of the same issue. Religious reasons may motivate a conviction, but ethical reasons, without any religious foundation, are of the same stripe. They are a nuanced way of expressing one's conscience.

If we want to protect peoples conscience which flows from religious conviction, we want to similarly treat people's moral convictions that do not have a religious foundation but are just as strongly felt.

Now, does a plan have a conscience? That should not bother anybody. Corporations can act immorally. They can dump toxic wastes in the ground. By continuing to do that, we say that corporation is immoral, is acting immorally.

□ 2000

Plans operate through people. It is not some sort of entity out there. It is an intangible. But people make decisions and have consciences and violate their conscience or protect their conscience or act pursuant to it. But there is nothing strange about a plan acting morally.

We say the profits for this corporation were ''obscene.'' So corporations and these entities can have a conscience, can act pursuant to a conscience because they are run by directors and by people.

So why do we not protect moral conviction just as strongly as we protect religious conscience? They are two sides of the same coin. And I do not understand why we are doing this.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from New York not just with pleasure, but with great pleasure.

Mrs. LOWEY. Mr. Chairman, I thank the gentleman from Illinois (Mr. HYDE) for yielding to me. We have been discussing this issue for many years.

Mr. Chairman, a plan is a corporate entity, and it is organized often for profit. Its role is to write a check. I do not think that we want a plan to begin to claim a moral conviction, moral objection to writing a check.

Now this is not about examining a patient, talking about patients, because we have already included in the language that any individual provider, a nurse or other provider, may opt out based on religious or moral conviction. But we are saying if a plan suddenly has 50 people outside protesting, they could develop a moral conscience and say, ''I do not want to write a check.''

Now, I want to make it clear again that the provision which the gentleman and I negotiated very carefully last year listed all the religiously based plans that wanted to opt out. We gave other plans the option of opting out, but no one took that option.

Mr. HYDE. Mr. Chairman, before my time lapses if I could recapture it briefly to say we do not suffer from too much moral conviction; perhaps too little. And where we find it, we ought to nurture it and protect it.

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

Mr. Chairman, earlier today this House voted down an attempt to strike the abortion restriction from this bill. And if Members oppose abortion, there is no better way to try to avoid it than to increase access to contraceptives. My colleagues are offbase with their amendment which is a transparent attempt to cut off access to birth control.

The amendment offered by the gentlewoman from New York (Mrs. LOWEY) already has a conscience clause that allows religious plans to opt out if they choose to. In fact, five plans have chosen to do just that.

I also take issue with the contention that a health plan, a nonhuman entity, can have a moral objection to anything. Individual providers do not have to prescribe contraceptives if they do not choose to.

Mr. Chairman, let us get to the base of this discussion. We know what this is about. We know that those offering this amendment do not believe in birth control. They have said this outright, that they believe that oral contraceptives used by tens of millions of American women every day are a form of abortion. And to imply that those women are abortionists is an affront to every American woman and shows how out of touch some of my colleagues on the other side of the aisle really are.

I ask again and again and again that they do not impose their personal agenda on others. If my colleagues want to reduce abortions in this country, and we all want to do that, there is no better way than to support contraceptives and to support birth control.

Mr. Chairman, I urge my colleagues to support the Lowey amendment and to oppose the Smith amendment.

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from New Jersey (Mr. SMITH), and all amendments thereto, close in 20 minutes, and that the time be equally divided and controlled by the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from New York (Mrs. Lowey).

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. SMITH) for 10 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, I rise to strongly support the SMITH amendment. I cannot imagine the Congress of the United States not allowing health plans in this Nation, the United States of America, to include such exceptions.

All this amendment does, and it has been said here today already but let me reiterate two simple things to the current conscience clause in the contraceptive mandate. Number one, it expands conscience protections to plans which object on moral, not just religious grounds. Religion is not only the reason one would object to abortion. This should be accounted for.

And number two, expands conscience protection to not only those who prescribe medication, as is the current law, but also to those who provide for the abortifacient drug. All this means is that a nurse who does not prescribe but might be asked to administer an abortifacient drug has a right to refuse it.

I would simply ask my colleagues, Democrats and Republicans alike, to vote to protect the conscience of all women.

Mrs. LOWEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the amendment to the amendment. The example that my colleague just gave about a nurse having the right not to administer a contraceptive that they believed was abortifacient because they believed it was an abortion is a right that is protected under the underlying bill. The nurse, as a provider, has a right not to provide services to which she morally objects. Any provider and any entity has that right under this bill. No hospital has to provide abortions if they do not want to. No physician has to. That is a very important right that is protected in the law.

It is also true that if an insurance company offers contraceptive coverage, every woman covered by that insurance policy has a right to use it or not. If they have moral objections to contraceptives, they do not have to use contraceptives. There is nothing in the insurance policy that mandates that they use any of the health care services that the health care plan provides. It is a menu of services that they have the option of choosing, depending on their personal conviction, their religious convictions, and their moral convictions.

But to give to a plan the power to deny because the plan, which is a piece of paper, it is not a person, but because the plan decides that I, as a woman, do not have the right to take the common contraceptives that 90 percent of American women depend on so that they can have a healthy marriage and be a good mother, that is what family planning does. It spaces our children and limits the number so parents can support

them and send them to college, so women can be a loving wife in a happy partnership. That is what family planning is about.

It is about good healthy married sex. And I am proud to say that. And I think every woman in America has a right not only to limit the number of children, but to enjoy a healthy relationship with her husband.

Mr. Chairman, one thing I wanted to add, the gentleman from Illinois (Mr. HYDE), my dear friend said that we do not suffer from too much morality. That is true. But there is no question that in America we suffer from too much government regulation. And the idea that government is going to regulate, give to a plan on a piece of paper the moral authority to dictate to me, a woman of religious integrity, whether or not I can choose to use a contraceptive is a level, frankly, of intrusiveness into personal freedom that I as a Republican object to and reject.

I find it very hard to believe that Republicans who believe in less government and more freedom could endow a plan with the moral authority to limit my right not only to manage when I have children in accord with my good health and my family's ability to support them, but also regulate my right to have confidence, the confidence that frankly healthy sexual relationships among married couples demands, and that is just true.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all the gentlewoman from Connecticut, my good friend, is factually incorrect when she suggests that the underlying legislation which repeats language that has been in existence for a year, protects health care workers' right to conscience. Nothing could be further from the truth. The plan language that is in the bill, the plan language that has been on the books, for the last year, only says that the prescriber, the person that ''prescribes'' the contraceptives, or abortion chemicals—those drugs or devices that have the capacity to prevent implantation for example, have ''conscience'' protection. Every other health care worker—nurses, nurse practitioners and others—have absolutely no ''conscience'' protection whatsoever.

Mr. Chairman, my amendment, which the gentlewoman from New York (Mrs. LOWEY) has said she supports, expands conscience protection to all health care workers. There has been a serious omission in the current law and the proposal that is before the House tonight that is remedied by my amendment.

Now, when we talk about a plan, a plan and a provider of a plan, the carrier is a collection of people. These plans—BlueCross or BlueShield for example—have a board of directors, a chain of command. They are made up of people. People who have religious beliefs are protected. But there are also some and maybe many who do not have religious beliefs. They may be agnostics or atheists or people for whom religion carries little weight, but have a moral conviction, individually or collectively, who object on moral grounds to the provision of contraceptives. They may feel, as a matter of moral conviction, that abortion chemicals have no place in their provision of health care.

Ironically, there is no right to choose here contemplated by the gentlelady from New York. It would be wrong to force them to say they have got to provide it. That is using the coercive power of the Federal Government to make them do something that is against their ''moral conviction.'' This is about moral conviction. I am amazed and really shocked and disappointed that the gentlewoman from New York has offered this amendment to strike the words ''moral conviction''. It trivializes people who oppose certain practices on a basis other than their religious belief.

As the gentleman from Illinois (Mr. HYDE) pointed out so well, corporations do have consciences. There are mutual funds that are ''green,'' in other words, pro-environment. They only invest in that which is environmentally protective. There are mutual funds that do not invest in corporations dealing with the weapons industry because they feel that is wrong. That is their choice. They can do it. And I respect it. Disinvestment from corporations doing business in South Africa in the 80's sharpened the ''conscience'' of many corporations.

Carriers, health plans and the like do have a conscience expressed through their board of directors and expressed perhaps through their shareholders. Any attempt to stifle moral conviction or repress it is absolutely wrong. And, again, I am really disappointed that some would force their moral convictions on those who want to say they have a moral objection to this.

In terms of individual men and women who want to get abortion chemicals, there are a myriad of programs that provide that. Sadly. But it is not like there is a lack of provision of that kind of service. But do not tell everybody that they have to get in lockstep and provide this.

Mrs. LOWEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentlewoman from New York (Mrs. LOWEY) for yielding me this time. She is my stalwart friend who introduced this legislation last year that passed that we spoke about earlier today. I also thank her for the work that she has done to make sure that Federal employees have an opportunity for coverage for contraception within the Federal Employee Health Benefit Plan. I consider it an equity provision containing the religious exemption that specifically exempts the five religious-based plans within the Federal Employee Health Benefit Plan.

□ 2015

I have talked to the Office of Personnel and Management, and they report that no other FEHB plan has requested any kind of an exemption, nor have they complained that the conscience language that is currently there is inadequate.

So I do not know. We talk about a plan based on moral convictions. The Office of Personnel Management is the one that negotiates with the proposed planners for any kind of a plan that they would offer. None of them have asked for a plan based on moral convictions, that they want to be exempted. There are the five. They are specifically mentioned.

Implementation of the policy has gone very well. No insurer, provider, or beneficiary has complained to the Office of Personnel Management about that provision. Additionally, the Congressional Budget Office has estimated that the cost of delivering contraceptive coverage is so minimal that the provision has no negligible budgetary effect.

I think this coverage is necessary for families where contraception decisions are most often made. Women spend 80 percent of their productive years, or reproductive years, I should say, trying not to get pregnant.

Actually, currently, women pay 68 percent more for out-of-pocket health care costs. The majority of these costs come from contraception. Providing prescription contraceptive coverage is important for our Federal employees. It is essential to setting a model for private insurance plans.

Actually, this issue comes up because of abortion. The way to prevent abortion is to offer the opportunity for appropriate contraception. That is what we are now doing for Federal employees. Let us not change it on the basis of a plan based on moral convictions. We have a plan that does work.

Mrs. LOWEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the contraceptive coverage provisions in this bill.

Last year, Congress got smart and voted to give women who work for the Federal Government access to contraceptives. But now it seems like the appropriations process is signalling the beginning of another hunting season on a woman's reproductive rights, particularly if that woman works for the Federal Government.

Go figure it out. Unwanted pregnancy and abortion rates drop when

women have access to preventive productive health care.

I ask Members to look at their female employees. Look at the staff who work so hard for them to serve their district. Look at those women and tell them that we do not care about their reproductive health. Then look at the millions of Federal workers that work for the Federal Government, who work day in and day out to serve the people of this country. Go ahead. Tell them that we do want to deny them the rights that are made accessible to other women but not to them.

Contraceptives give women and their families new choices and new hope. They increase child survival. They increase safe motherhood. Prohibiting Federal workers from using their health care coverage for prescription contraceptive coverage as they see fit discriminates against women just because they work for the Federal Government. This is a total disgrace.

Mr. Chairman, I urge my colleagues to support contraceptive coverage for our Federal employees.

The CHAIRMAN. The Chair advises all Members that the gentlewoman from New York (Mrs. LOWEY) has 2½ minutes remaining and the right to close. The gentleman from New Jersey (Mr. SMITH) has 6 minutes remaining.

Mrs. LOWEY. Mr. Chairman, I am delighted to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from New York (Mrs. LOWEY) for her leadership.

Late into the night, let me simply say it is a crying shame. It is a crying shame that, in 1999, we would not address this question of dealing with the rights of women in the Federal employment in the way that it should be, giving them real reproductive rights.

I respect the disagreement that the gentleman from New Jersey (Mr. SMITH) has, and he has been strong on his disagreement. But we already have a religious exemption. We already allow for plans who, because of religious beliefs, do not want to engage in contraceptive education or prescription to opt out. We allow for those who are medical professionals and particular physicians to opt out.

But now what we are being asked to do is to simply gut the right of women in the Federal employment to have the right for reproductive rights, to be protected, to be safe, to be secure. What we are suggesting now is a return to the coat hanger for those who work in the Federal employ.

Our medical plans are a nonperson. They do not exist as a person. To give them a moral exemption does not seem to be realistic. This is a question of choice. It is a question of privacy. It is a question of their very personal decision.

While we can respect the religious differences of those who wish to conspicuously opt out, whether it is a Catholic or a Baptist plan, how can we attribute to any plan the ability to rise up and say, ''I have a moral reason. Oh, it is not religion, but it just happens to be in the back of my mind. I do not want to do it.'' Therefore, we endanger the lives of women who are serving this country as Federal civil servants.

Mr. Chairman, I would simply ask my colleagues, can we make our Federal employees second-class citizens? Are women now to go to the back of the bus and be able to suffer under this unequal plan?

I ask support for the Lowey amendment.

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

Mr. Chairman, I urge my colleagues to vote for this language. The contraceptive provision in this bill that has been very successfully implemented for the past year has not received any, any, any challenges from one plan. I believe the gentleman from New Jersey (Mr. SMITH) agreed with that.

We have given the individual the right to opt out before of a moral conscience. But, Mr. Chairman, a plan in my judgment does not have a moral conscience, and we do not want to give these plans the right to opt out from writing a check to cover basic health care for women.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just let me make a couple of points.

I respect the gentlewoman from Texas (Ms. JACKSON-LEE). We recently traveled to Macedonia and Albania, we talked going and coming, and I think we struck up a very good friendship during the course of that trip. Regrettably, I believe the gentlewoman engaged in some very real hyperbole on the floor tonight.

First, the mandate that is in this bill, that is in existing law, remains the same.

What I am offering is a conscience clause, a real, honest-to-goodness conscience clause. Frankly, I am amazed. I said it earlier. I am very, very disappointed that those who take the view that abortions are okay, but for purposes of this language we are talking about chemicals that induce an early abortion, they want carriers to jettison their conscience. A carrier, obviously, is a group of people who form a corporation. Say it is Blue Cross/Blue Shield, Kaiser Permanente, NYL Care. Name the carrier, and say it does not have people behind it, it does not have a board of directors, it does not have people who might have a very strong sense of conscience regarding these things that is not related to their religious beliefs.

Moral convictions and religious beliefs, as I pointed out earlier in the U.S. Code, usually go hand in hand. Why the exception when it comes to abortion chemicals?

I am truly dismayed by this, that the conscience of those people who have a moral objection that is not rooted in religious beliefs, they may not have any, religious faith, there are a lot of agnostics out there, and some atheists out there who might have strong beliefs based on moral conviction why they do not want to proceed with this. If they collectively say, through a vote of board of directors, that they do not want to have abortion chemicals being provided, they should be able to object as a matter of moral conviction.

The amendment of the gentlewoman from New York (Mrs. LOWEY), an imperfecting amendment, to use what the gentleman from Maryland (Mr. HOYER) said earlier, undermined that and suggests that moral convictions don't count. I would respectfully submit to all of my colleagues that moral convictions should count, and they should count equally with religious beliefs. Equally.

Again, I think it trivializes those people who do not have religious beliefs to say their moral convictions should be thrown over the side simply because we do not happen to agree with them.

Let me just also say once again, that my language comports with several existing statutes. It is very important. I will put all of them that I have compiled so far into the RECORD and ask my colleagues to take a look at it.

Let me just read the language of my amendment just so everyone is very clear. It talks about a conscience clause for any existing or future plan if the carrier for the plan objects to such coverage on the basis of religious beliefs or moral convictions.

Very simple and straightforward. The Lowey amendment strikes moral convictions. Again, I think that is a very, very serious imposition on those who have moral convictions that are not based on religious beliefs.

Again, we are not talking here about what our conscience would suggest in this. We are providing a framework for other people to exercise their consciences.

Why this idea of forcing people to all march down the same road if they have a moral conviction and sense they should go in the other direction? Again, that is why I urge a ''no'' vote on the Lowey amendment.

It is antithetical to the purported belief on choice on the other side. A man and woman, collectively as a plan, a carrier, does not have a choice anymore. Big brother in Washington is going to tell them they have to do this under pain of not being within the Federal Employees Health Benefits Program.

So let me just conclude by saying this is a conscience clause. Let me say

it again. It is a conscience clause that is good, solid. It is rooted in boilerplate language that we find in other parts of the U.S. Code. I urge a strong no vote on the Lowey amendment and a yes vote on the Smith amendment.

FEDERAL STATUTES PROTECTING MORAL AND RELIGIOUS CONVICTIONS

8 U.S.C. §1182(g). Bond and conditions for admission of alien excludable on health-related grounds. The Attorney General may waive the application of ... subsection (a)(1)(A)(ii) of this section [requiring documentation of having received vaccination against certain diseases] in the case of any alien ... under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions....

18 U.S.C. §3597(b). Excuse of an employee on moral or religious grounds. No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, ''participation in executions'' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

21 U.S.C. §848(r). Refusal to participate by State and Federal correctional employees. No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carrier out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term ''participation in executions'' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

42 U.S.C. §300a–7(b). Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions. The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. §201 et seq.], the Community Mental Health Centers Act [42 U.S.C. §2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. §6000 et seq.] by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to——

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the *religious beliefs or moral convictions* of such personnel.

42 U.S.C. §300a–7(c). Discrimination prohibition. (1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. §201 *et seq.*], the Community Mental Health Centers Act [42 U.S.C. §2689 *et seq.*], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. §6000 *et seq.*] after June 18, 1973 may——

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his *religious beliefs or moral convictions,* or because of his *religious beliefs or moral convictions* respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health and Human Services may——

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his *religious beliefs or moral convictions,* or because of his *religious beliefs or moral convictions* respecting any such service or activity.

42 U.S.C. §300a–7(d). Individual rights respecting certain requirements contrary to religious] beliefs or moral convictions. No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services if his performance or assistance in the performance of such part of such program or activity would be contrary to his *religious beliefs or moral convictions.*

42 U.S.C. §300a–7(e). Prohibition on entities receiving Federal grant, etc., from discriminating against applicants for training or study because of refusal of applicant to participate on religious or moral grounds. No entity which receives, after September 29, 1979, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act [42 U.S.C. §201 et seq.], the Community Mental Health Centers Act [42 U.S.C. §2689 et seq.], or the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. §6000 et seq.] may deny admission or otherwise discriminate against any applicant (including applicants for internships and residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's *religious beliefs or moral convictions.*

42 U.S.C. §1395w–22(j)(3)(B). Conscience protection. Subparagraph (A) [prohibiting interference with provider advice to enrollees] shall not be construed as requiring a Medicare + Choice plan to provide, reimburse for, or provide coverage of a counseling or referral service if the Medicare + Choice organization offering the plan—(i) objects to the provision of such service on *moral or religious grounds*; and (ii) in the manner and through the written instrumentalities such Medicare + Choice organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

42 U.S.C. §1396u–2(b)(3). Construction. Subparagraph (A) [protecting enrollee-provider communications] shall not be construed as requiring a medicaid managed care organization to provide, reimburse for, or provide coverage of, a counseling or referral service if the organization (i) objects to the provisions of such service on *moral or religious grounds;* and (ii) in the manner and through the written instrumentalities such organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization adopts a change in policy regarding such a counseling or referral service.

42 U.S.C. §2996f(b). Limitations on uses. No funds made available by the [Legal Services] Corporation under this subchapter, either by grant or contract, may be used . . . (8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the *religious beliefs or moral convictions* of such individual or institution.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) to the amendment offered by the gentleman from New Jersey (Mr. SMITH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. LOWEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 246, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) to the amendment offered by the gentleman from New Jersey (Mr. SMITH) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 246, proceedings will now

resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by gentleman from Texas (Mr. SESSIONS), the amendment offered by the gentlewoman from New York (Mrs. LOWEY), and the amendment offered by the gentleman from New Jersey (Mr. SMITH).

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

AMENDMENT NO. 10 OFFERED BY MR. SESSIONS

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 334, not voting 18, as follows:

[Roll No. 302]

AYES—82

Aderholt
Barcia
Bartlett
Berkley
Berry
Bono
Boswell
Brady (TX)
Bryant
Chabot
Combest
Cook
Crane
Danner
DeMint
Duncan
Dunn
Emerson
Everett
Fletcher
Fossella
Gibbons
Goode
Graham
Green (WI)
Hall (TX)
Hansen
Hastings (WA)
Hayworth
Hefley
Hill (IN)
Hilleary
Jenkins
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kind (WI)
Kucinich
Largent
Lewis (KY)
LoBiondo
Lucas (KY)
Manzullo
McCollum
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Paul
Pryce (OH)
Radanovich
Ramstad
Riley
Rogan
Ryun (KS)
Salmon
Sanders
Sanford
Schaffer
Sensenbrenner
Sessions
Shimkus
Shows
Skeen
Stabenow
Stearns
Stump
Tancredo
Taylor (MS)
Thornberry
Thune
Tiahrt
Toomey
Turner
Udall (CO)
Upton
Vitter
Wamp
Watkins
Wu

NOES—334

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crowley
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Granger
Green (TX)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hastings (FL)
Hayes
Herger
Hill (MT)
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
John
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Lucas (OK)
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simpson
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Traficant
Udall (NM)
Velazquez
Vento
Visclosky
Walden
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Baldwin
Brown (CA)
Burton
Chenoweth
Coble
Cooksey
Fattah
Frost
Gejdenson
Gilchrest
Latham
Luther
McDermott
McNulty
Peterson (PA)
Quinn
Royce
Thurman

□ 2048

Mrs. CUBIN, Mr. THOMAS, and Mr. CONYERS changed their vote from ''aye'' to ''no.''

Messrs. TAYLOR of Mississippi, ROGAN, RADANOVICH and KUCINICH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 246, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MRS. LOWEY TO THE AMENDMENT OFFERED BY MR. SMITH of NEW JERSEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. Lowey) to the amendment offered by the gentleman from New Jersey (Mr. SMITH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 217, noes 200, not voting 17, as follows:

[Roll No. 303]

AYES—217

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Campbell
Capps
Capuano
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Condit
Conyers
Cook
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dunn
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Granger
Green (TX)
Greenwood
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel

Holt
Hooley
Horn
Houghton
Hoyer
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kuykendall
Lampson
Lantos
Larson
LaTourette
Lazio
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, George
Minge
Mink
Moakley
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nethercutt
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shaw
Sherman
Simpson
Sisisky
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Walden
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—200

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Brady (TX)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Coburn
Collins
Combest
Costello
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Ewing
Fletcher
Forbes
Fossella
Gekas
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Green (WI)
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Kasich
Kildee
King (NY)
Kingston
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller, Gary
Mollohan
Moran (KS)
Murtha
Myrick
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Paul
Pease
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Rahall
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shows
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Turner
Upton
Vitter
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Baldwin
Brown (CA)
Burton
Chenoweth
Coble
Cooksey
Frost
Gilchrest
Gordon
Latham
Luther
McDermott
McNulty
Peterson (PA)
Royce
Schaffer
Thurman

□ 2058

Mr. BILBRAY and Mr. LAZIO changed their vote from ''no'' to ''aye''.

Mr. UPTON changed his vote from ''aye'' to ''no.''

So the amendment to the amendmnet was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. SCHAFFER. Mr. Chairman, on rollcall No. 303, the Lowey amendment, I was inadvertently detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY, AS AMENDED

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. SMITH), as amended.

The amendment, as amended, was agreed to.

□ 2100

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CUSTOMS COMMISSIONER'S PAY CLASSIFICATION

SEC. 645. (a) Section 5315 of title 5, United States Code, as amended, is amended by deleting the position of ''Commissioner of Customs, Department of the Treasury''.

(b) Section 5314 of title 5, United States Code, as amended, is amended by adding the position of ''Commissioner of Customs, Department of the Treasury'' after ''Administrator, Research and Special Programs Administration''.

SEC. 646. Effective October 1, 1999, all personnel of the General Accounting Office employed or maintained to carry out functions of the Joint Financial Management Improvement Program (JFMIP) shall be transferred to the General Services Administration. The Director of the Office of Personnel Management shall provide to the General Services Administration one permanent Senior Executive Service allocation for the position of the Executive Director of the JFMIP. Personnel transferred pursuant to this section shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.

SEC. 647. (a) None of the funds made available in this or any other Act with respect to any fiscal year may be obligated or expended for any new construction, renovation, alteration to existing facilities, or other improvement, at the Border Patrol Academy, located in Charleston, South Carolina.

(b) Subsection (a) shall not prevent any obligation or expenditure, approved in advance by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, for minor improvements.

(c) No appropriated funds may be used to continue operating the Border Patrol Academy, located in Charleston, South Carolina, after September 30, 2004.

SEC. 648. It is the sense of the Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

This Act may be cited as the ''Treasury and General Government Appropriations Act, 2000''.

AMENDMENT OFFERED BY MR. ANDREWS

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

The Clerk read as follows:

Amendment offered by Mr. ANDREWS:

Page 101, after line 10, insert the following new section:

SEC. 649. No funds made available by this Act may be obligated or expended for offices, salaries, or expenses of the Department of the Treasury in excess of the amounts made available for such purposes for fiscal year 1999 until the Secretary of the Treasury has, pursuant to section 1610(f) of title 28, United States Code, released property described in section 1610(f)(1)(A) of such title, to satisfy all pending judgments for which such property is subject to execution or attachment in aid of execution under section 1610(f) of such title.

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

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

There was no objection.

Mr. KOLBE. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Arizona reserves a point of order.

Mr. ANDREWS. Mr. Chairman, this is a matter of a job that is only half done that needs to be completed. In the last few years, this Congress addressed the problem of American citizens who win civil judgments against foreign governments for acts of terrorism and find it impossible to recover money damages because of the protections of sovereign relations. Very wisely in recent years, this Congress made modifications to title XXVIII, section 1610, to provide for ways that American citizens who were wronged, who were able to prove that wrong in a court of competent jurisdiction, then could receive a judgment and who were then able to identify assets which are carefully delineated as assets that do not touch or concern or interfere with in any way the sovereign operations of foreign nations should be able to have their judgment satisfied, should be able to be made whole for the wrongs that they have suffered.

Despite the good work of the Congress, it has been unfortunate that the

administration has aggressively used its waiver authority to render this law to be effectively ineffective, to render it rather meaningless for people that have been successful in recovering these judgments.

The purpose of my amendment is to compel the effective use of the law that we passed a few years ago. It is to make sure that when an American is injured by a terrorist act of a foreign state, pursues his or her injuries through a court of law, wins the case and goes to satisfy that judgment, the same way we would satisfy a judgement against General Motors in the suit involving a car that explodes or the same way that we would pursue a judgment and satisfy it against a bank or any other institution in American society, that people have the opportunity to satisfy the judgment against a foreign government.

The purpose of this amendment is to compel the release of assets held by foreign powers under the terms of the statute that we passed a few years ago so that Americans who have been wronged may recover as is their right.

Frankly, I believe that the administration has abused its waiver authority, and the purpose of this amendment is to restore that right under the statute to its rightful place so people can recover the judgments that are rightfully theirs.

This is a matter, I think, of simple fairness and justice. I would urge my colleagues to support this amendment, because I believe that it will right the wrongs that I have described in my statement here and it will finish the job that the Congress wisely began just a few years ago.

I have discussed this with both my friend the ranking subcommittee member and the chairman.

Mr. Chairman, I would be happy first to yield to my friend from Maryland who is our ranking member.

Mr. HOYER. I thank my friend for yielding and want to congratulate him on the offering of this amendment and the pursuing of this very compelling case. Quite obviously the Flato family has suffered a very significant loss, has received a judgment which obviously cannot compensate for their loss but is a money judgement as we have in our system which is the best we can do. Clearly the Congress intended for an American citizen, as the gentleman has pointed out, to collect on this judgment.

The only difference I would have with him, while it is a case of justice, quite obviously it is not as simple, and there are different perspectives on the ramifications beyond this case. But I congratulate the gentleman, and I have indicated to him and to others that I will work closely with the chairman to see if this matter can be resolved successfully.

Mr. ANDREWS. Reclaiming my time, I thank the ranking member for his active cooperation and involvement and would point out that it is not simply one family, it is many that would be affected by the terms of this. This is a proposal that would be both prospective and retroactive, to cover the claims of any American family with that problem. I thank him for his help.

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

Mr. ANDREWS. I yield to the gentleman from Arizona.

Mr. KOLBE. I would just, if I might, Mr. Chairman, say I appreciate the gentleman's bringing this issue to our attention. We had a lot of discussion about this last year. I think we are all familiar with the plight of the Flato family. I certainly worked with him and with the gentleman from New Jersey (Mr. Saxton) last year on this issue. But I do have the concerns that I raised before and will at the appropriate time here raise my point of order if that is necessary.

Mr. ANDREWS. Mr. Chairman, reclaiming my time, based on my discussions with the gentleman from Arizona, it is my understanding this is very likely a conferenceable item with the Senate.

Mr. KOLBE. If the gentleman will yield further, yes. Because of the provisions that exist in the Senate legislation, this clearly will be an item for discussion in conference.

Mr. ANDREWS. Reclaiming my time, given that action by the other body and given the very good faith representations by the chairman and the ranking member that they are aware of the concerns that we have raised tonight and will do their best to validate those concerns and serve our interests here, I would ask for unanimous consent to withdraw my amendment based upon the chairman's representation.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Illinois:

Page 101, after line 10, add the following:

SEC. 649. The Secretary of the Treasury shall prepare and submit to the Congress on an annual basis a report on the conduct of strip searches by employees of the United States Customs Service of individuals subject to such searches in accordance with regulations established by the Customs Service. The information contained in such report shall include data on the ethnicity, gender, nationality, and race of the individuals subject to such searches.

□ 2115

Mr. KOLBE. Mr. Chairman I reserve a point of order against this amendment.

Mr. DAVIS of Illinois. Mr. Chairman, first of all, I want to thank the gentleman from Arizona (Mr. KOLBE) and the ranking member, the gentleman from Maryland (Mr. HOYER), for their cooperation with this amendment.

The amendment that I am offering today is designed to assure travelers that they will be treated fairly when going through Customs. Recently, there have been numerous incidents of allegations of searches at airports throughout our country that have resulted in humiliation and pain for the individuals involved. Incidences of racial profiling and misconduct by law enforcement have shaken the faith of many people with regard to our judicial system. The erosion of any segment of our population's confidence in law enforcement agencies can lead to anarchy.

Mr. Chairman, the United States Customs Service has an important job to do in terms of keeping out illegal contraband as well as interdicting drugs. However, this job must be done with protection of human rights and civil rights intact. Strip searches and racial profiling are humiliating, dehumanizing and degrading. When these strip searches disproportionately effect Africans, African Americans, Hispanics, Asians, Asian Americans or any other segment of our society, then we must ask the question, why? Are African Americans more prone to be drug carriers or to smuggle in illegal contraband? I do not think so. However, we believe that it is important that the U.S. Customs be required to keep data on who is strip searched and that it be made available to Congress. We cannot and should not fund agencies that intimidate, degrade and dehumanize our citizens.

Let me share with my colleagues a story of a few individuals who happened to be strip searched. After a long flight from Hong Kong, Amanda Baritca was just looking forward to getting a good night's sleep, but as she arrived at the San Francisco International Airport and prepared to pass through Customs she was subjected to the most humiliating, degrading experience of her life. Without any explanation she was subjected to an intensive strip search. She was told, ''Take off your clothes, bend over.'' The inspector found nothing. She was forced to take powerful laxatives. The inspector found nothing. She was x-rayed, and still Customs found nothing. Throughout such humiliation she was never even allowed a phone call. Twenty-four hours later, after finding no drugs, she was released.

Amanda's story is just one of many stories that could be told, but the fact of the matter is, as these unfortunate stories are told, they are not isolated. More than 60 women were recently brought together to share their horror stories. One woman described the experience as feeling like she was raped. These 60 women all shared one thing in common. None of them had any drugs.

At O'Hare and Atlanta's Hartsfield airports class action lawsuits have been filed by women who have alleged that they were illegally strip searched. The over 600 million passengers who go through Customs deserve to know that their rights will be protected while at the same time knowing that our vigilance is maintained in fighting drugs.

I want to commend Commissioner Kelley for beginning to do something about this issue. However, I do believe that class action lawsuits have had something to do with it. I think it time that we make sure that every person traveling our airways and railways know that they will be treated fairly; and hopefully we can deal with this in such a way, Mr. Chairman, that it will not be necessary to go through with this amendment.

And I would like to invite comment from the gentleman from Arizona (Mr. KOLBE) at this time and from the gentleman from Maryland Mr. HOYER).

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

Mr. DAVIS of Illinois. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I appreciate the gentleman bringing this matter to our attention, and this is something the subcommittee is aware of, and we have heard about this not only from members of the subcommittee and the full committee, but we did inquire of the Commissioner of Customs about this problem, and I think the gentleman has raised a very valid point. We need to understand whether or not strip searches have been used in an inappropriate manner.

Let me just share with my colleagues, if I might, a couple of things that Commissioner Kelley is doing. I think he is really making a real effort to address the concerns that have been raised about this problem of personal searches, and I would also note that this legislation that we are considering this evening includes $9 million to help put in place non-intrusive inspection technologies at airports and other locations which would reduce the need for such searches. This is non-intrusive technology. That means one does not have to go through a strip search. It also includes $5 million in super surplus funding. It would go to Customs training initiative, some of which would support their inspectors training in this issue in not only the technology but in the procedures that are to be used.

So I do believe that the Commissioner has a real concern about this.

I will tell the gentleman from Illinois (Mr. DAVIS) that we intend to follow this matter very closely in further hearings with Customs and in our regular appropriations hearings next year. The gentleman has raised a very valid point, and I appreciate the fact that he has brought this to our attention.

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

Mr. Chairman, I thank the gentleman from Illinois (Mr. DAVIS) for raising this very important issue. I agree with the gentleman from Arizona. I want to say to my friend from Illinois that Commissioner Kelley is vigorously pursuing this and is very concerned. He agrees with the gentleman that incidents of this type have no place with respect to the Customs Service or in this country.

So I am very pleased that the gentleman has introduced this. It is my understanding he is going to withdraw it, but I know that the chairman and I both committed to the gentleman that we are going to vigorously pursue this and work with him to make sure that we know exactly what is going on and that corrective action is taken that is effective and precludes these kind of incidents from happening at any time in the future.

I will say to the gentleman once again that I think the gentleman from Arizona is right. Commissioner Kelley shares our concern and is going to, I think, therefore be an ally of ours in pursuing this very strongly; and I thank the gentleman for raising this important issue, Mr. Chairman.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Chairman, I want to thank the gentleman from Maryland as well as the gentleman from Arizona; and after listening to their comments and expressions of concern, I ask, Mr. Chairman, unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Illinois (Mr. DAVIS) is withdrawn.

Mr. MEEKS of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to submit an amendment to the floor, but the amendment deals with some of the same subject matters that the gentleman from Illinois (Mr. DAVIS) did, and I just want to add on that the issues which Mr. Davis talked about which have recently been aired on NBC television a few weeks ago is an issue with reference to civil rights violations by the Customs Service at airports throughout the country.

John F. Kennedy International Airport, what I believe is the world's premier international gateway located in the Sixth Congressional District of New York, was one of the airports cited by the NBC News report. Here and at other airports Customs agents are engaged in discriminatory practices on people of color.

This simple amendment that was offered by the gentleman from Illinois (Mr. DAVIS) is an amendment which ensures the integrity of civil rights laws passed by Congress. For too often at a great human expense many individuals who happen to be of color have been unfairly detained, examined and dehumanized at airports by Customs agents. African Americans and Latino women are asked by Customs agents to go into a room at an airport, strip naked and subject themselves to cavity searches and other dehumanizing tactics. Many times these searches on these women are done by males.

This amendment would encourage the Customs Service to meet their obligation under existing civil rights laws and stop the practice of racial profiling and discrimination in our Nation's airports. Every American and every legal entrant into this country has a right to travel freely regardless of his or her race, nationality or ethnicity. It is the responsibility of this body to ensure that the civil rights of all people are protected.

Let us send a sound and loud message to the Customs Services that their practices and patterns of abuse against people of color will no longer be tolerated.

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

Mr. MEEKS of New York. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate his action, I know the chairman does as well, and I look forward to his joining with the gentleman from Illinois (Mr. DAVIS) and ourselves in working on this issue.

I know from having talked to Commissioner Kelley that he shares our concerns. As my colleagues know, he is relatively new as the commissioner, but he is going to, I am sure, vigorously pursue this, and working together I think we will get at this problem and make sure that we resolve it.

Mr. Chairman, I thank the gentleman for his efforts and for his interest.

Mr. MEEKS of New York. Mr. Chairman, I thank the gentleman from Maryland.

AMENDMENT OFFERED BY MR. SANDERS

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

The Clerk read as follows:

Amendment offered by Mr. SANDERS:

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

LIMITATION ON USE OF EXCHANGE STABILIZATION FUND FOR FOREIGN LOANS AND CREDITS

SEC. . None of the funds made available in this Act may be used to make any loan or credit in excess of $1,000,000,000 to a foreign entity or government of a foreign country through the exchange stabilization fund under section 5302 of title 31, United States Code, except as otherwise provided by law enacted by the Congress.

Mr. SANDERS. Mr. Chairman, this amendment is a very simple amendment. It prohibits loans in excess of $1 billion to foreign countries from the

Treasury Department's exchange stabilization fund unless approved by Congress.

Now this is an unusual amendment in that the sponsors come from a wide and broad spectrum of political life. This amendment is being cosponsored by the gentleman from Alabama (Mr. BACHUS), the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from California (Mr. ROHRABACHER), the gentleman from Ohio (Mr. KUCINICH), the gentleman from Florida (Mr. STEARNS), the gentleman from Texas (Mr. PAUL), the gentleman from Indiana (Mr. VISCLOSKY), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from California (Mr. MILLER), the gentleman from Illinois (Mr. EVANS) and the gentleman from California (Mr. STARK). And not only are the Members who are endorsing this amendment from a wide spectrum of political life, so are the organizations who are endorsing this amendment. They include such unions as the United Steelworkers, the Atomic Chemical and Energy Workers, the United Union. They include the Americans for Tax Reform, the National Taxpayers Union, the Alliance for Global Justice, the Competitive Enterprise Institute and many other organizations.

Now why are we all united on this issue? For a very simple reason, and that reason is that the great crisis in American society today is that the vast majority of our people are giving up on the political process.

□ 2130

They do not believe that it is worth their energy to vote. In the last election, 64 percent of the American people did not vote. Over 80 percent of the young people did not vote.

What this amendment tries to do right here in the United States Congress is to reinvigorate our democracy. It says that if the President of the United States wants to spend more than $1 billion as part of a loan or a bailout, he must come to the United States Congress to get approval.

As all of us know, the Exchange Stabilization Fund was originally developed in the 1930s to stabilize our currency. That is what it has done. This amendment leaves that function untouched. The President of the United States can continue to do that. But what it does say is that if the President spends more than $1 billion, he must get the approval of the United States Congress.

Once again, this amendment will not in any way restrict the Treasury Department's use of the ESF to stabilize currencies, because currencies stabilization is the purpose for which Congress established the ESF.

The point here is that, as everybody Member of this body knows, that we on occasion spend hours debating how we are going to spend $1 million here or $1 million there. Given that reality, some of us think that maybe we should participate in debates when billions of dollars are appropriated.

Mr. Chairman, in recent years, whether it has been Mexico, whether it has been Asia, whether it has been Latin America, in Brazil, the President has acted unilaterally. I would argue that those of us who believe in the democratic process, those of us who get up here and argue about how we spend $1 million here or there, have a right to participate in how billions of taxpayer dollars are going.

Mr. Chairman, our opponents in this amendment, and they are legion, they are all over the place, no doubt, from both political parties, they are going to say, well, the President has to act in an emergency. But take that argument to its logical extreme. What are we doing here? Are we chopped liver, or what? Is it not time that we revitalize American democracy and get involved in the process?

Now, everybody knows that there are great concerns about the global economy, and honest people have differences of opinion about that economy. I have real fears. I have real fears that when a financial problem in Thailand develops, it spreads all over Asia and it affects the United States. It is amazing to me how little this Congress participates in that debate.

The gentleman from Arizona (Mr. KOLBE) and I may disagree, but he should not disagree that that debate should taken here on the floor of the House. Has the ESF program worked? Has the IMF program worked? Honest people have differences of opinion. Let us have that debate here on the floor of the House.

Once again, let me inform Members of what this amendment does and what it does not do.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. SANDERS) has expired.

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

Mr. SANDERS. Mr. Chairman, let me reiterate, this amendment is similar to an amendment that was passed in 1995 under which the United States government functioned quite well, functioned quite well. This amendment recognizes the historical and traditional role of the Exchange Stabilization Fund, and allows the President to do what presidents have done since 1934.

But this amendment says that when we are going to spend more than $1 billion, come to the United States Congress for approval, so that the American people can be involved in that process.

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

Mr. Chairman, I also rise on behalf of this coalition, in support of this amendment, as one of the cosponsors to limit the use of the Exchange Stabilization Fund. Mr. Chairman, this sounds a little complicated, but it is not. It is basically that the President has the ability to spend money without Congress' approval.

Last year, Mr. Chairman, we offered a similar amendment, and we were accused at that time, you are trying to take advantage of the Asian economic crisis. The administration even felt threatened by it. Last year the former Treasury Secretary, Mr. Robert Rubin, sent us a letter saying that the President would veto the appropriations bill because of our efforts.

We are back, and we think it is so important that I hope my colleagues will listen to this debate carefully. We are pushing this issue for one reason and only one reason: Each of us believes that the use of the Exchange Stabilization Fund by our president without congressional authorization is simply unconstitutional.

The ESF was established in 1934 solely, solely, Mr. Chairman, to stabilize the exchange value of the U.S. dollar. That was it. The ESF's purpose was to give the U.S. adequate financial resources to counteract the activities of the European fund. The fund was established essentially with $2 billion, appropriated from profits realized from the reevaluation of U.S. gold holdings.

But slowly, through history, the Exchange Stabilization Fund has been perverted and altered from protecting the U.S. dollar, which would be its proper use, to bailing out foreign currencies. The ESF's purpose was changed, just the same as the IMF's purpose and mission was unilaterally changed from being one that was used to ease temporary currency exchange rate problems to one that is used to bailing out foreign governments.

By our last count, the ESF had about $30 billion in reserve, ready to be used as a presidential slush fund without congressional oversight. Tonight Members are going to hear the proponents of using the ESF fund and the IMF fund typically say, using these funds are risk-free, we are going to hear that argument time and time again, because borrowing nations always pay back these loans. We have heard that.

The proponents also treat such funds as if they are surplus accounts, free to be used by benevolent administrations.

First of all, Mr. Chairman, the $30 billion in the ESF fund belongs to the American taxpayers, and only Congress, only Congress should have the power to disburse the ESF funds.

Secondly, use of the funds is not risk-free to the American taxpayers. If a borrowing Nation defaults on a loan, it is the American taxpayers who lose, because it is their funds to begin with.

There is also this myth that nations pay back such loans, when in fact they usually borrow more money from other sources in order to pay off the previous

IMF or ESF fund, which simply increases their debt level again and again and again.

Others will argue that we have only pursued this amendment because, well, this is a political shot. This is a bipartisan amendment that the gentleman from Vermont (Mr. SANDERS) has offered, so that argument does not hold water.

Mr. Chairman, last year the amendment had restricted the President from using ESF funds beyond $250 million without our approval. This year we have upped it to $1 billion, which is still a moderate and I think a sensible amount to put as a condition before the President can spend the money. Unilateral executive authority on international financial matters is not what our Founding Fathers intended when they drafted the unique concept of separation of powers in the Constitution.

It is once again time to reassert, Mr. Chairman, reassert our constitutional prerogatives that give Congress the rightful authority to authorize and to appropriate these funds.

So, Mr. Chairman, this is one of a constitutional question. I ask all of the Members to support this amendment.

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

Mr. Chairman, I have great respect for the gentleman from Vermont (Mr. SANDERS). I think if all Members of this institution cared as much about working people as he does, that this country just might give everybody in this society an even shake. We have stood together on NAFTA, we have stood together on GATT, and we will stand again together tomorrow on another trade issue, I suspect, and I mean immediately, tomorrow.

However, I simply want to say that I think this amendment is an absolute recipe for disaster. I am very much an economic populist, but I am also a committed internationalist. It seems to me that the use of the Economic Stabilization Fund should be determined by the merits of the case, and not how popular an individual country is within the United States Congress, or who happens to be lobbying the Congress if the country in question happens to be involved in foreign policy disputes which significant portions of our own society do not happen to like.

The use of the Economic Stabilization Fund is not foreign aid. When the Exchange Stabilization Fund is used, it is used to try to stabilize the world economy, not to help another country but to defend our own country, to defend our own prosperity, to defend our own jobs.

In 1929, the collapse of the world economy was not caused by the collapse of the stock market. That was just a very public event. It was started when we had a currency collapse in Austria and the CreditAnstalt bank collapsed. That was followed by a run on the German banking system, and their system collapsed. Then the crisis jumped to Britain, and after the British banks were mowed down in the crisis, then the crisis jumped across the Atlantic and it hit the United States economy. It went worldwide.

We know the results. Not only did the economies collapse of the countries involved, we had tremendous political instability as a result. People like Adolph Hitler and Mussolini came to power, and 50 million people died. That is why we have had actions taken to establish not just the Economic Stabilization Fund, but some of the other international economic institutions that some people in this institution love to chastise.

It just it seems to me, Mr. Chairman, that there is a reason for the separation of powers. It seems to me that any administration needs to have the authority to deal with an economic crisis internationally in any way that it needs to deal, without having to be second-guessed by the Congress.

We saw what happened just a year ago when we had a crisis in Korea that demanded that we marshal more resources to deal with the possible worldwide economic collapse. Disgracefully, it took almost a year and a half for this Congress to act. I would hate to God to think that that would be the pattern, but that would most certainly be the pattern if this amendment were adopted.

Mr. Chairman, I would say, should we give a president a blank check? Absolutely not. What this Congress ought to do is exercise its sharp oversight responsibility. It ought to critique administration actions whenever it differs. The executive needs to act, but the Congress also needs to, in my view, to skin the executive if he plays it wrong, or plays it incompetently.

But do not handicap and do not hamstring the President of the United States, who is charged with being the steward of America's economic interest in the international arena. That is what this amendment does, and that is why it ought to be defeated.

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

Mr. Chairman, I speak in strong support of this amendment. Mr. Chairman, what this amendment simply says is this: no multi-billion dollar loans of taxpayer money to foreign countries without congressional approval. Let me repeat that: no multi-billion dollar loans of taxpayer monies to foreign countries without congressional approval.

Mr. Chairman, the gentleman from Vermont (Mr. SANDERS) spoke first. We are talking about billion dollar loans. Now hear me, we are not talking about million dollar loans, we are talking about billion dollar loans, a thousand million dollars. Is it not reasonable, is it not rational, that before the President or the Secretary of the Treasury writes a check or makes a loan to a foreign country for $1 billion, for a thousand million dollars, Congress ought to approve that, if it is for a loan? We are talking about for a loan.

People have said the Exchange Stabilization Fund, which was started in 1934, has grown to $34 billion today. They have said that that money is necessary to stabilize currencies. There is absolutely nothing in this bill, and let me repeat, our amendment will not in any way restrict the Treasury Department's use of the Exchange Stabilization Fund to stabilize currencies, which is what the fund is designed to do, and what it was used for until 1995. That is what the fund was established for. It is what it is supposed to do.

□ 2145

It is not this type of transfers that we are trying to ask for congressional approval of. It is only loans to foreign governments. One reason that we ought to review these is when we have made these $5 billion loans and $3 billion loans and $5 billion loans we have said to these foreign governments that they will start an austerity program where the recipient countries will increase their exports to the United States and decrease their imports from the United States. When they have done those, they have cost jobs in the United States.

That is not free trade when we send billions of dollars to foreign countries to prop up competition, companies that compete with us. That is not free trade. It has cost us thousands, hundreds of thousands of jobs in this country. But we are not saying they cannot make these loans; we are saying come to Congress and get approval.

We just spent 2 hours debating a $200,000 expenditure a year for the next few years. We are not talking about $200,000 here. We are talking about a $34 billion fund.

Mr. Chairman, let me say in conclusion, we passed this measure in 1995. In 1995, this Congress, most of the Members that will be voting tonight said it is prudent for us to approve these loans. And it is still prudent today. We have had a loan of $5 billion from this fund to Korea. We have had a loan of $5 billion or commitment from this fund to Brazil. We have had a commitment of $3 billion from this fund to Indonesia. There is an honest disagreement here.

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

Mr. Chairman, I rise in opposition to the amendment. I have to take issue with a number of points that have been made. There is some question about the comments of the gentleman from Vermont (Mr. SANDERS), the author of

the amendment who is a friend, we do not always agree, and the comments of the gentleman from Alabama (Mr. BACHUS), chairman of the Subcommittee on Domestic and International Monetary Policy of the House Committee on Banking and Financial Services on which I serve.

First of all, Mr. Chairman, I would ask the author of the amendment, would a loan or an extension of credit for the stabilization of currency apply under the gentleman's amendment, or would it be subject to oversight or subject to congressional approval?

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

Mr. BENTSEN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, it would not be subject to congressional approval. It would continue to do as the purpose of this program was meant to.

Mr. BENTSEN. So, reclaiming my time then, to the extent an extension of credit was made to the Mexican Government to stabilize the peso, then that will be allowed apparently under this, and it would be up to the general counsel of the Treasury Department.

Mr. SANDERS. Mr. Chairman, if the gentleman would continue to yield, he would have to define what currency stabilization means. But in the current sense of what currency stabilization means, and what has historically been done under this fund, this amendment would allow that to continue.

Mr. BENTSEN. Mr. Chairman, again reclaiming my time, I think this amendment is fraught with uncertainty and problems. Back in 1995 when this amendment passed and we were in the midst of the crisis in Mexico, we were not sure what was going to happen. We now know that the Mexican economy did not collapse; and had it collapsed, it would have had broad ramifications for the United States.

Certainly my State of Texas would have felt it a great deal since Mexico is our number one trading partner. We would have lost jobs. We would have lost exports to that country. We would have had an increase in the immigration problem as a result of it.

But instead, Mr. Chairman, we have seen the Mexico bolsa coming back and the peso has stabilized some. Yes, they still have problems, but they would have been a lot worse out if we had not done anything. And in fact we have half a billion dollars more than the principal that was returned to the economic stabilization fund.

With respect to South Korea, the commitment was made at a very delicate time when the South Korean won was going down; The South Korean market was going down. Rapid unemployment. And part of that commitment, which was a multinational multilateral commitment to defend the currency, the South Korean currency for the benefit of the United States currency, in a large export market where we actually run a trade surplus, and the fact that that opportunity, that we were able to participate in that and never actually spent the funds or lent the funds, no funds went from the Treasury, it has worked now because the South Korean economy has stabilized. Yes, they have to continue to make changes but it worked.

In Brazil, where the commitment was made, we now see the real has stabilized and the Brazilian markets have stabilized because we have to do it. Why would we want to go and change something that works?

I would argue to my colleague from Florida, who I think has left the floor, we exercise our constitutional prerogative every day we are in session. And every day we are in session we can look at this and say if this is not working, we want to change it. If we want, 218 Members can file a bill and go sign a discharge petition to get it on the floor, if we cannot get the leadership to do it.

But this is something that works, and it has been to the benefit of the United States economy. If we had allowed the Mexican economy to go down in 1995, as it surely would had we not done this, or if we had allowed the Asian economy to go down as it was heading a year and a half ago, we would have felt it in the United States and we would have lost more jobs.

And, yes, austerity programs come in. We have problems with how the IMF does some things. But the fact is if we had done nothing, they would have been worse off. A complete collapse of the economy would have brought anarchy in the countries and increased unemployment and what good would that be? Maybe philosophically my colleagues would have felt more pure, but more people would have been unemployed and not just in those countries but in the United States as well.

Mr. Chairman, this is a program that has worked. We have oversight quarterly. The Treasury reports to the Committee on Banking and Financial Services, which the gentleman from Vermont sits on along with myself and the gentleman from Alabama (Mr. BACHUS) and the gentleman from Texas (Mr. PAUL). Annually it reports to the entire Congress. We know what is going on there. We know how it is working. And if was not working, then it would be a problem and then we would have to address it.

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

Mr. BENTSEN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I appreciate the words of my good friend. Is there anything in this amendment which would suggest that anybody here is not deeply concerned about what is happening around the world, that we do not want to see the economies of Mexico, Russia, Asia strong?

All that we are saying is, for example, maybe if the Congress had been involved in the discussion over the bailout of Russia, maybe the Russian economy would not be in the pits that it is in now.

Mr. BENTSEN. Mr. Chairman, reclaiming my time, this has nothing to do with Russia.

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

Mr. Chairman, I rise in support of this amendment, and I thank the gentleman from Vermont (Mr. SANDERS) for bringing this amendment to the floor.

I would like to clarify one thing about the original intent of the Exchange Stabilization Fund. It was never meant to be used to support foreign currencies. It should not be so casually accepted that that is the proper function of the Exchange Stabilization Fund.

The Exchange Stabilization Fund was set up, I think in error; but it was set up for the purpose of stabilizing the dollar in the Depression. How did that come about? Well, it started with an Executive order. It started with an Executive order to take gold forcefully from the people. And then our President then revalued gold from $20 an ounce to $35 an ounce, and there was a profit and they took this profit and used some of those profits to start the Exchange Stabilization Fund. They set it up with $200 million. It does not seem like a whole lot of money today.

How did it come about over these many years that this fund has been allowed to exist without supervision of this Congress, and now has reached to the size of $34 billion and we give it no oversight? It is supposed to send reports to us, very superficial reports to the Congress. We don't know how they got $34 billion. They earned interest on some of the loans, and all the loans are paid back because the countries who get the loans borrow more money.

Mr. Chairman, the Mexico bailout did not solve the Mexico problem. It is ongoing. The peso is in trouble again. They are in more debt than before. We only encourage the financial bubble around the world. This is a dangerous notion that we can take something that was set up to stabilize the dollar, and now we are pretending we can stabilize all the currencies in the world and use it as foreign aid to boot without the congressional approval. There is something seriously flawed with this.

It has also been suggested by many who know a lot more about the details of the Exchange Stabilization Fund than I do, and it has been suggested that possibly, quite possibly, what happens is Treasury deals in currencies all the time and there are profits to be

made. And when there is a profit, it goes into the Exchange Stabilization Fund. When there is a loss. It is sent over to the Treasury and then recorded as a loss.

This is a magnificent thing, but in a free society, in a democracy, in a republic where we are supposed to have the rule of law, we are not supposed to have a slush fund that is run by our Treasury without supervision to be doing things that was never intended. This is a serious problem. And I think economically it is serious because it is contributing to the bubble. It is contributing to a financial bubble.

So, yes, we tide Mexico over for a year or two, but what are we going to say next year when there is another peso crisis? Are we going to close our eyes and say we will do whatever we want, it is a major crisis? Our obligation here in the Congress is to have a sound dollar, not to dilute the value of the dollar without our permission and for our President and our Treasury Department and the IMF and the World Bank and the internationalists to destroy the value of the dollar. That is not permissible under the rule of law, and yet we have casually permitted this to happen and we do not even ask the serious questions.

We should make it certain that all loans, all use of that is reviewed by the Congress. This is a very, very modest request by the gentleman from Vermont. It should be absolutely approved. But then some day we ought to give a serious study about how we as a Congress allow these kind of things to happen without our supervision.

What is the purpose of having a Congress? What is the purpose of the Constitution if we have an obligation to guarantee the value of the dollar and if we permit somebody not under our control to do whatever they want to the dollar under the pretense that we are going to protect the value of all the currencies of Asia?

Mr. Chairman, are we going to protect the Euro now? The Euro is getting pretty weak. I guess we are going to bail out the Euro. When it drops down under a dollar, we will expect the Exchange Stabilization Fund to come and bail out the Euro. This has to be looked at. This is the first very modest, very minimal step that we are making tonight. It should be overwhelmingly supported.

It is up to us to assume our responsibility to protect the dollar, have the rule of law, make sure that we assume the responsibilities that have been delegated to us and not close our eyes and let this slush fund of $34 billion that has existed for now these many decades and have allowed the Treasury Department to run it without us caring. So I plead with my colleagues, support the amendment.

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

Mr. Chairman, I rise in opposition to the amendment. So many things have been said that are so blatantly false. First of all, one of the distinguished gentlemen said that the actions of the executive branch under the Exchange Stabilization Fund are unconstitutional and this is, therefore, primarily a constitutional question. Well, we have used this now since the early 1930s and never has this been found unconstitutional. That is simply not before us.

Other individuals have said we should not have these wasteful expenditures of government monies as if we were giving foreign aid or grants. And yet we are talking about loans or credits, money that absolutely must be repaid and in every instance has been repaid.

Charges have been made, well, the chief executive acts in an unaccountable manner; and yet by law we have mandated monthly reports. Not simply annual reports, but monthly reports, as the gentleman from Texas (Mr. BENTSEN) said. We know everything they do.

A few days before he left office as Secretary of the Treasury, Bob Rubin had dinner with a number of Members of Congress and he did not talk about this issue. He talked about one of his concerns, perhaps his chief concern, and that was the ability of the United States Government to function in the future, given its cumbersome way of working.

□ 2200

Other governments have a parliamentary form of government so the prime minister can make a decision and act upon it. We have chosen our way with the separation of powers, et cetera. But Congress wisely realizes that there are certain times and certain events where we must delegate authority.

We have delegated authority with respect to the Exchange Stabilization Fund, going back to the early 1930s. What has happened since the 1930s? Well, the world has become unbelievably smaller. We have had an integrated global economy involving trillions and trillions of dollars where what goes on in Korea or Brazil or Germany or Mexico profoundly impacts citizens of the United States.

There has been a huge increase in technology, too. So trillions of dollars are transferred today every day in fractions of a second. We must be able to respond. We have the Exchange Stabilization Fund so that we can respond.

If we were to say one cannot act with a loan or credit in excess of $1 billion, and very, very frequently when the Secretary of the Treasury and the President act, it must be in excess of a billion dollars, whether it is Mexico, Brazil, Korea, name it, it must be, if one must have the Congress of the United States work its will, one might as well say that the United States must abdicate its leadership, and not only abdicate its leadership, abdicate its role in dealing with any future international financial crisis.

That is what the effect of this amendment would be if it were passed. That is why the past Secretary of the Treasury, the Secretary of the Treasury before him and before him and the current Secretary of the Treasury has said any bill that contains such a provision should be vetoed.

Please vote against this. My colleagues would not just abdicate the United States economic leadership, they would forfeit any United States role in dealing with any future international financial crisis.

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

Mr. Chairman, the Exchange Stabilization Fund is being misused by Treasury to bail out foreign investment failures. When some aspects of corporate foreign investment policy fails, the Treasury taps the ESF to cover over the failure.

Here is a recent example, Mr. Chairman. In Indonesia, the International Monetary Fund caused a run on Indonesian banks when it directed the closure of 16 banks there. A confidential internal IMF memo even acknowledged the failure. The IMF caused a panic by making a bad situation much worse. So what does this ''Foreign Investment Failure Fund'' do? Without congressional approval, Treasury dispatched a credit line of $3 billion to cover the mistake.

NAFTA caused a flood of U.S. investors to abandon their investments in the U.S. for higher rates of return in Mexico. Then the already over-valued Mexican currency collapsed. Guess what? The ''Foreign Investment Failure Fund'' was used without congressional approval to cover the multi-billion dollar failure.

Indeed, the ESF was used in this way because Congress refused to pass a $20 billion package to benefit the Mexican elite at the expense of the Mexican people. The use of the ESF by Treasury thwarted the will of the Congress.

The ''Foreign Investment Failure Fund'' is used to accomplish policy changes that often make international financial problems worse. In Korea, important consumer and labor standards and regulations were overturned as conditions for $5 billion in ''Foreign Investment Failure'' funds from the U.S.

Koreans now talk about ''IMF suicides'' to characterize the wave of suicide among jobless and hopeless Koreans. Korean labor unions are conducting massive protests and strikes. Without Congress' approval or involvement, global economic policy is being forged for the benefit of the few with the funds of the American people as leverage.

This amendment will correct the abuses, but it will not tie Treasury's hands. If Treasury needs to stabilize

another country's currency, it will be able to use the ESF to do so unilaterally and without Congress' approval. The amendment allows Treasury to do currency swaps and other currency stabilization aids without Congressional approval.

But if Treasury is making a large loan to another country, they will have to come to Congress, which is the only appropriate process, given the American system of checks and balances.

This amendment is nearly identical to one that Congress passed in 1995. Many of my fellow Democrats voted for that amendment then. Unfortunately, the authority of that provision lapsed in October of 1997. Today, we need to repeat our correct action.

So long as the Exchange Stabilization Fund is used to extend credit or give loans to foreign nations without Congress' approval, these foreign investment failures will get larger and will become more frequent. More of the U.S. Treasury will be exposed to paper over them, benefit foreign elites, bail out big banks, and underwrite austerity, joblessness and hopelessness for the majority of people around the globe.

Let us stabilize the power of Congress by voting yes on this amendment.

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

Mr. Chairman, I rise in strong opposition to this amendment. The world is going through one of the most fundamental changes in its economy in history. As we move from the industrial age to the information age, we are moving to an economy that is based much more on speed, whether it be the speed of commerce, the speed of innovation, the speed of communication.

As we move into this information-based economy, we are seeing the world shrink. We are seeing national borders are becoming increasingly porous to the flows of information as well as capital. It is leading to the integration of our economies.

The United States can no longer insulate itself from the affairs and the impacts of other countries and the financial situations and crises that occur there. So it is becoming increasingly important that the administration have the ability and the flexibility to use most effectively the Exchange Stabilization Fund.

We can look back at how effectively it has been used to stabilize some crises in Asia, in South America, which is in the interest of United States' working people and the interest of United States' businesses.

When we want people to advocate that this is something that Congress ought to take a role in to approve almost every loan that the United States might participate in through the Exchange Stabilization Fund, it certainly would be something that would almost render this inoperable, because in Congress, quite honestly, it almost takes us a year to name a Federal Post Office. To have Congress coming in and trying to okay and approve every loan is certainly going to be too cumbersome. That would render the effectiveness of the Exchange Stabilization Fund almost obsolete.

This is a tool that is benefiting not other countries so much, it is a tool which is benefiting working men and women in the United States, and we should oppose this amendment.

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

Mr. Chairman, I rise in strong support of this amendment. We have heard arguments on both sides tonight. But I would ask people to use their common sense. I would ask the people at home to listen very carefully to the arguments, those reading the CONGRESSIONAL RECORD to read the words very carefully.

The proposition is very simple. If there is a $1 billion transaction or more from the Exchange Stabilization Fund, which means American tax dollars, the American people's money, there should be approval by Congress. It is almost nonsensical for us to suggest that the American people do not deserve accountability for expenditures of over $1 billion. I do not understand it.

I hope the people listening to this debate, I hope those people reading the CONGRESSIONAL RECORD begin asking themselves, why is it that we have such heavy debates on issues, for example, of whether we should increase spending for veterans benefits by $100 million or $50 million, yet we have people that are going to the floor defending a policy of having unelected officials, shadowy figures, who we do not know who exactly is making the decision, spending billions of dollars of American tax dollars to help foreign currencies?

The gentleman from Texas (Mr. PAUL) made a very important point tonight. The original purpose of the Exchange Stabilization Fund was to stabilize the American currency. At least, there is some justification, or perhaps there was at that time, that we were watching out for the interest of the American people.

Now, what we have here is yet another example, and I hope people look at this example, of American liberty being sacrificed on the alter of globalism: America has to come second. The interest of the American people should not be considered. We cannot hold ourselves accountable to the American people, even though it is billions of dollars of their money.

Count me out on that, please. I came here to Congress to be held accountable.

Now, we disagree on a lot of things. The gentleman from Massachusetts (Mr. FRANK) and I, we disagree on a lot of things. The gentleman from Vermont (Mr. SANDERS), the author of this amendment, and I disagree. We debate about them on the floor.

I happen to believe that less expenditures are good. That is a good policy for the United States. The gentleman from Vermont (Mr. SANDERS) thinks that we should have more government intervention here at home. But that is an honest debate. We are held accountable for that.

To have people here say that, for the government of Brazil or Indonesia or some crooked regime in some other country, far-off country of the world, we have to give the power to some unelected officials to spend billions of dollars of our money without a vote of Congress, talk about undermining the democratic principles on which this country is founded.

I think this is very clear. I hope everyone pays attention to the debate. Unfortunately, it is happening at 10 o'clock at night. But I hope the American people pay attention to who is making the arguments and who is on their side.

Unfortunately, when one gives the power to an unelected elite to spend the money without any approval of Congress, and that is what we are talking about, billions of dollars being spent by an unelected elite, sometimes that money does not go to people who really share our values. Sometimes it goes to people like in Indonesia when it was being controlled by an autocratic regime. Sometimes it goes to people who are just part of the same international country club, the guys making the decisions, these Ivy Leaguers who get hired to make these decisions.

Now, after all, we Members of Congress cannot be trusted to make decisions like that. We have to leave it up to these guys from the Ivy League schools who are not elected by anybody to watch out for the American people.

No, I am sorry. That is not the way it works here in America. What works here in America is we have trust in the people. We have trust that, if we make the wrong decision, we are going to get kicked out. But everything is supposed to be up front.

Unfortunately, over the decades, we have permitted the freedom and the accountability of the democratic system to be eroded, and this is perhaps the best example in our government today.

My hat is off to the gentleman from Vermont, again a man who I disagree with philosophically on a number of issues, but who stands for democracy, stands for accountability, stands for liberty. And under those concepts, we can disagree on what the government should do.

Mr. KOLBE. Mr. Chairman, we have gone for an hour on this issue, and I have a proposal so that we can bring this debate on this issue to a close.

I ask unanimous consent that all debate on this amendment and all the amendments thereto close in 20 minutes, the time to be equally divided between the sponsor and myself.

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

There was no objection.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) and the gentleman from Vermont (Mr. SANDERS) each will control 10 minutes.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding to me. The Exchange Stabilization Fund has never been more important than now. We are in an interlinked global economy where currency is transferred in the blink of an eye over an electronic infrastructure.

□ 2215

Capital flows can cause a national treasury to hemorrhage. And let me tell my colleagues how this works, briefly. If there is great investor uncertainty, money is pulled out. Without the Exchange Stabilization Fund able to assist for a brief period of time in shoring up currency, providing investor, stabilizing investor confidence, we literally have a run on the bank situation which can lead to catastrophic national bankruptcy.

I read from a letter that I will introduce for the RECORD from Secretary Larry Summers, who played such a critical role in stabilizing Korea that was teetering on the very brink of bankruptcy. On Christmas Eve, the ESF permitted the United States to participate in a critical time-sensitive effort to forestall financial default in Korea, where 37,000 American troops are stationed. The economic and national security consequences of default were clearly unacceptable to the United States.

That was on December 24, 1997. Do my colleagues know when Congress went home that year? November 13. And when did the Congress come back? January 27. Congress was missing in action for nearly 3 months, and in the middle of this period we had almost an Asia financial meltdown, forestalled just barely by the extraordinary work of Secretary Summers, using as an integral part of his effort the Exchange Stabilization Fund.

It would not have worked, it would not have been there if the congressional requirement the amendment seeks would have been in place. Congress was home. We must defeat this amendment.

Mr. Chairman, the letter from Secretary Summers I earlier referred to follows for the RECORD:

DEPARTMENT OF THE TREASURY,
Washington, DC, July 15, 1999.

Hon. STENY HOYER,
Subcommittee on Treasury, Postal Service, and General Government, Washington, DC.

DEAR STENY: I am extremely concerned that an amendment to restrict severely the use of the Exchange Stabilization Fund (ESF) may be considered during House action on the Treasury, Postal Appropriations bill. Such an amendment would constitute an unacceptable limitation on the executive branch's ability to protect critical U.S. economic interests, and I would be forced to recommend a Presidential veto if the final bill contained such restrictions.

The original ESF statute deliberately provided the executive branch with the flexibility needed to respond expeditiously and effectively when justified by important national economic interests. Because the nature of financial crises sometimes requires urgent action to stabilize markets and protect the U.S. economy, it is necessary to act more quickly than is permitted by the deliberative procedures of the legislative branch. This is particularly true in today's large, fast-moving financial markets.

Two recent examples illustrate how the ESF works to protect American interests. On Christmas Eve, 1997, the ESF permitted the United States—with broad international cooperation—to participate in a critical, highly time-sensitive effort to forestall financial default in Korea, where 37,000 American troops are stationed. The economic and national security consequences of Korean default were clearly unacceptable risks for the U.S., and the availability and flexibility of ESF resources were indispensable to our stabilization efforts. Similarly, the ESF and bilateral resources from other countries were essential to the international effort last year to help Brazil avert the kind of financial collapse that could have had very severe consequences in our own hemisphere, with obvious implications for the U.S. economy.

Let me make clear that we fully accept our responsibility to account to Congress for our actions under the ESF statute. Treasury submits detailed monthly reports on ESF transactions to the Banking Committees, and the President submits an annual report to the Congress. We believe strongly that our use of the ESF has been prudent and consistent with the spirit and letter of the law.

We simply cannot afford to compromise our nation's vital economic and financial interests by limiting our ability to act responsibly and expeditiously during times of urgent crises, and I urge the Congress to preserve the ESF statute in its current form.

Sincerely,

LAWRENCE H. SUMMERS,
Secretary.

Mr. SANDERS. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me this time. The issue here is not the Exchange Stabilization Fund as set up by President Roosevelt. I believe there is broad agreement among Members of the House and others about the value of that fund to defend the American dollar and to intervene in currency stabilization around the world which would have a dramatic impact on our dollar or on the American economy.

The issue is should unsecured loans to foreign nations, most of the time being made to bail out extraordinary speculation, sometimes by U.S., sometimes by U.S. multinational, and sometimes by foreign interests, be made in excess of $1 billion of our taxpayers' money by a Cabinet member, with or without the consent of the President of the United States and without any consultation or consent of the elected representatives of the people?

Now, I think most people would have to raise a question about that. We are not talking about the reasons for which the fund was established, which was to shore up or defend the dollars against attacks. We are not talking about currency stabilization generally. We are talking about unsecured loans to foreign governments, foreign interests, to bail out failed speculative activities.

Now, some have gone to the floor to talk about the great success of bailing out these failed speculative activities. Guess what? If we do not have market discipline, if we bail out the speculators every time their 50 and 100 percent loans go sour, and give them back their capital after they have already gained it two or three times over in interest, then they will go out and do it again and again and again. And now they are doing it with the support of U.S. taxpayers' money and at the risk of U.S. taxpayers' money.

Oh, yes, the speculation has worked out pretty well so far, as far as we know, since the fund is not fully accountable. In fact, in the past, and we have heard accounts of that earlier this evening, the fund was used to buy rugs and special trips and all sorts of things. Yes, it was cleaned up a number of years ago. But, still, it is not fully accountable to the American people. No full accounting is rendered. And it continues in these activities.

Now, I think we as the elected representatives of the people have got to question. Maybe $1 billion is the right figure. Maybe we should let them do $2 billion. I do not know. I do not know exactly what it is. But I can say that before we extend a loan without security of taxpayers' dollars, which is not in direct defense of the interests of the United States of America, of our economy, of our currency, of our people, of our taxpayers, of our workers, yes, maybe in defense of a few bankers who made some really stupid loans at extraordinary rates of interest, then we have to question whether it should continue in that vein.

For 2 years this amendment stood. Were there any international crises during that time to which the United States could not respond? No. There are other tools. We can go to the World Bank, which basically is an arm of the U.S. Treasury, or the International Monetary Fund, another arm of the U.S. Treasury. At least, though, it would be diluted by other countries' money and other taxpayers' from other

countries' money. It was not directly funds allocated from our taxpayers to foreign governments. Interventions took place during those 2 years that this amendment was in effect to bail out speculators.

Now, if we think it should be the policy of the United States to bail out speculators so all their investments are always guaranteed, then we should vote against this amendment. That will be a fine day for some people, but not for the American people. Not a proud day for me as a representative of the American people. And I urge my colleagues to think long and hard and remember this amendment was in effect for 2 years and none of these horrible things happened, because other tools are available that do not put our taxpayers' dollars at risk.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished ranking member.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time. I listened to my good friend, the gentleman from Vermont (Mr. SANDERS), who, I agree with the gentleman from Wisconsin (Mr. OBEY), cares a great deal about the policies of this government, a great deal about the working men and women of this country and is one of our finest Members. I also listened to the gentleman from Oregon (Mr. DEFAZIO), who I also believe is a very fine Member. We happen, however, to disagree on this particular issue.

I understand what is being said. I understand about the multinationals and those who have extended credit wisely. I agree with all that, and that angers us. But the fact of the matter is the real adverse ramifications are not to those necessarily who have acted so irresponsibly. Destabilization impact is not on those rich guys who did things speculatively that may have made them a lot of money and at great risk, and when the deal went bad they maybe either expect to bail out or just bail out themselves and leave others holding the bag.

The real problem, from my perspective, is that the destabilization that occurs if they are not bailed out is to those working men and women in this country and in other countries; and they are the ones who suffer, from my perspective, unfortunately.

It is like bailing out the savings and loans that was so controversial. Yes, we bailed out some big guys who were bad people, but the fact is what we tried to do really was to save harmless, an awful lot of depositors who had relatively small amounts of money invested.

I believe he has been quoted of course, and there are some people who obviously disagree, but Secretary Summers has been very much involved in the utilization of this fund over recent months, to, in my opinion, the great benefit not only of the governments of Korea and Brazil and of Mexico but also this government and our people as well.

Mr. Chairman, I would urge the defeat of the amendment.

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

It seems to me that this important and interesting debate is primarily about two fundamental issues, both of great importance. The first is the issue of democracy, which I hold to be the most important issue.

I want to reiterate the fact that I believe the great crisis facing this country is that we are losing our Democratic traditions. Every Member of this body should be terribly frightened that in the last election over 80 percent of the people 24 years of age or younger did not vote. And every poll that is taken shows the young people are not interested about what is going on in government or are extremely alienated from the process. With big money controlling both political parties, many, many people have given up on the political process.

One of the reasons they have given up is they do not see the Members who they send to Congress, who supposedly represent them, fighting for their interests and participating in the important issues facing their lives. How can we stand to defend democracy when we say, oh, yes, we will have no say when the President, Democrat, Republican, liberal, conservative, can put at risk billions and billions of dollars and we have no say about that. And then we go home and we tell our constituents, get involved in the political process. They are not going to do that. That is issue number one and the most important issue.

But the second issue we hear about is the global economy. Well, if these ideas are so good, then let the President of the United States come to the Congress. He will get support if the ideas are good. What a statement it is to say that we are incapable of responding to a crisis. What a terrible and awful thing to say. If the President feels that it is necessary to appropriate or to lend substantial sums of money to a foreign government, he can come to the United States Congress, make his case; and if it is a good case, the American people will support him and the Congress will support him.

But when we talk about the global economy and all the glowing accords, I would mention to my friends go and tell that to the average American worker, whose wages today are 12 percent less than they were in 1973. Tell that to the average American worker today, who in the midst of this great global economy is working 160 hours more than he or she worked 20 years ago. Tell that to the people of Mexico, whose standard of living has declined. Tell that to the people of Russia, who have almost descended into Third World living standards.

Now, people have honest disagreements about the global economy. That is what we should be debating on the floor of the House. That is a good debate. And maybe if we do that our constituents would know that we are involved in the important issues of their lives. Is the global economy working for the steelworker, for the textile worker, for the family farmer in my State of Vermont? Some think it is, some think it is not. Let us debate that issue.

So, Mr. Chairman, I would argue for strong support for this amendment. Let us restore the democratic traditions of this country. Let us get the Congress involved on the most important issues.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in opposition to this amendment.

I understand the good intentions of my colleague, but the fact of the matter is in our global economy, our economies are all more interrelated. This, in fact, is of course an authority. Although it is referred to as the exchange stabilization rate, it has evolved to be used, and used very effectively, in terms of preventing the type of economies in many countries from spinning out of control and to go back to economic ground zero.

The fact we do not have a perfectly functioning economy on a global basis is self-evident. But to deny our Nation and our leadership the type of tools that need to be used essentially in a crisis, whether that crisis is occurring in Korea or whether it is occurring in Mexico or whether it is occurring in Russia is a fundamental mistake, not only because it would devastate the economies of those countries but invariably that type of contagion and those types of impacts would be felt by the workers in this country and in our total global economy.

So the fact of the matter is we need to have these tools, and in fact they have evolved and we have oversight responsibilities. And there are plenty of mistakes to go around in terms of what happens in these economies, why they are not functioning; but in fact we have and continue to work for the type of transparency, the type of market forces that, in fact, will provide, I think, for a better working global economy.

□ 2230

I am an interventionist. I believe that we ought to intervene at home when we have problems in our economy and respond to people, and I believe we ought to do so internationally when we can to try and mitigate the adverse impacts that that has on people around this globe.

In fact, this type of crisis, these types of tools are absolutely essential. We have not lost money with this program I would underline to my colleagues. That money is fungible and that money was spent in Russia or spent in other countries improperly is not even debatable or that mistakes are made in these economies. If they were perfect, we would not need these types of tools. But we need the resources, we need these tools in the hands of our decisionmakers so they can exercise responsible policy and economic action.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, let me briefly sum up two things.

First of all, the Sanders-Bachus amendment was passed in 1995 and was in effect from 1996 and 1997 in the midst of this global crisis. The idea that if this were passed by the Congress it would be a recipe for disaster, it was in effect for 2 years and it was not.

It does not restrict transfers of funds in any amount to stabilize currencies, which is the statutory use of the fund. What it does limit is loans to foreign countries of a billion dollars plus.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, I believe I would be among the first to acknowledge there were problems arising out of globalization, and we need to attend to them. But the worst thing we can do is kind of take a sledgehammer and somewhat blindly whack at them. They are more serious than that.

It is true there was a 2-year moratorium. It expired. And since then this fund has been used. It has been used in several instances. I think there is evidence it has been used constructively and effectively in the interest of U.S. workers and families. If that is not true, let us have a full debate about it.

There needs to be oversight. Those on the Committee on House Oversight should be diligent. But let us not come here somewhat out of the blue and make a major change in policy when the evidence of the last couple of years is that this may well be a useful fund. It is not giving a billion dollars to another country. These are loans that are guaranteed that have been invariably, or almost so, paid back.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I plead with my fellow Republicans, and I say ''plead'' with them, to pay attention to what is happening here.

How can we claim the mantle of being responsible in the budget process, in the budget decisions we have to make, when we are providing the President of the United States with a slush fund to spend billions and billions of dollars on foreign interests?

How can we look our people in the face, the veterans in the face that we have to sometimes, or the jobless or the seniors and say we cannot spend $10 million more here or $100 million more here because we are trying to be responsible?.

If we do not vote for the Sanders amendment to say there must be a vote in Congress to spend these billions of dollars overseas, we are betraying these citizens of our country. How can we look at them in the face and say we are being responsible at home when we prevent unaccountable spending overseas?

Please support this amendment.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Chairman, it just popped into my mind when I heard the word ''budget,'' this body spent all last year and never passed a budget, and we spent 1 trillion, 700 billion dollars of the taxpayers' money.

But here is the point I wanted to make in this 1 minute. There has been some I am sure unintentional but some very misrepresentational statements made concerning congressional oversight.

There are monthly reports submitted to the Congress regarding all of the expenditures from the Economic Stable Stabilization Fund, monthly reports, annual reports to the Congress in which we have ample opportunity to oversee.

If anyone had the problems that we have heard in the overuse of the English language tonight about what has happened, we can certainly have that debate. And we will have that debate, and we should have that debate. But for us to take away the flexibility that an administration might need in order to meet with an international crisis, if we do not have that flexibility, I would submit to my colleagues that we are literally taking the jobs of millions of men and women and putting them in our hands and in a situation in which we will be almost totally incapable of acting.

Mr. SANDERS. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, let me just conclude by thanking the chairman for this interesting debate. This amendment is endorsed by progressitives, conservatives, and many people in between, by the United Steelworkers, by Unite, some of the great unions in this country, by the National Taxpayers Union, by the Competitive Enterprise Institute.

I would ask for the support of all Members for this amendment.

Mr. KOLBE. Mr. Chairman, obviously I rise in opposition to the amendment which is being considered here. But I agree with the gentleman from Vermont, this has been a good debate. It has not been enough of a debate with the right kinds of people in the right kind of forum, and that means we should have had this debate in the Committee on Banking and Financial Services and then here on the floor as a separate bill. Because the issue of what we should do with the Exchange Stabilization Fund and the levels of its loan authority, of its guarantee authority, is clearly an issue that this body should debate.

But surely we ought to at least have pause to consider the fact that the Secretary of Treasury has said that this amendment alone would be a reason that he would recommend a veto to the President. Now, that is not a reason for us to vote for or against it. But it certainly ought to give us pause.

And it ought to give us pause that the chairman of the Federal Reserve Board, somebody who I think most Members of this body respect very greatly, has said: ''I also believe it is important to have mechanisms such as the Treasury Department's Exchange Stabilization Fund that permit the United States in exceptional circumstances to provide temporary bilateral financial support, often on short notice and under appropriate conditions and on occasion in cooperation with other countries.''

That ought to at least give us pause when somebody like Alan Greenspan says that.

Now, the question was raised here earlier, somebody said, well, we are going to claim that it is risk free. No, of course it is not risk free. But it is also not a hundred percent risk. Just as a bank does not have to reserve a hundred percent of all of its loans in reserve, we do not reserve a hundred percent of this either. It is a credit issue, and that is how it is scored appropriately.

We have other kinds of funds like this. We have the Trade Adjustment Assistance that we provide these funds in-ready when it is needed for workers. We have FEMA's Diaster Fund.

It is not we come to Congress every time there is a disaster in order to get a fund. We have a fund in order to provide that. And that is exactly what I think we have here.

We live in a world where these kinds of economic crises are becoming more and more real. I believe very strongly that we should give this kind of flexibility for economic crises, just as we do for the kinds of fiscal disasters which can afflict our country.

I would urge my colleagues to vote against this amendment. It is wrong policy. It is not the right thing to be doing on this legislation. I urge a ''no'' vote.

Mr. STARK. Mr. Chairman. I rise today in support of the Exchange Stabilization Fund (ESF) amendment to the Treasury Dept. Appropriations bill. Congress is the only body of

this government that is legally able to authorize the treasury to spend any money. That is why I support this amendment, it returns control of US funds to the Congress, where it belongs.

Our Constitution states that the government spending is restricted in that "No payment (shall be made) from the Treasury except under appropriations made by law". The Constitution shows no concern whether the funds in the Treasury come from taxes, or sales of assets, or even investment and trading of foreign currency. Therefore Congress, not the Executive or some Agency of the Government, is the only body that can allocate funds from the Treasury for any purpose.

I understand some concerns that this body may not be swift enough to react to the rapidly changing international economy, however some compromise weighing the importance of the Constitution with the rapidly changing nature of the economy must be made. This amendment does not stop the Treasury from reacting to an emerging financial crisis, it simply allows the Congress to live up to its Constitutional responsibility to make sure that America's money is spent in a manner that promotes American interests. In 1997 a provision similar to the amendment we are debating today expired. In the year following this expiration, the Treasury provided $3 billion to Indonesia, $5 billion to South Korea, and $5 billion to Brazil, through the ESF. Which means that $13 billion of the American citizen's money was spent at the discretion of the Treasury with no need to consult representatives of the American people.

The Exchange Stabilization Fund was established in order to stabilize the US dollar. Some may argue that the stability of foreign governments is vital to the stability of the international economy, and therefore the American currency. That may even be true, but no member of Congress was able to make that argument. It was simply a decision handed down to us by some officials in the Department of the Treasury.

Passing this amendment will restore the power of this body to control how the American citizen's dollars are spent. I urge all members who understand the Constitution and believe that they are responsible to their constituents, to vote for this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 246, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Illinois:

Page 101, after line 10, add the following:

SEC. 649. None of the funds appropriated or otherwise made available by this Act in title 1 under the heading ''UNITED STATES CUSTOMS SERVICE'' may be made available for the conduct of strip searches by employees of the Customs Service of individuals subject to such searches in accordance with regulations established by the Customs Service unless the employee who conducts the strip search is of the same gender as the individual subject to the strip search.

Mr. KOLBE. Mr. Chairman, I reserve a point of order.

Mr. DAVIS of Illinois. Mr. Chairman, again, I want to thank the chairman of the committee and the ranking member for their cooperation.

Mr. Chairman, this amendment basically requires that no funds under this bill be used for male employees at the United States Customs Service to strip search women or for women employees to strip search males.

It is my understanding that the Customs Service currently prohibits such searches. However, there have been allegations by several complainants who have stated that men have participated or been present during strip searches of women.

Therefore, this amendment simply underscores what is already the policy at the U.S. Customs Service to prohibit men from strip searching women and vice versa.

I believe it is important to speak to this issue because Federal funds are involved and because of the allegations which are being made. In addition, what is agency policy may not be adhered to by individual employees. Therefore, we simply want to underscore that it should not be tolerated.

Now, I would hope that I could work again with the chairman and ranking member to ensure that this important policy is adhered to by all employees of the U.S. Customs Service.

Mr. Chairman, I yield to the chairman for comment.

Mr. KOLBE. Mr. Chairman, I appreciate the gentleman yielding.

Again, the gentleman from Illinois has raised a very important policy issue. I might just add that it is now the policy of the Customs Service to require that a strip search of an individual must be conducted by an individual of the same gender. But this is certainly something that we would want to monitor very closely.

We intend to do that. We intend to gather the statistics to make sure that they are doing that. I will work with the gentleman from Illinois to share that information. And if he is not satisfied, we will make other inquiries in our hearings of the Customs Service and can pursue this in another way if it is not to the satisfaction of the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Chairman, reclaiming my time, I thank the chairman very much for his comments.

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

Mr. DAVIS of Illinois. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate the gentleman yielding and concur with the chairman.

Obviously, this is now, as the gentleman from Illinois has pointed out, the policy. What we need to ensure is that the policy is being followed so that no American or no foreign visitor is subjected to unwarranted and inappropriate processing by Customs or searches by Customs.

I appreciate the gentleman raising this issue and look forward to working with him on it.

Mr. DAVIS of Illinois. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT NO. 6 OFFERED BY MRS. MALONEY OF NEW YORK

Mrs. MALONEY of New York. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. Maloney of New York:

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

SEC. . None of the funds made available in this Act may be used to implement, administer, or enforce any prohibition on women breastfeeding their children in Federal buildings or on Federal property.

Mrs. MALONEY of New York. Mr. Chairman, first, I would like to thank the chairman and the ranking member for their leadership on this committee and in so many ways and particularly Mr. HOYER for his assistance on this particular amendment. I am pleased to offer it on behalf of myself, the gentleman from Connecticut (Mr. SHAYS), the gentlewoman from Maryland (Mrs. MORELLA), the gentlewoman from California (Ms. LEE), the gentlewoman from California (Ms. MILLENDER-MCDONALD) and many, many others.

Our amendment is very simple and family friendly, as American as motherhood. Our amendment will protect a woman from being escorted off of Federal property when she is breast-feeding her child. We originally put forward our right to breast-feed legislation because our offices were contacted by women across this country who are ashamed or ridiculed or ordered off of Federal property merely because they choose to breast-feed their child.

□ 2245

We have many, many examples from across the country. In one particular case, a woman in Virginia was ordered to stop breast feeding and the incident led to the passage of Virginia's legislation exempting breast feeding mothers from indecent exposure statutes. Thirteen other States have enacted similar laws.

Instead of citing all these examples and the State legislation and the medical reports, it is my understanding that the gentleman from Arizona will be accepting this amendment.

Mr. KOLBE. If the gentlewoman will yield, I would urge that the committee adopt this amendment.

Mrs. MALONEY of New York. I thank the gentleman.

Our amendment is very simple, and is as American as motherhood.

The language of the amendment states:

None of the funds made available in this Act may be used to implement, administer, or enforce any prohibition on women breastfeeding their children in Federal buildings or on Federal property.

Our amendment will protect a woman from being escorted off of federal property when she is breastfeeding her child.

As you may know, a similar amendment was adopted by the full Appropriations Committee on the Interior Appropriations bill, allowing breastfeeding at federal parks and in the Smithsonian and other federal museums. I would like to point out that the amendment on Interior passed unanimously by voice vote.

Our amendment, which was also introduced as a stand-alone bill (H.R. 1848, the Right to Breastfeed Act), would extend this policy to all federal property covered by the Treasury-Postal appropriations bill.

We initially introduced H.R. 1848 because we have heard from many women across the country who have been shamed and ridiculed when they have chosen to breastfeed their children in federal buildings, and other federal property. Often, the are simply asked or told to leave a federal building, park, or office.

We would like to share with you a few of these examples:

A New York woman was to leave a Post Office while she was breastfeeding her child.

A New Jersey woman was stopped from breastfeeding when she visited a federal park in New Jersey. She was ordered by a tour guide to go outside to continue breastfeeding.

Another woman was waiting for several hours in a court house to present her case when she began to nurse her son and was told to leave the holding room.

Another woman was asked to stop nursing in Yosemite by a park ranger. Her husband, a pediatrician, cited all of the medical benefits to breastfeeding, and eventually the ranger backed down. Many other women would have simply backed down and decided that breastfeeding was not "acceptable" in public.

A Delaware woman was visiting a Washington, D.C., museum and began nursing her son in the back corner of the bookstore. She was harassed by the bookstore clerk and 4 security guards before being allowed to leave.

A Virginia woman visited Wolf Trap Farm Park's Theatre-in-the-woods (a federal park) in the summer of 1993 with her children. She began nursing her then 10-month-old daughter, Amy, and was approached by park rangers who told her to stop breastfeeding because the breast milk "attracts bees." This incident led to the passage of Virginia's 1994 legislation exempting breastfeeding mothers from indecent exposure statutes. Thirteen other states have enacted similar laws.

Another woman was visiting the U.S. Capitol where she was observing a session of Congress with her 3 daughters. When the youngest daughter became hungry, she began to nurse her discreetly. A guard approached her and asked her to "do that somewhere else." The same thing happened outside in the hallway.

While visiting the National Museum of Natural History, a guard instructed a Maryland woman who was breastfeeding her child to leave because there is "No food or drink" allowed in the museum. A woman nearby was feeding a child with a bottle.

When public breastfeeding is restricted, so is a breastfeeding woman's access to public facilities and functions.

Many states have already enacted similar legislation. They include: Alaska, California, Delaware, Florida, Illinois, Michigan, Nevada, New Jersey, New Mexico, New York, North Carolina, Texas, Utah, Virginia, and Wisconsin. Others are still working to pass such legislation.

Why is this such an important issue? Many of you are aware that breastmilk is the first line of immunization defense for infants and enhances the effectiveness of vaccines they receive.

Research studies show that breastfeeding can reduce the risk of allergies, meningitis, some types of cancers, juvenile diabetes, asthma and other respiratory illnesses, and ear infections.

And the benefits flow both ways. Breastfeeding has been shown to reduce the mother's risk of breast and ovarian cancer, hip fractures, and osteoporosis.

In fact, in 1997, the United States had one of the lowest breastfeeding rates of all industrialized nations and one of the highest rates of infant mortality.

I would like to point out that while there are no laws specifically against breastfeeding, a woman asked to leave federal property has no recourse, and that is why we hope this Congress will send the message to women in America:

Breastfeeding is an important choice that many women make.

Breastfeeding is natural.

And breastfeeding is welcome on federal property.

I urge a "yes" vote on this common-sense, bipartisan amendment.

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

Mr. Chairman, I simply want to commend the gentlewoman for the work that she has done on this issue. I also want to mention the gentlewoman from California (Ms. ROYBAL-ALLARD) who has also in the Committee on Appropriations worked on this issue. Obviously this is, we think, a very fundamental and appropriate policy. The Federal Government ought to be encouraging this healthy activity on behalf of families in America and would hope that we would adopt it.

Ms. MORELLA. Mr. Chairman, I rise in support of the Maloney amendment. This amendment will ensure that women have the right to breast-feed on any federal property where a woman and her child are otherwise authorized to be.

As you know, breastmilk contains all the nutrients a child needs for ideal growth and development, promotes closeness between mother and child, and is easy to digest. It is the first line of immunization defense and enhances the effectiveness of vaccines given to infants. Research studies show that children who are not breast-fed have higher rates of mortality, meningitis, some types of cancers, asthma and other respiratory illnesses, bacterial and viral infections, allergies, and obesity. Additionally, breastmilk and breast-feeding have protective effects against the development of a number of chronic diseases, including juvenile diabetes and lymphomas.

In 1997, the United States had one of the lowest breast-feeding rates of all industrialized nations and one of the highest rates of infant mortality. While there are no laws specifically against breast-feeding, a woman asked to leave federal property has no recourse.

Twenty-three states have already enacted similar legislation and it is time to set a federal example by ensuring a woman's right to breast-feed.

Women should not encounter obstacles or be made to feel embarrassed when attempting to breast-feed on federal property. I urge my colleagues to join me in supporting this important amendment.

Mr. SHAYS. Mr. Chairman, I rise in support of the Maloney-Shays-Morella amendment to ensure a woman's right to breastfeed her child in federal buildings and on federal property.

As an original cosponsor of the Right to Breastfeed Act, I strongly support this common-sense reform.

Breastfeeding is a natural and healthy choice. Breast milk helps protect against a number of childhood diseases, including ear infections, juvenile diabetes, lymphoma, some chronic liver diseases, and allergies.

In addition to containing all the nutrients a child needs for ideal growth and development, breastfeeding promotes closeness between a mother and child, and is easy to digest.

While not all mothers choose to breastfeed, those who do should be able to feed their child on federal government property without fear of harassment.

It is unfortunate that this amendment is necessary. Women across the country—indeed in the U.S. Capitol where we stand today—have been asked or told to leave a federal building park or office because they were breastfeeding.

Examples include the story of a woman who was visiting the U.S. capitol to observe a session of Congress with her three daughters, and began to nurse her youngest daughter discreetly. A guard approached her and asked her to "do that somewhere else." The same thing happened outside in the hallway.

A New York woman was asked to leave a Post Office while she was breastfeeding her child and another woman was waiting for several hours in a court house to present her case was told to leave the holding room when she began to nurse her son.

While visiting the Nation Museum of Natural History, a guard instructed a Maryland woman who was breastfteeding her child to leave because there is "no food or drink" allowed in the museum.

These examples sound crazy, I know, but they reflect the very real problem women are

having when breastfeeding their children on federal property.

While there are no laws specifically against breastfeeding, a woman asked to leave federal property often has no recourse. When public breastfeeding is restricted, so is a breastfeeding woman's access to public facilities and functions.

I am pleased the Fiscal Year 2000 Interior Appropriations Act included a similar amendment to allow breastfeeding at federal parks, the Smithsonian and other federal museums.

Let's close the loop and preserve a woman's right to breastfeed on all federal property.

I urge you to support this common-sense amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to support Representative Maloney, Shays, and Morella's amendment regarding breastfeeding on federal property.

The amendment will protect a woman who chooses to breastfeed her child while she is visiting federal property.

Although there are no laws specifically prohibiting breastfeeding, this amendment will ensure that women are welcome on federal property when they are breastfeeding, and that they will never be turned away from federal buildings.

Many women across the country who have been shamed and ridiculed when they have chosen to breastfeed their children in federal buildings, and other federal property. Often, they are simply asked or told to leave a federal building, park, or office.

For example: A New York woman was asked to leave a Post Office while she was breastfeeding her child. A New Jersey woman was stopped from breastfeeding in July, 1998, when she visited the Edison National Historic Site (a federal park in NJ).

A woman was waiting for several hours in a court house to present her case when she began to nurse her son and was told to leave the holding room. A woman was asked to stop nursing in Yosemite by a park ranger. A Virginia woman was told to stop breastfeeding at the Wolf Trap Farm Park's Theatre-in-the-Woods (a federal park) in the summer of 1993 because, she was told, ''it attracts bees.''

Another woman was visiting the U.S. Capitol where she was observing a session of Congress with her 3 daughters. When her youngest daughter became hungry, she began to nurse her discreetly. A guard approached her and asked her to ''do that somewhere else.'' The same thing happened outside in the hallway.

While visiting the National Museum of Natural History, a guard instructed a Maryland woman who was breastfeeding her child to leave because there is ''no food or drink'' allowed in the museum. When public breastfeeding is restricted, so is a breastfeeding woman's access to public facilities and functions.

Many states have already enacted similar legislation. They include: Alaska, California, Delaware, Florida, Illinois, Michigan, Nevada, New Jersey, New Mexico, New York, North Carolina, Utah, Virginia, Wisconsin including my state of Texas. Many others are working to pass similar legislation.

A similar amendment was adopted by the full Appropriations Committee on the Interior Appropriations bill, allowing breastfeeding at federal parks and in the Smithsonian and other federal museums. The amendment on Interior passed unanimously by voice vote.

Breastmilk contains all the nutrients a child needs for ideal growth and development, promotes closeness between mother and child, and is easy to digest. It is the first line of immunization defense and enhances the effectiveness of vaccines given to infants.

Research studies have also shown that breastmilk and breastfeeding have protective effects against the development of a number of chronic diseases, including juvenile diabetes, lymphomas, Crohn's disease, celiac disease, some chronic liver diseases, and ulcerative colitis.

Breastfeeding has been shown to reduce the mother's risk of breast and ovarian cancer, hip fractures, and osteoporosis. I ask my colleagues to support this very vital and important amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of the amendment offered by our colleague, CAROLYN MALONEY, to permit breast-feeding in federal buildings or on federal property.

Congresswoman MALONEY has been a leader in promoting the importance of breast-feeding and in removing the obstacles facing nursing mothers.

Based on legislation Ms. MALONEY introduced, I offered an amendment to the Interior Appropriations bill permitting breast-feeding in our national parks and Washington-based museums and cultural attractions.

Unfortunately, there had been a series of anecdotes where mothers were confronted by museum guards or park rangers while nursing their babies.

I was pleased that the full appropriations committee unanimously accepted the amendment, and it was part of the bill that we passed last night.

The amendment in front of us today would expand that same concept to federal buildings and federal property. Some colleagues have asked me: is this really a problem?

That question goes to the real importance of this amendment. The fact is, we all know the benefits of breast-feeding. And this amendment ensures that women can continue to live the active lives that American society requires of them in the 1990's.

It means women can be mothers and be all the other things we expect them to be. Who knows what daily activities will bring mothers and their nursing children in contact with the 8400 federal buildings nation-wide. For example, maybe a farm family is visting U–S–D–A to put the farm's crop insurance package together.

Or maybe a new American is visiting the I–N–S to obtain visas for family members. Or maybe a small businesswoman has an appointment to receive technical advice from the S–B–A. Or maybe she and her child are mailing letters and packages at the post office. Or maybe a military family is going about its day-to-day activities on a military base.

The undeniable fact of life is that hungry babies demand to be fed no matter where they are. And in 1999, American mothers and their children are everywhere. Unfortunately, breast-feeding obstacles are a fact of daily life. La Leche League International, the well-known breast-feeding organization, reports that up to 60 mothers a month contact them to inquire about their legal rights after being asked to stop breast-feeding by a security guard, a store manager, or someone else in authority.

We can't transform the sensibilities of everyone overnight, but we can send a positive message to mothers and families trying to fulfill their responsibilities of everyday life in our increasingly complex society. The Maloney amendment is a positive step forward, and I urge my colleagues to support this strong signal of support to American mothers and families.

Ms. LEE. Mr. Chairman, on behalf of women, children and Barbara Lee, I thank my colleague from New York for her leadership. I rise in strong support of the Maloney, Shays, Morella, Lee amendment.

It is a shame that women who breast-feed their babies have to worry about being told to leave federal property or that they are engaging in inappropriate behavior while breast-feeding on federal property. Children should not have to be uncomfortable with hunger because their mother cannot breast-feed them while on federal property. Breast-feeding reduces the risks of many diseases and promotes a child healthy development. We should not penalize women and babies by refusing to be clear that it is not a crime to breast-feed on federal property.

I am proud to say that in 1997 a bill was signed into law in California that authorizes a mother to breast-feed her child in any location, public or private except in the private home or residence of another. This law has heightened public awareness of the need of breast-feeding. It is time that now in 1999, the federal government sends a strong message that no longer women can be asked or told to leave federal property if they are breast-feeding. This is an amendment that will go a long way in reassuring women that they have a right to breast-feed on federal property, that we support the healthy development of babies and in no way will allow mothers and children to be subject to harassment and intimidation any more for doing what is natural and necessary.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. ANDREWS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. Andrews:

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

SEC. . None of the funds made available in this Act may be used by the United States Customs Service to admit for importation into the United States any item of children's sleepwear that does not have affixed to it the label required by the flammability standards issued by the Consumer Product Safety Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) and in effect on September 9, 1996.

Mr. ANDREWS. Mr. Chairman, this is an attempt to right what I believe is a shameful abandonment of consumer protection here in the United States.

In 1972, the Consumer Product Safety Commission adopted a rule with respect to sleepwear, pajamas, for infants and toddlers. That rule said that if the sleepwear was not treated with flammable-resistant material, that is to say, if it was not put together in such a way that it was flame retardant, you had to put a clear label on it that explained that to the buyer of the sleepwear. Nurses, firefighters, emergency service personnel, emergency room technicians, doctors understood and supported this standard for 24 years. It resulted in a dramatic reduction in the number of deaths and serious injuries suffered by children and infants as a result of burns.

Inexplicably, in 1996, the Consumer Product Safety Commission, by a 2 to 1 vote, changed that standard and weakened it, created a standard for disclosure and labeling on children's sleepwear that is frankly baffling. If you go into a store in this country and try to figure out which of the little pajamas are flammable and which are not, it is virtually impossible to tell because of the confusion that has been created.

Last year, thanks to the leadership of the gentleman from Pennsylvania (Mr. WELDON) and the gentlewoman from Connecticut (Ms. DELAURO), we were successful in getting the Consumer Product Safety Commission to reconsider this decision. In June of this year, the Consumer Product Safety Commission made a decision, and I believe fervently they made the wrong decision, because they kept in place the new standard that is a weaker standard, that does not protect the children of this country. Therefore, this amendment.

This amendment would prohibit the importation into this country of infant and children's sleepwear that does not have the disclosure standards that were in effect prior to the 1996 change. In other words, if you are going to import infant sleepwear or pajamas, as the vast majority of pajamas are imported, you could not import them into this country unless they had that real and strong consumer protection standard which I believe was a serious and egregious mistake to abandon.

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

Mr. ANDREWS. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentleman for yielding.

Mr. Chairman, I had understood there were some members of the Committee on Ways and Means that might object to this, but they have not shown up and I am prepared to accept this amendment if we can move it along as quickly as possible.

Mr. ANDREWS. I would gratefully accept. I thank the gentlewoman from Connecticut (Ms. DELAURO) for her participation and the gentleman from Maryland (Mr. HOYER). I would be delighted.

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

Mr. ANDREWS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I am a strong supporter of the gentleman's amendment and the gentlewoman from Connecticut's amendment and would hope that we would adopt it.

Mr. ANDREWS. I yield briefly to my coauthor the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I commend the gentleman from New Jersey for offering the amendment. The gentleman from New Jersey (Mr. ANDREWS), the gentleman from Pennsylvania (Mr. WELDON) and myself were as, as has been pointed out, shocked and dismayed with what happened with the Consumer Product Safety Commission. We have had a strong standard for two decades. The interest here is to make sure that our infants and children are protected and that the clothing that they wear has the fire-resistant material that for so many years has made a real difference in the lives and well-being of children in this country.

I want to commend my colleague ROB ANDREWS for offering this very important amendment today and I thank him for his hard work on this issue which is so important to the safety of our nation's children.

I know Congressman ANDREWS and Congressman WELDON shared my shock and dismay at the Consumer Product Safety Commission's actions in weakening the fire safety standard which governed children's pajamas.

For more than two decades, children's sleepwear has been held to a more stringent standard of fire safety than any other type of clothing. The National Fire Protection Association estimates that without this strict standard, there would have been ten times as many deaths and significantly more burn injuries relating to children's sleepwear.

Yet for reasons I can not understand, the CPSC has weakened that standard, so that now there is no fire safety standard for infants up to nine months, and no fire safety standard for "tight fitting" clothes up to children's size 14. This action leaves children in grave danger of being burned or killed in a fire. Infants are completely defenseless in this type of situation. If we don't act, the numbers of children burned in these types of incidents will only rise.

This amendment will make sure that only sleepwear which conforms to the fire safety standard passed in the Flammable Fabrics Act more than two decades ago is imported into our country. As the CPSC has again decided—for reasons which quite frankly mystify me—to stay with the weaker standard, this is a step in the right direction. It will also send a strong message to the Consumer Product Safety Commission, letting them know that the Congress is extremely concerned about this issue and is not content to let it drop.

Congress has the responsibility to do all that we can to protect the health and safety of our nation's children. This amendment will help us to do just that. I urge all of my colleagues to support this amendment and help to ensure that children are kept safe from burn injuries and even death. Support the Andrews amendment.

Mr. ANDREWS. Reclaiming my time, I want to express my deep appreciation to the gentleman from Arizona and the gentleman from Maryland.

Mrs. MORELLA. Mr. Chairman, I rise in support of the Andrews, Weldon, Towns, Farr, English, Capuano, Luther, Hoyer, DeLauro, Morella, Kilpatrick amendment. This provision would prohibit the importation of any item of children's sleepwear without a label as required by the flammability standards issued by the Consumer Product Safety Commission (CPSC).

Our children are precious and we must make every effort to keep them safe. But there are so many hidden hazards in the world, and parenting doesn't come with an instruction manual. It's strictly on-the-job training.

When my children were little, we didn't know that we had to worry about keeping them safe in their pajamas. For more than 25 years, with passage of the Flammable Standards Act in 1972, children in America were protected from the risk of fire from their sleepwear. The CPSC, in 1996, voted to relax the fire safety standard for children's sleepwear. The new standard exempts all sleepwear for infants aged nine months and younger, and tight-fitting sleepwear for children sizes 7–14. I have been particularly concerned about the exemption from flammability standards for infants. As any parent or grandparent knows, children under 9 months of age often are active and may come in contact with ignition sources.

That is why I am a cosponsor of H.R. 329, which directs the CPSC to return to stricter flammability standards that were in effect for two decades prior to 1996. If we allow children's sleepwear products to be imported without any safety standards, we will be sending a message to the CPSC that their relaxed standards are acceptable.

You know, unintentional injury is the number one killer of children ages 14 and under. Each year, unintentional injuries kill 7,200 kids and leave an additional 50,000 disabled.

This year approximately 14 million children will require emergency treatment for preventable injury and will cost this country an estimated $13.8 million. Fortunately, we know that prevention saves lives and money. If we allow sleepwear to be imported from other countries that is not flame resistant, we will be putting our children at great risk. This amendment is a Measure of Prevention to protect our children from harm.

I urge a "yes" vote on the Andrews Children's Sleepwear Amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SANDERS

The CHAIRMAN. The pending business is the demand for a recorded vote

on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 228, not voting 14, as follows:

[Roll No. 304]

AYES—192

Abercrombie
Aderholt
Andrews
Armey
Bachus
Baker
Barr
Bartlett
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Bonilla
Brown (OH)
Bryant
Burr
Buyer
Camp
Campbell
Canady
Cannon
Chabot
Clay
Coburn
Collins
Condit
Conyers
Cook
Costello
Cox
Crane
Cubin
Cunningham
Danner
Davis (IL)
Deal
DeFazio
DeMint
Diaz-Balart
Doolittle
Duncan
Ehrlich
Emerson
English
Evans
Everett
Fletcher
Foley
Fossella
Fowler
Franks (NJ)
Ganske
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson, Sam
Jones (NC)
Kaptur
Kasich
Kingston
Klink
Kucinich
Largent
Lee
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller, George
Mink
Moran (KS)
Myrick
Ney
Norwood
Owens
Packard
Pascrell
Paul
Pease
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Pombo
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reynolds
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Serrano
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stark
Stearns
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Taylor (MS)
Terry
Thornberry
Thune
Tiahrt
Toomey
Traficant
Turner
Upton
Velazquez
Visclosky
Vitter
Walden
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wise
Wolf
Woolsey

NOES—228

Ackerman
Allen
Archer
Baird
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Callahan
Calvert
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clayton
Clement
Clyburn
Combest
Coyne
Cramer
Crowley
Cummings
Davis (FL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Ewing
Farr
Fattah
Filner
Forbes
Ford
Frank (MA)
Frelinghuysen
Gallegly
Gejdenson
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Goss
Green (TX)
Hall (OH)
Hansen
Hastings (FL)
Herger
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holt
Hooley
Horn
Houghton
Hoyer
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kanjorski
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Oxley
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Portman
Price (NC)
Radanovich
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Schakowsky
Scott
Shaw
Shays
Sherman
Sisisky
Skelton
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Vento
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wilson
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Baldwin
Brown (CA)
Burton
Chenoweth
Coble
Cooksey
Frost
Gilchrest
Latham
Luther
McDermott
McNulty
Peterson (PA)
Thurman

□ 2313

Messrs. MOAKLEY, TIERNEY, and GARY MILLER of California, Ms. DUNN, Mrs. KELLY, Mr. BARCIA, and Ms. SANCHEZ changed their vote from ''aye'' to ''no.''

Messrs. RILEY, SWEENEY, LEWIS, TIAHRT, BLUNT, and WELDON of Florida, Ms. WOOLSEY, Ms. GRANGER, Mr. MICA, Mr. BUYER, Mrs. FOWLER, and Mr. LARGENT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) 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. 2490) 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, pursuant to House Resolution 246, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HOYER. I am, Mr. Speaker, opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HOYER moves to recommit the bill, H.R. 2490, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on motion to recommit.

The motion to recommit was rejected.

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

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

The vote was taken by electronic device, and there were—yeas 210, nays 209, not voting 16, as follows:

[Roll No. 305]

YEAS—210

Abercrombie
Aderholt
Archer
Armey
Bachus
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla

Bono
Brady (TX)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Coburn
Collins
Combest
Condit
Cook
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Largent
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease
Petri
Pickering
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—209

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

NOT VOTING—16

Baldwin
Brown (CA)
Burton
Chenoweth
Coble
Cooksey
Frank (MA)
Frost
Gilchrest
Latham
Luther
McDermott
McNulty
Peterson (PA)
Sanford
Thurman

□ 2335

Messrs. BERMAN, HALL of Ohio, STENHOLM, DINGELL, Ms. BROWN of Florida, and Messrs. DIXON, BOYD and LAMPSON changed their vote from ''yea'' to ''nay.''

Messrs. GOODLATTE, WATKINS, and METCALF changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 1059, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

The SPEAKER pro tempore (Mr. PEASE). Without objection, the Chair appoints the following conferees from the Committee on House Administration, for consideration of section 1303 of the Senate bill and modifications committed to conference:

Messrs. THOMAS, BOEHNER and HOYER.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 254, VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

Mr. PORTMAN. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution (H. Res. 249) returning to the Senate the bill S. 254.

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

The Clerk read the resolution, as follows:

H. RES. 249

Resolved, That the bill of the Senate (S. 254) entitled the ''Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999'', in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectively returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

Pursuant to clause 2(a)(2) of rule IX, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

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

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 254 of the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. S. 254 contains an import ban and thus contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives.

Section 702 of S. 254 would impose the ban by amending section 922(w) of Title 18, U.S. Code, to make it unlawful to import large capacity ammunition feeding devices.

□ 2340

While violators would be subject to criminal penalties, existing tariff laws also generally provide that merchandise introduced into the United States contrary to law is subject to seizure and forfeiture. Therefore, by criminalizing the importation of these items, the amendment would cause the merchandise to be denied entry into the United States by these Customs officers at the border. This proposed change in law would be identical in law in operation, Mr. Speaker, to a direct import ban.

Further, the items covered by the amendment includes items that are subject to duty and Customs in fact collects measurable amounts of duty on them.

Accordingly, the change in law would have a direct impact on Customs revenues. The provision, therefore, is revenue affecting and constitutes a revenue measure in the constitutional sense. On that basis, I am asking that the House insist on its constitutional prerogatives.

Mr. Speaker, there are numerous precedents for the action I am requesting. For example, on October 22, 1991, the House returned to the Senate S. 1241, the Violent Crime Act of 1991, containing, among other things, a provision amending Section 922 of Title 18 U.S.C. making it illegal to transport or possess assault weapons.

I want to emphasize that this action speaks solely to the constitutional prerogative of the House and not to the merits of the Senate bill. In fact, the House spoke on this issue when it recently approved an identical proposal made by our colleague and chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE).

This proposed action, thus, is strictly procedural in nature and is necessary to preserve the prerogatives of the House to originate revenue measures, a point on which there has been longstanding and bipartisan agreement.

It makes clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill and for the Senate to accept it or amend it as it sees fit. This will allow this legislation to proceed forward to conference in an orderly and expeditious manner.

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

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

Mr. Speaker, unfortunately, this resolution is necessary because the Constitution requires that revenue legislation originate in the House of Representatives.

Our action tonight is not a rejection of the merits of the Senate's so-called ''ammo ban provisions.'' Rather, their so-called ''blue slip'' simply makes it clear to the Senate that the appropriate procedure for dealing with tax and tariff matters that affect revenues is for the House to act first and the Senate to add its amendment and to seek a conference.

With that said, no one supports the elimination of guns in our inner cities and in the hands of our children more than I do.

The dominance of guns in our community continues to threaten the lives of too many law-abiding citizens. The situation cannot be ignored any longer and must start with the cleanup of the deadliest murder weapons on our streets.

Why do some feel so threatened by preventing the importation of high-capacity ammunition clips? How many of us have even seen, let alone owned, these magazine belt drum belt strips and other types of ammunition devices that have the capacity to accept more than 10 rounds of ammunition?

The troubled young man who killed two and injured 15 people in Springfield, Oregon, had a 30-round clip. The misguided youths who engaged in this horrific shooting spree at the Columbine High School were equipped with a TEC DC–9 with multiple round ammunition. These types of ammunition clips are not for hunting or sport. These clips are designed to kill a lot and to kill a lot quickly.

Yes, people will continue to kill with guns. And, yes, these criminals must not escape justice. However, the death count criminals are able to achieve before getting caught is unnecessarily much greater with the high-capacity ammunition clips.

No one has explained to me how society benefits from high ammunition clips or cop killer bullets, for that matter.

Mr. Speaker, the gentlewoman from Colorado (Ms. DEGETTE) is a leader on this issue and is the author of the House-passed ammunition import ban. She should be commended for her commitment to ensuring that these provisions become law. I am confident that once the procedural problems created with the Senate's action are resolved, she will prevail on the merits.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, this week, 80 Colorado high school students came to Washington to visit with Members of Congress. These students were literally lobbying for their lives. They eloquently insisted that Congress support child gun safety legislation in the name of the Columbine students who were so senselessly murdered. They were asking Congress to forward at least the three Senate-passed child gun safety provisions to the President's desk so they may return to a safer school next year.

After 15 funerals in one year, one student sadly stated to us that he refused to attend another. That is why he was here today, to give us a reality check.

In light of these kids' pleas, it seems ironic that here tonight the House is forced on procedural grounds to request the Senate to remove one of only three child gun safety provisions in the bill, a high-capacity ammunition ban.

There are, however, some actions this body can take to correct this technicality and ensure the passage of this important legislation to finally stop these deadly weapons from crossing into our country. When a dynamic group of young men and women like the kids from SAFE Colorado emerge to promote something the House has already passed, the least we can do is preserve the few provisions we all in good conscience supported last month.

Last month, when the House considered child gun safety legislation, there were many passionate disagreements and little agreement on which amendments we should pass. Just like now, at about midnight or a little after, one provision passed in the middle of the night with little fanfare and no objection on a voice vote.

Along with the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), and the gentlewoman from California (Ms. LOFGREN) and the gentleman from Massachusetts (Mr. MEEHAN), I introduced an amendment to the bill, my pending legislation, to ban high-capacity ammunition magazines.

As I said, this amendment passed with no objection and by a voice vote and strong bipartisan support. Unfortunately, the underlying juvenile justice bill did not. Therefore, the House has not communicated its will to the Senate or to the conference committee. We need to bring this bill to the floor, and we need to pass it once and for all so that it is included in any final conference committee report that is approved.

Mr. Speaker, in 1994, when Congress passed the Violent Crime Control Law Enforcement Act, we thought we banned magazines for semi-automatic weapons which hold more than 10 rounds of ammunition. However, because of a concession to firearms distributors, high-capacity ammunition magazines manufactured prior to September, 1994, were exempted by Congress. We only agreed to this compromise with the expectation that manufacturers would sell off existing stockpiles.

Unfortunately, contrary to the spirit of this compromise, supplies have been seemingly limitless because of uncontrolled imports of magazines from such countries as China and Russia.

□ 2350

As a result, these deadly clips are as readily available today as they were in 1994 and the only purpose for these clips is to kill human beings.

Denver police officer Bruce Vander Jagt, for example, was shot 15 times in the head, neck and torso by the rapid-fire capabilities of his assailant's weapon.

One answer to this technical flaw that we are seeing here tonight, I think, must be a bipartisan solution. I want to thank the gentleman from Illinois (Mr. HYDE) for his steadfast commitment to fighting for this ban in the conference committee, but I am concerned that without a strong message from this House, a single conferee could procedurally block the ammunition ban from inclusion in the conference report.

Therefore, Mr. Speaker, I believe it is incumbent upon this House to pass H.R. 1037 which is the bill which has one purpose, and that is to ban these high capacity magazines, to pass it and

say to the Senate, include it in the conference report. People will no longer tolerate a country where thousands of people die of gunshot wounds every year and seven school shootings occur within a 2-year period. We all supported this ban before. Let us send a message and support it now again as a full House.

Mr. Speaker, I have filed House Resolution 192, a discharge petition, to bring my ammunition magazine ban, H.R. 1037, to the House floor for a vote. It is at the desk, and in a moment I am going to ask for unanimous consent to bring H.R. 1037 to the floor for immediate consideration. If this motion is ruled out of order, I urge all Members from both parties who are for reasonable gun control legislation to sign the discharge petition.

Mr. Speaker, I ask unanimous consent to bring H.R. 1037 which would ban the sale, transfer and possession of high capacity ammunition magazines to the House floor.

The SPEAKER pro tempore (Mr. PEASE). There is a question of privilege pending before the House.

In any event, under the guidelines consistently issued by successive Speakers and recorded on page 534 of the House Rules Manual, the Chair is constrained not to entertain the gentlewoman's request until it has been cleared by the bipartisan floor and committee leadership.

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

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman for yielding me this time.

I wish we were here, Mr. Speaker, in fact this evening to seriously deal with the concerns that have been expressed by the students from Columbine High School, to seriously deal with the issue of 13 children dying every day from gunfire, and realizing that the responsibility of the House of Representatives is to answer the question about gun safety and gun safety responsibility. Yet what we find ourselves doing at 11:50 at night is to deal with a procedural question which would in fact stymie the opportunity to pass legislation banning large capacity ammunition clips.

Mr. Speaker, during the work recess, I had the opportunity to visit one of the many gun shows that show up in the Houston area. It reminded me of the very intense debate that we had just a couple of weeks ago around the issue of gun safety and safety as it relates to our children. The McCarthy amendment, for example, that would close the gun show loophole. We failed to do our job at that time, Mr. Speaker, and now we come at 11:50 again to deal with the procedural constitutional question to make in order the Senate bill because it is not consistent with the House legislation. While we are doing that, we are ignoring why we should be here. Every day we are allowing large capacity ammunition clips to be available, gun shows continue to proliferate around the Nation, guns are proliferating in the hands of children, there is no waiting period. In fact, we are finding individuals, felons who are not supposed to have guns in their hands, every day are securing them. Tragedies are occurring in places like Chicago where hate crimes are being perpetrated against blacks and Jews and others because guns are so freely utilized in this Nation.

Mr. Speaker, we are not opposed to the second amendment. We want to just get to work. It is unfortunate tonight that we cannot cure the problem and provide a ban for large capacity ammunition clips, but more importantly it is very sad that we cannot respond to the children of America as they are playing and enjoying their summer but looking toward to the start of a new school year, we cannot say to them that this Congress has joined together to ensure that they will enter the new school year with dreams and aspirations and the belief that they will be safe.

Let us not perpetrate another Columbine. Let us tell the students of America that we are much more willing to stand with them than we are to stand with the National Rifle Association. Although this is a procedural discussion tonight, I want to offer my sadness and encourage the Speaker and encourage my colleagues in a bipartisan way to get back to work on gun safety legislation, to look seriously at juvenile justice and really look seriously at banning large capacity ammunition clips as was noted by my colleague from Colorado that was passed by voice vote. We can get to work and stand on the side of our children and against those who would provide or create an atmosphere that was not safe.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, it is unconscionable that Congress has not yet enacted common sense gun safety legislation to save the lives of American children. Today, we heard firsthand from Colorado students who pleaded for Congress to take the steps needed to keep guns out of the hands of criminals and children.

But congressional leaders have not acted. Congress has not listened to the children whose classmates' lives were claimed by gun violence. And today we see even more delay, more obstacles blocking efforts to save children's lives. The time is long past to enact gun safety measures, but sadly the leaders of this Congress have consistently turned their backs on limited common sense measures that would take children out of the line of fire.

Today I listened to a young woman named Erin from Columbine High School talk about the tragic loss she suffered when close friends of hers were shot dead. She fought back tears as she said that no one should have to experience the loss that she has. Erin and her fellow Colorado high school students urged the Congress to move forward to protect young people with reasonable gun safety measures such as those passed by the Senate. Ensuring that criminals will not be able to buy weapons at gun shows, that child safety locks will be provided with handguns and that unnecessarily lethal high capacity ammunition clips will be kept out of the country.

This effort tonight is just one more excuse not to do what the American public would like us to do. If this was a problem, why did we not deal with it weeks ago? If it is not a problem, it appears that Republican leaders are using procedural gimmicks to go back on the commitment made to appoint conferees who will support gun safety measures, including a ban on importing dangerous high capacity ammunition clips. The clip ban passed without objection in the House and must be part of any gun safety package that this Congress passes.

When students who have experienced tragic gun violence put their pleas in heartfelt and straightforward terms as Colorado students did today, how in good conscience can Congress delay any longer? Let us go to conference, let us do what it takes to make our schools and our streets safer for our young people by passing gun safety legislation. Let us stop making excuses and start making progress.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, a lot of people do not understand the damage that large capacity clips can do. I know firsthand the damage they can do. On the Long Island Railroad, Colin Ferguson had large capacity clips. Many people said it would not have made any difference. It would not have made a difference to the people that were killed in the front of the train, but at the end of the train where the clips were finally taken away from him, we might have been able to save some young people at the end of the train. That is what large capacity clips do.

I beg the Speaker to bring it forward again so we can get going on this. We saw so many young people here today in Washington, bright young people, people I think that are smarter than us here in Congress. If you listen to them, they are the ones that were facing the violence in the schools.

The other day in my district, we talked about gun violence. Our parents, our children, they are scared. We have to do something. We can do it

bipartisanly. We can. We can work together and work something out. The bottom line is we have to keep guns, high capacity clips, away from criminals. And we certainly have to make sure guns do not get into the hands of children. That is all we are asking. Nothing more, nothing less. I think if we all sit down together and work together, we can do this.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

□ 0000

Ms. LOFGREN. Mr. Speaker, what are we waiting for? Instead of moving forward and appointing conferees, we are playing more political games with the lives of children, using the cloak of what is unobjectionable through unnecessary procedure to create the illusion of forward progress, doing nothing while we create the illusion of progress, doing nothing while 13 children are killed as a result of gun violence in this Nation every day.

In one month exactly the children who attend Columbine High School in Littleton, Colorado, will be returning to school. That means we have only 3 weeks to settle the gun safety issues before we adjourn for summer recess. It has been 3 months, 90 days, since the tragedy in Columbine occurred.

Just several years ago the Republicans took 1 week to propose legislation to undo the assault weapons ban, but a simple proposal to close the gun show loopholes to keep guns out of the hands of children takes months and months. We all know it is a stall.

The entire process on gun violence has been a shell game, but as parents and children shop for clothes and notebooks and backpacks, and my children and I will be shopping for backpacks in the next 3 weeks, they should be free from worries about their children's safety from gun violence in schools.

We have differences to settle between the House and Senate passed gun safety and juvenile justice bills. We should be appointing conferees and getting down to the serious work of debating and voting on the gun safety provisions passed by the Senate instead of wasting more time.

This conference should be a careful and deliberative process that American families and schoolchildren can be proud of. We should get started today.

All we are proposing are modest and reasonable steps to make all of us, especially the children, safer from dangerous people and disturbed kids with guns, plugging the gun show loophole, requiring the gun safety locks, banning the high capacity ammo clips, the Hyde-Lofgren amendment banning juvenile possession of semiautomatic assault weapons.

What criminals are stopped from getting guns from licensed dealers because of the Brady background check? Murders, rapists, child molesters, fugitives, stalkers, batterers, and who wants these people to buy guns and threaten us and our children? Why would anyone want criminals to get guns?

We should plug the loophole and stand up to the gun lobby.

Mr. Speaker, kids are going back to school. It is time for Congress to act before they end up there. Let us stop the stalling. Let us stop the games. Let us do our job.

Mr. RANGEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. LOWEY), beloved former candidate for the United States Senate.

Mrs. LOWEY. Mr. Speaker, I thank the dean for his generosity at midnight.

I do think, Mr. Speaker, that it is extremely unfortunate that we are here tonight at midnight debating this procedural motion, but I have to say that it is just typical of the way the leadership has managed the gun safety issue. Instead of appointing conferees and enacting meaningful gun safety measures, they are once again throwing an obstacle in the way of legislation to protect our children from gun violence. The truth is that there have been delaying tactics at every turn.

The long, sad saga of this bill is a disgrace to this House. First we were told not to offer gun safety amendments to an appropriations bill because we would consider the juvenile justice bill in regular order. Then, after the Committee on the Judiciary was totally bypassed and a sham juvenile justice bill was put up on the floor and defeated, we were told that conferees would be appointed before July 4. Then we were told again just 2 days ago not to offer or vote for amendments to appropriation bills on gun safety because the conference would be meeting soon on juvenile justice.

Well, here we are months after the tragedy of Columbine High School, we still do not have conferees appointed. What is it going to take for the leadership to wake up and listen to the cries of American families? When are our colleagues going to understand that the issue is not going away? How long will we have to wait before Congress does something to protect our schools from gun violence?

Each time we are faced with a delay, our calls will only get louder. We will not back down, we will not go away, we will continue to insist that Congress do its part to make our communities safer.

It is clear that the American people are demanding action now, and it is time for us to say loud and clear that we cannot allow the NRA to write our Nation's gun laws any more.

Mr. Speaker, after talking to these young people that came to Washington today, I do not know how any of us can look in their eyes and not make a very clear commitment that we are going to do our best to pass common sense gun legislation now.

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

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

Mr. Speaker, I just want to remind my colleagues again that tonight we are only dealing with a procedural issue, and it is one that is very important because it is necessary to protect the prerogatives of the House, something I know the gentleman, the courteous gentleman from New York, and many other Members of this House feel very strongly about. This is not about the substantive policy issue of the legislation. In fact, the action tonight will allow the juvenile justice legislation to move toward conference in a more expeditious and orderly manner.

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.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 434, AFRICA GROWTH AND OPPORTUNITY ACT

Mr. DIAZ-BALART from the Committee on Rules, submitted a privileged report (Rept. No. 106–236) on the resolution (H. Res. 250) providing for consideration of the bill (H.R.434) to authorize a new trade and investment policy for sub-Sahara Africa, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 2415, AMERICAN EMBASSY SECURITY ACT OF 1999

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 247 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 247

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. 2415) to enhance security of United States missions and personnel overseas, to authorize appropriations for the Department of State for fiscal year 2000, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. Before consideration of any other amendment it shall be in

order to consider the first amendment printed in part A of the report of the Committee on Rules accompanying this resolution, if offered by Representative Gilman or his designee. That amendment shall be considered as read, shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against that amendment are waived. After disposition of that amendment, the provisions of the bill as then amended shall be considered as original text for the purpose of further amendment under the five-minute rule. No further amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 2 of this resolution. Each amendment printed in the report of the Committee on Rules may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. It shall be in order at any time for the chairman of the Committee on International Relations or his designee to offer amendments en bloc consisting of amendments printed in part B of the report of the Committee on Rules not earlier disposed of or germane modifications of any such amendment. Amendments en bloc offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 3. After passage of H.R. 2415, it shall be in order to take from the Speaker's table the bill S. 886 and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2415 as passed by the House. All points of order against that motion are waived.

□ 0010

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 247 is a structured rule providing for the consideration of H.R. 2415, the American Embassy Security Act of 1999. The rule provides for 1 hour of general debate, equally divided between the Chairman and the ranking minority member of the Committee on International Relations.

In addition, the rule provides that before consideration of any other amendment, it shall be in order to consider the first amendment printed in the report of the Committee on Rules, if offered by the gentleman from New York (Mr. GILMAN) or his designee.

This amendment, which shall be considered as read, shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to an amendment. Further, this amendment shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order are waived against that amendment.

The rule also provides that no further amendment to the bill shall be in order except those printed in the Committee on Rules report and the amendments en bloc described in section 2 of this resolution.

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

Further, the rule authorizes the chairman of the Committee on International Relations or his designee to offer amendments en bloc consisting of amendment numbered 4 through 41 printed in the report of the Committee on Rules, or germane modifications of any such amendment which shall be considered as read, except that modifications shall be reported, and shall be debatable for 20 minutes, equally divided and control by the chairman and ranking minority member of the Committee on International Relations or their designees.

The en bloc amendments shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The rule allows the chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. Also, the rule provides 1 motion to recommit, with or without instructions.

The rule further provides that after passage of H.R. 2415, it shall be in order to take from the Speaker's table the bill, S. 886, and to consider the Senate bill in the House. The rule waives all points of order against the Senate bill and against its consideration.

Finally, the rule provides that it shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2415 as passed by the House. All points of order against that motion are waived.

Mr. Speaker, I would like to explain why we are making H.R. 2415, the American Embassy Security Act of 1999, in order as the base text. Unfortunately, H.R. 1211, the Foreign Relations Authorization Act, as reported by the Committee on International Relations, increased discretionary spending in excess of what the committee was allowed to spend under the budget.

In full consultation with the minority on the Committee on International Relations, the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Georgia (Ms. MCKINNEY) introduced H.R. 2415 on July 1 to make their bill comply with the budget.

Also on July 1, the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER) announced on the House floor and the Committee on Rules sent out a Dear Colleague informing Members of the likely consideration of this new bill, H.R. 2415, this week. In this announcement, Members were advised that their amendments should be drafted to 2415 and not 1211.

I hope that this clears up any confusion over the process involved with with today's legislation.

In considering amendments, Mr. Speaker, the Committee on Rules was as fair and open as possible, while keeping the commitment made to refrain from allowing any U.N. arrearages amendments or Mexico City policy amendments.

Aside from the manager's amendment, which was given waivers so that it may be considered separately, as opposed to being self-executed by the

rule, only amendments which would have otherwise been in order under an open rule were allowed. In fact, of the 50 amendments filed before the Committee on Rules, we were able to make 41 of them in order. Twenty-two from Democrats, 12 from Republicans, and 7 bipartisan amendments have been made in order. I believe this is a generous composition, and I applaud the gentleman from California (Mr. DREIER) and my colleagues on the committee for reaching this balance.

I am pleased to support, Mr. Speaker, this fair rule, which brings forth very important legislation aimed at providing U.S. diplomats, security agents, and law enforcement personnel the ability to safely defend U.S. interests around the world.

Among the many strong points in this legislation, I am pleased to see that we are taking effective steps toward enhancing security at our embassies. I know none of us would like to relive the tragedies that occurred almost a year ago in some of our embassies in Africa, and I believe H.R. 2415 will provide necessary resources to help prevent such acts of terrorism.

I am also encouraged that the bill is moving in the right direction in our fight against narco-trafficking by requiring the Clinton administration to inform Congress on the extent, the genuine extent of international narcotics trafficking through Cuba.

Mr. Speaker, the bill also correctly expresses the sense of Congress, and I would like to thank my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN) for her leadership on this, that the U.S. should increase its support for pro-democracy and human rights activists in Cuba. The time has clearly come to implement a plan to assist the brave internal opposition in Cuba like the administration of President Reagan did with such brilliance with the Polish opposition during the dark years of martial law there.

This rule is not without precedent, Mr. Speaker. In the 103rd Congress, at the request of the Committee on International Relations chairman, the State Department authorization bill was considered under a structured rule. I look forward to a vigorous debate on this bill.

I see that a primary author, the gentleman from New Jersey (Mr. SMITH) is here and will address us, as well as the distinguished chairman of the Committee on International Relations, the gentleman from New York (Mr. GILMAN). It is an honor to serve with both of them in this House, and I look forward to listening to them, as I am sure all of our colleagues do, as well.

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

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

Mr. Speaker, this is a structured rule. It will allow for the consideration of H.R. 2415, which is a bill that authorizes funding for the operations of the State Department in fiscal year 2000.

As my colleague, the gentleman from Florida (Mr. DIAZ-BALART) has explained, this rule provides for 1 hour of general debate, which will be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations.

Only amendments specified in the report of the Committee on Rules to accompany this rule will be permitted to be offered on the House floor. The bill authorizes more than $1 billion for much needed improvements in the security of U.S. missions abroad, and in order to carry out foreign policy, our diplomats and their staffs in other countries must be able to work without fear.

Last April I was in Phnom Penh, Cambodia, and was astonished at the low security in the American Embassy there. This was as precarious as any I have ever seen in some of the embassies I have visited. The embassy's vulnerability is compounded by the unrest that is common in the city. I hope that the money from this bill will be used to improve the security in our Cambodian embassy.

Though this rule is restrictive, the Committee on Rules made in order nearly all of the germane amendments that were submitted in advance. I am pleased that the committee was generous in making in order a large number of Democratic amendments.

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Unfortunately, the bill does not authorize the United States to pay the Dreierback dues it owes to the United Nations. This is a major embarrassment for the United States. We owe more than $1 billion to the United Nations, going back almost a decade. We are the world's greatest superpower, but also the world's biggest deadbeat.

For all its faults, the United Nations is one of the best hopes for world peace. The UN's food and health programs have improved the lives of countless people. We should be supporting the UN, not causing a financial drain.

If we do not pay our back dues, eventually we will lose our vote in the UN General Assembly. We cannot let that happen.

The Senate version of the State Department Reauthorization Act, as passed by the committee, does include some money to pay back our back dues to the UN. I hope that the Senate language will prevail in conference.

One of the amendments made in order under this rule is an amendment I plan to offer expressing the sense of Congress in support of humanitarian assistance to the people of Burma.

Earlier this year, I visited humanitarian projects in Burma. I also met with government leaders, the leader of that country's democracy movement, and humanitarian aid workers. I heard a lot about hunger and disease in Burma.

President Reagan said, ''A hungry child knows no politics.'' That is every bit as true in Burma as it is anywhere else in the world. The people of Burma have the added misfortune of not living under a democracy. My amendment affirms the concern of Congress for the people of Burma without endorsing the policies of their government.

I urge adoption of the rule and of the bill.

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

Mr. DIAZ-BALART. Mr. Speaker, it is my privilege to yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I would like to begin by congratulating, not only the gentleman from Miami, Florida (Mr. DIAZ-BALART) for his superb management of this rule, but also the gentleman from Florida (Mr. GOSS), the vice chairman of the committee who joins us here, and the entire Committee on Rules staff, well not the entire staff, but many members of the Committee on Rules staff who are here.

I am proud of the fact that we, well many hours ago, opened this legislative day with work of the Committee on Rules. We are ending what will be this legislative day with work of the Committee on Rules. In just about 8½ short hours, we will be beginning the next legislative day with work of the House Committee on Rules. So we thank them very much. We enjoy this support and enthusiasm.

We also have a Committee on Rules member and staff members of the minority side who are here.

So I think that it is a great testimony to the hard work of this very important committee, which I am proud to chair.

As has been said by both the gentleman from Florida (Mr. DIAZ-BALART) and the gentleman from Ohio (Mr. HALL), we were able to make a large number of amendments in order for the minority. In fact, by a 22 to 12 ratio, the Democrats are favored when it comes to amendments here. As the gentleman from Florida (Mr. DIAZ-BALART) said, we have seven bipartisan amendments.

Now, frankly, this is a very, very serious measure. It was just a little less than a year ago that we saw the tragic bombings that took place in Nairobi and Dar es Salaam. It had a very, very devastating effect on, not only Americans here at home, but obviously on any American who was overseas.

This bill is designed to ensure that those Americans who proudly stand and represent the greatest Nation on the face of the earth and missions around the world have enhanced safety

as they proceed with that very important work.

I want to say that we have successfully seen the demise of the Soviet Union and an end to the Cold War due in large part to the stellar leadership of President's Ronald Reagan and George Bush.

We have, however, come to the realization that we do not live in a world that is free of any kind of threat. We not only face military threats, but we of course, as this bill addresses, continue to face the threat of terrorism.

So it is my hope that we will be able to move ahead with, again, what I believe to be a very fair and balanced rule.

I congratulate the gentleman from New York (Chairman GILMAN), the gentleman from Nebraska (Chairman BEREUTER) and the gentleman from New Jersey (Chairman SMITH), all of whom are again here at this late hour to help us proceed with debate on the rule.

Then we will, in the coming days, consider this important legislation. I hope that we will finally be able to see this bill, the State Department authorization language, become public law, which is something to which many of us have aspired for a long period of time.

Mr. DIAZ-BALART. Mr. Speaker, I am privileged to yield as much time as he may consume to the gentleman from New York (Mr. GILMAN), the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I, too, want to commend the Committee on Rules for their excellent job in presenting this measure to the floor at this time. We thank the gentleman from Florida (Mr. DIAZ-BALART) for his astute leadership, the gentleman from California (Mr. DREIER), our distinguished chairman, and the gentleman from Ohio (Mr. HALL), the ranking minority member, for being here with us today, and the staff members, at this late hour as well as the staff of our Committee on International Relations.

I rise in strong support of the rule on H.R. 2415, the American Embassy Security Act. The Committee on Rules, as I indicated, has done an outstanding job in working through the process to produce a fair rule. This rule, although technically structured, accommodates most all of the submitted amendments, and I think we will have some 40 amendments before us before we are done.

We have a very important bill to be considered by the House, one that will provide the authorization of funds to invest in the security of our Nation's personnel overseas and their workplaces, the 260 United States embassies and consulates around the world.

This bill also authorizes the operations and programs of the United States Department of State that will allow this agency to conduct diplomatic relations to provide our U.S. citizens services, passports, screen visa applicants, and provide antiterrorism assistance.

Accordingly, I urge my colleagues to fully support the rule if they support securing the lives of our American citizens and foreign national employees presently serving overseas.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Ohio for yielding me time on the rule for the American Embassy Security Act.

Mr. Speaker, I wanted to address my concerns briefly with regard to U.S.-India relations and how this legislation would affect that vitally important relationship between the world's two largest democracies.

The rule makes in order a manager's amendment introduced by the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations. This manager's amendment contains an important provision regarding the sanctions that were imposed last year on India and Pakistan following the nuclear tests conducted by the two South Asian nations.

It would extend for another year the waiver authority provided for under the Omnibus Appropriations Act for fiscal year 1999, giving the President the authority to waive the unilateral U.S. sanctions that were proposed pursuant to the Glenn amendment of the Arms Export Control Act.

I wanted to stress, however, I believe we should be going further than the 1-year extension provided for in this legislation. Recently, the Senate approved an amendment to the fiscal year 2000 Defense Appropriations bill that would suspend for 5 years the sanctions against India and Pakistan as opposed to continuing to waive the sanctions for only 1 year.

□ 0030

When we discussed the legislation of the gentleman from New York (Mr. GILMAN), the Security Assistance Act, in the House about a month ago, the chairman indicated his support for lifting the sanctions on a longer-term basis, and I look forward to working with him on that effort.

But, Mr. Speaker, the rule also makes in order an amendment offered by the gentleman from Pennsylvania (Mr. GOODLING) that would prohibit foreign military assistance to countries which fail to support the U.S. at least 25 percent of the time in the U.N. General Assembly. I hope the House will defeat this amendment.

According to the Goodling amendment, the sole method for determining how pro- or anti-U.S. a country is would be how the country votes in the U.N. General Assembly. This is largely an irrelevant way of determining who our friends and foes are, in my opinion. Under the Goodling amendment, all of our other diplomatic political strategic or economic interests would be sacrificed to the mostly symbolic indicator of General Assembly votes, often on issues of peripheral importance.

In practical terms, the Goodling amendment would serve as a symbolic slap at India at a time when Congress is working on a bipartisan basis to lift the unilateral sanctions imposed on India last year, as evidenced by the manager's amendment; and enactment of the Goodling amendment would set back much of the progress we are trying to make. It would be seen as purely a punitive action, creating an atmosphere of distrust that would make it much more difficult to achieve vitally important goals.

Mr. Speaker, the vast majority of resolutions adopted by the General Assembly are adopted by consensus. When we count those votes, India votes with the U.S. 84 percent of the time. If we look at the votes identified as important by our State Department, including the consensus votes, India is with us 75 percent of the time. And India also cooperates with the U.S. on a wide range of other U.N. activities, ranging from health issues to cultural and scientific matters. India has sent significant troop contingents to various peacekeeping missions around the world.

But the U.N. is only a small part of the story of how the U.S. and India work in partnership. Passage of the Goodling amendment would create a poisonous atmosphere that would set back these other efforts.

Mr. Speaker, if I could just say, in conclusion, most of the other countries that would be affected by this amendment are already barred from receiving U.S. assistance under various sanctions; and thus, realistically, the Goodling amendment would cut $130,000 in IMET funding to one country, India, a democracy that shares many of our values.

When we get to debate and votes on the bill, I hope we will approve provisions to build on the significant issues that unite America and India and not magnify our minor disagreements.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time and for managing this rule, and I also thank the gentleman from Ohio (Mr. HALL) for his statements as well.

I also wish to thank the gentleman from New York (Mr. GILMAN), the chairman of the full Committee on International Relations; the gentleman

from Nebraska (Mr. BEREUTER), chairman of the Subcommittee on Asia and the Pacific, both of whom have been very instrumental in working on this bill. And my thanks also to my good friend, the gentlewoman from Georgia (Ms. MCKINNEY), who is a cosponsor of this legislation. She is the ranking member of our subcommittee, and we have worked very cooperatively on this legislation as well.

Mr. Speaker, I am very proud to be the prime sponsor of H.R. 2415, the American Embassy Security Act. This legislation is the result of four hearings that we held, several days of markup in both subcommittee and full committee, and several weeks of negotiations with our friends on the other side of the aisle. Virtually every member of the committee had some input, had provisions that he or she thought should be included.

We worked very, very hard during a lengthy process. And Joseph Rees, my chief of staff and general counsel, and other members of the full committee on the other side of the aisle all worked in a cooperative way to try to craft a bipartisan bill.

The bill's unifying theme is about the promotion of American values. I am particularly proud that the bill authorizes $1.4 billion in fiscal year 2000 in security upgrades for our missions and for our personnel around the world. This is the worldwide security budget recommended by Admiral Crowe's commission, which was charged with investigating the terrorist bombings of our embassy in Kenya and Tanzania and determining how to protect our embassies and overseas personnel from future attacks.

Unfortunately, the administration recommended only $290 million for embassy security in its fiscal year 2000 budget, about one-fifth of the Crowe recommendation, and a fifth of what Congress appropriated last year. So without this bill, we would have faced an 80 percent cut from the recommendation in security of our overseas missions and personnel.

I do believe, Mr. Speaker, that if our Congress has one single responsibility with respect to foreign policy, and to me this is the most important, it is the protection of our people who work overseas in our embassies, our consulates, and other missions. They have to be our priority number one. This bill reflects that concern.

Let me also point out that we held, as part of those hearings, a hearing on March 12 on the security of U.S. missions abroad. Admiral Crowe testified, and I would like to just quote him briefly in talking about security, ''the Boards were most disturbed regarding two interconnected issues,'' he said. ''The first of these was the inadequacy of the resources to provide security against terrorist attacks, and the second was the relatively low priority accorded security concerns throughout the U.S. Government and by the Department of State.'' He also pointed out, and I just want to continue quoting him, that he found it very ''troubling,'' the failure of the U.S. Government to take the necessary steps to prevent such tragedies, talking about the time since Bobby Inman's report on terrorism.

We also heard, Mr. Speaker, from David Carpenter, the Assistant Secretary for Diplomatic Security at the United States Department of State, and he pointed out, and I quote briefly, ''The terrorist threat is global, lethal, multidimensional and growing. Our analysts estimate that during the 12-month period, there were over 2,400 threats or incidents against U.S. interests overseas. Their estimate for the same period for a year ago,'' he goes on, ''is approximately 1,150 such threats or incidents. This is an increase of over 100 percent in the past year.''

We also heard at the hearing, Mr. Speaker, from Daniel Geisler, who is the President of the American Foreign Service Association, and he pointed out that our core message to the committee, to the Congress, to all of us is that we must commit ourselves to never again suffer needless loss of life from terrorism and directed violence. He pointed out in his testimony that he had ''grave doubts,'' and I am quoting him now, ''that this failure will be corrected. Our doubts were heightened by the administration's grossly inadequate request for funds to build safer embassies. The fiscal year 2000 budget request,'' he goes on, ''does not have a single penny for construction funds, even though the State Department has proposed that OMB request $1.4 billion for worldwide security.''

This legislation meets that commitment of $1.4 billion, and I think it is very important. The gentleman from Nebraska (Mr. BEREUTER) had a hand in this, and we all are working to make sure that that happens. We hope the appropriators will do likewise.

The bill also promotes American values by promoting human rights and protecting refugees. We authorize a modest increase for refugee protection, bringing the total to $750 million. And at a time when the world seems awash in refugees, we must do our fair share.

I think it is worth noting that year after year the State Department has requested and gotten a raise for its own operating expenses, while at the same time cutting the budget for refugee protection. Our bill includes special provisions for protection of refugees from Kosovo, Tibet, Burma, Viet Nam, and Sierra Leone, as well as refugees resettling in Israel.

We also single out the grossly underfunded Human Rights Bureau for an increase as well. This bureau of the State Department is charged with ensuring that the protection of fundamental human rights is afforded its rightful place in our foreign policy; yet it has only 65 employees, about half the size of the Office of Public Affairs and about the same size as the Office of Protocol.

Mr. Speaker, the $7 million the Department now spends on human rights in its bureau is only slightly more than half the amount, and that is $12 million, it plans to spend on public relations next year. If human rights matter, we ought to be putting more not less resources into the bureau charged with seeing to it that our embassies abroad and also the reporting and our message is that human rights do matter.

The bill further promotes American values by permanently authorizing Radio Free Asia, which would otherwise be required to close its doors on September 30 of this year. It continues the effort to ensure 24-hour freedom broadcasting into the People's Republic of China, and will also make possible additional RFA broadcasts to the people of North Korea and Vietnam. It also ensures the survival of Radio Free Europe and Radio Liberty into the next millennium and increases funding for the National Endowment for Democracy.

□ 0040

Mr. Speaker, these relatively small programs are among the most cost effective of efforts to promote freedom and democracy around the world.

H.R. 2415 also directs that our international exchange programs be conducted in a way that again promotes American values and fundamental beliefs. It authorizes carefully targeted exchange programs for the peoples of Tibet, Burma, East Timor, and sub-Saharan Africa. It requires that all of our exchange programs be administered so as to prevent them from being taken advantage of by spies and thugs from totalitarian governments and to include more people who are genuinely open to the principles of freedom and democracy.

There are a number of amendments that will be offered. There will be an amendment that will get an hour's time on the United Nations Population Fund. I continue to believe that until the U.N. Population Fund gets out of China and stops its complicity with the most brutal and barbaric programs that have been used against women that we should stop our funding, as we did last year, Mr. Speaker, in a bipartisan way.

The current law for fiscal year 1999 that was signed by the President says no money to the UNFPA, and our language says no money again unless they get out of China. And we will have that debate, of course, when that amendment is offered next week.

This is a bipartisan bill. I support the rule, as well.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER) distinguished chairman of the Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

Mr. Speaker, I rise in strong support of the rule for H.R. 2415 and, of course, the legislation.

I want to particularly thank the gentleman from California (Mr. DREIER) and the members of the Committee on Rules and their staff for crafting a very fair, thorough, well-structured rule. I know that they gave intense and very thorough consideration to the amendments that are offered. They will make it easier for the Committee on International Relations to discharge its duties and to pass an authorization bill for the State Department and related agencies.

I think it is particularly appropriate that the legislation is indeed called the American Embassy Security Act. As the gentleman from New Jersey (Mr. SMITH) explained, the chairman of the relevant subcommittee, this is a priority for our committee. It should be a priority for the Congress and the American people.

Those of us who visit the embassies, the consulates and missions abroad have on our conscience the concerns about the security of our personnel working abroad. They need attention. We have seen too many problems that exist today.

We have, as the gentleman from New Jersey emphasized, authorized the full amount requested and suggested by the distinguished commission led by Admiral Crowe. We believe that is appropriate emphasis. We look forward to the debate on the legislation upcoming.

Again, I want to thank the Committee on Rules for their excellent job in crafting this fair rule, which will bring the legislation before the floor.

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

Mr. DIAZ-BALART. Mr. Speaker, supporting the underlying legislation, as well as the rule, 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.

TRIBUTE TO ADMIRAL DONALD D. ENGEN

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

Mr. OBERSTAR. Mr. Speaker, I rise to pay tribute to Admiral Donald D. Engen, a truly great American whose life was taken in a tragic plane crash on Tuesday.

Our country owes Don Engen a great debt of gratitude for his service to our country in three wars and later as a test pilot, a member of the National Transportation Safety Board, administrator of the FAA, and, at his death, Director of the National Air and Space Museum.

I believe Don Engen's greatest contribution was to aviation safety. I recall particularly his courageous order prohibiting U.S. and foreign airlines from removing over-wing exits on 747 aircraft, while he was at the witness table, in the midst of a hearing I was conducting on that issue.

All air travelers owe Don Engen a great debt of gratitude for his gigantic contribution to aviation safety. He stands as a giant in the field of aviation.

I extend to his widow, Mary, my very heartfelt deepest sympathy and love.

[From the Washington Post, July 14, 1999]

AIR & SPACE DIRECTOR ENGEN DIES IN CRASH—NAVAL AVIATOR ALSO HEADED FAA

(By Martin Weil and Don Phillips)

Donald D. Engen, 75, the director of the National Air and Space Museum who also was a decorated Navy pilot and a former chief of the Federal Aviation Administration, died yesterday in Nevada when the glider plunged to the ground from two miles up, disintegrating as it fell, authorities said.

Engen, of Alexandria, and another man were killed near Minden, just east of Lake Tahoe, about 1 p.m. Pacific time in a glider fitted with a small motor, according to the Douglas County sheriff's office. Witnesses told investigators that as the glider began spiraling down, ''major portions of the wings'' and other parts of the aircraft fell off, the sheriff's office said.

Engen, a former test pilot and a retired Navy admiral who served in three wars, was killed instantly, along with William S. Ivans, 89, of Incline Village, Nev., who was a holder of many glider flight records, the sheriff's office said. It was not immediately clear who was at the controls.

Engen, a World War II dive bomber pilot sank a Japanese cruiser, held the Distinguished Service Medal and the Navy Cross, which is awarded for extraordinary heroism. He took over at Air and Space three years ago, in the wake of a controversy over display of the Enola Gay, the airplane that dropped the first atomic bomb on Japan.

Engan ''labeled himself as part of the fix'' of the museum when he took over, ''and he was,'' said David Umansky, a spokesman for the Smithsonian Institution, of which Air and Space—the world's most visited museum—is part.

Engen also was the prime mover behind plans to open an annex to Air and Space at Dulles International Airport. A target opening date in 2003 has been set for the facility, which is to provide vastly increased exhibit space for the museum's aeronautical holdings.

''He has been the guiding light behind the Dulles center,'' Smithsonian spokeswoman Linda St. Thomas said last night. ''It was his big project.''

''Don has been a wonderful director for the past three years,'' said Smithsonian Secretary Michael Heyman.

Calling Engen's death a ''terrible tragedy,'' Jane F. Garvey, administrator of the FAA, said Engen continued to offer ''advice and counsel'' on aviation issues and to show concern about the welfare of those who had worked for him at the agency, she said.

''People just had enormous respect for him, ''Garvey said.

Donald Davenport Engen, who was born in Pomona, Calif., on May 24, 1924, had flying and the Navy in his thoughts since boyhood.

When he was in the fourth grade, he told his parents that he wished to be a ''naval officer and go to sea'' On Dec. 7, 1941, only a few months after he entered Pasadena Junior College at 17, the Japanese attacked Pearl Harbor, and Engen got a strong push toward realizing his early ambition.

After the attack, he dropped out of college and enlisted as a seaman second class in a Navy training program, according to a memoir he published in 1997, ''Wings and Warriors: My Life as a Naval Aviator.''

By 1943, he was headed west across the Pacific, where he was based on the carrier USS Lexington and took part in the campaign to liberate the Philippines.

He was involved in fierce combat.

''Almost everyone experienced fear from time to time,'' he wrote. But, he said, ''we junior pilots felt invincible, even though our loss rate seemed to indicate otherwise.''

After the war, he gave civilian life a try, enrolling in the Naval Reserve and flying on weekends. That did not satisfy his passion for life in the air, and he reenlisted for active duty. Given a second chance at a Navy career, he said, ''I could have walked on water.''

He made a career as a test pilot, helping to develop many of the safety mechanisms that have become standard for the aviators who were to follow him.

A test he made of an ejection seat at a factory in Philadelphia left him with a compressed disc in his spine. He regarded the sacrifice as worthwhile, however, for the seat was credited with helping to save the lives of more than 6,000 pilots.

In 1950, after the outbreak of the Korean War, Engen was an officer on board the USS Valley Forge. While flying from its deck, he took part in the first aerial strike over Pyongyang, the North Korean capital.

Later, he commanded a squadon and an air wing during the Vietnam War, although he did not see action there. While serving in the Navy, he received a bachelor of science degree from George Washington University in 1968 and also attended the Naval War College.

He served as commanding officer of the USS Katmai and the USS America and of the Navy's Carrier Division 4. He was deputy commander in chief of the U.S. naval forces in Europe from 1973 to 1976 and of the U.S. Atlantic Fleet from 1976 to 1978.

He advanced through the officer ranks to vice admiral.

After retiring from the Navy in 1978, he become general manager of a division of the Piper Aircraft Corp. and in 1982 was appointed by President Ronald Reagan to the National Transportation Safety Board—one of the agencies that is investigating his death.

Engen encountered some turbulence during his 1984–87 FAA tenure. Public attention focused on his agency in 1987, in particular, when airline passengers complained about flight delays. He warned early in the summer vacation season that delays would occur, largely because there were not enough airports to handle increased traffic.

Speaking not long after the NTSB warned that there had been ''an erosion of safety'' in aviation, Engen called U.S. aviation the world's safest, asserting that criticism of the system was often based on ''emotion and misinformation.''

In a speech at the National Press Club, the soft-spoken admiral said that the holder of his post would never lack for critics looking over his shoulder.

''There is a fine line between constructive oversight and unconstructive meddling,'' he said.

Engen said more airports were needed, rather than re-regulation of the airlines, as some critics had proposed.

The reasons for his resignation were not made known, but in aviation circles it was said that friction had occurred between him and then-Transportation Secretary Elizabeth Hanford Dole. The FAA is part of the Transportation Department.

Of his departure, Engen said only, ''There's never a good time to leave, but the time has come.''

After a long search, he was picked in June 1996 to head Air and Space. Critics had contended that the proposed Enola Gay exhibit depicted the United States as the aggressor during World War II. At the time of his appointment, one of the critics called Engen ''a true aviator,'' and said ''we are all exalted.''

Engen married the former Mary Ann Baker in 1943, and they had four children.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FROST (at the request of Mr. GEPHARDT) for today and July 16 on account of family business.

Mr. COBLE (at the request of Mr. ARMEY) for after 3:30 today until July 21 on account of official business.

Mr. PETERSON of Pennsylvania (at the request of Mr. ARMEY) for after 8 p.m. today and July 16 on account of personal business.

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. HALL of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CLYBURN, for 5 minutes, today.

Mr. SCOTT, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Mr. FATTAH, for 5 minutes, today.

(The following Members (at the request of Mr. DIAZ-BALART) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

SENATE BILL REFERRED

A Bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 604. An act to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company; to the Committee on Agriculture.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 775. An act 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.

ADJOURNMENT

Mr. DIAZ-BALART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 45 minutes a.m.), the House adjourned until today, Friday, July 16, 1999, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3047. A letter from the President and Chairman, Export-Import Bank, transmitting notification of a transaction which involves U.S. exports to a private company in the energy sector of Russia; to the Committee on Banking and Financial Services.

3048. 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. (Lordsburg and Hurley, New Mexico) [MM Docket No. 98–222 RM–9407] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3049. 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. (SHELBY and Dutton, Montana) [MM Docket No. 99–63 RM–9398] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3050. 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. (Madison, Indiana) [MM Docket No. 98–105 RM–9295] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3051. A letter from the Special Assistant of the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations. (El Dorado and Camden, Arkansas) [MM Docket No. 99–45 RM–9401] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3052. 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. (Giddings and Buda, Texas) [MM Docket No. 99–69 RM–9468] received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3053. A letter from the Secretary of Health and Human Services, transmitting the Fiscal Year 1996 report on the administration of the Maternal and Child Health Program; to the Committee on Commerce.

3054. A letter from the Under Secretary for Export Administration, Department of Commerce, transmitting notification that the Department of Commerce, in consultation with the Department of State, is imposing on the Portuguese Colony of Macau certain foreign policy-based export controls; to the Committee on International Relations.

3055. A letter from the Ambassador, Embassy of the State of Qatar, transmitting a letter from Mr. Mohamed bin Mubarak Al-Kholiefi, Speaker of the Advisory Council of the State of Qatar; to the Committee on International Relations.

3056. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a Resolution and Order Approving Fiscal Year 2000 Financial Plan and Budget; to the Committee on Government Reform.

3057. A letter from the Secretary, Judicial Conference of the United States, transmitting the Biennial Survey of Article III Judgeship Needs in the U.S. courts of appeals and the U.S. district courts; to the Committee on the Judiciary.

3058. A letter from the Office of the Attorney General, transmitting a report containing a recommendation for continuing authorization of the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

3059. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model 2000, 900EX, and Mystere Falcon 900 Series Airplanes [Docket No. 99–NM–63–AD; Amendment 39–11218; AD 99–14–07] (RIN: 2120–AA64) received July 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3060. A letter from the Secretary of Health and Human Services, transmitting a report on participation, assignment, and amounts of extra billing in the Medicare program; jointly to the Committees on Ways and Means and Commerce.

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. REYNOLDS: Committee on Rules. House Resolution 250. Resolution providing for consideration of the bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa (Rept. 106–236). 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. CHABOT (for himself, Mr. PORTMAN, Mr. BOEHNER, Mrs. MINK of Hawaii, Mr. CUNNINGHAM, Mr. ABERCROMBIE, Mr. MALONEY of Connecticut, Mr. RAHALL, Mr. ACKERMAN, and Ms. JACKSON-LEE of Texas):

H.R. 2527. A bill to amend the Public Health Service Act to provide for research on the disease known as lymphangioleiomyomatosis (commonly known as LAM); to the Committee on Commerce.

By Mr. ROGERS (for himself, Mr. SMITH of Texas, Mr. REYES, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BECERRA, Mr. BENTSEN, Mr. BILBRAY, Mr. BONILLA, Mrs. BONO, Mr. BOSWELL, Mr. BOYD, Mr. BRADY of Texas, Mr. CALLAHAN, Mr. CANADY of Florida, Mr. CANNON, Mrs. CAPPS, Mr. CHAMBLISS, Mr. CLEMENT, Mr. COLLINS, Mr. CONDIT, Mr. COSTELLO, Mr. CUNNINGHAM, Mr. DAVIS of Illinois, Mr. DEAL of Georgia, Mr. DOOLEY of California, Mr. DUNCAN, Mr. EDWARDS, Mr. FARR of California, Mr. FILNER, Mr. FORD, Mrs. FOWLER, Mr. GALLEGLY, Mr. GONZALEZ, Mr. GOODLATTE, Ms. GRANGER, Mr. GREEN of Texas, Mr. HINOJOSA, Mr. HOBSON, Mr. HUNTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KINGSTON, Mr. KOLBE, Mr. LATHAM, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. MARTINEZ, Mr. METCALF, Mr. MILLER of Florida, Mr. MINGE, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. PACKARD, Mr. PASTOR, Mr. ROHRABACHER, Mr. ROMERO-BARCELÓ, Mr. ROTHMAN, Mr. ROYCE, Mr. SENSENBRENNER, Mr. SHERMAN, Mr. SKEEN, Mr. SNYDER, Mr. SPRATT, Mr. STUMP, Mr. SUNUNU, Mr. TRAFICANT, Mr. TURNER, Mr. UNDERWOOD, Mr. WAMP, Mr. WELDON of Pennsylvania, and Mr. WHITFIELD):

H.R. 2528. A bill to establish the Bureau of Immigration Services and the Bureau of Immigration Enforcement within the Department of Justice; to the Committee on the Judiciary.

By Mr. REYNOLDS (for himself, Mr. DREIER, Mr. DELAY, Mr. BLUNT, Mr. FOLEY, Mr. LINDER, Ms. PRYCE of Ohio, Mr. EHRLICH, Mr. LAZIO, Mr. PORTMAN, Mr. QUINN, Mr. SWEENEY, Mr. DIAZ-BALART, Mr. MCCOLLUM, Mr. RYAN of Wisconsin, Mr. SHAW, Mr. FORBES, Mr. LOBIONDO, Mr. WALDEN of Oregon, Mr. FOSSELLA, Mr. WELLER, Mr. WATTS of Oklahoma, Mrs. KELLY, Mr. SHIMKUS, Ms. ROS-LEHTINEN, Mr. TERRY, Mr. SMITH of New Jersey, Mr. SIMPSON, Mr. WELDON of Florida, Mr. MCHUGH, Mr. SESSIONS, Mrs. MYRICK, Mr. GOSS, Mr. SAXTON, Mr. ENGLISH, Mr. CAMP, Mr. MILLER of Florida, Mr. NETHERCUTT, Mr. GARY MILLER of California, Mr. GREEN of Wisconsin, Mr. BARTON of Texas, Mr. BOEHLERT, Mr. PICKERING, Mr. SCHAFFER, Mr. TANCREDO, Mr. MICA, Mr. WICKER, Mr. OSE, Mr. SMITH of Michigan, Mr. SCARBOROUGH, and Mrs. FOWLER):

H.R. 2529. A bill to take certain steps toward recognition by the United States of Jerusalem as the capital of Israel; to the Committee on International Relations.

By Mr. BARRETT of Nebraska (for himself, Mr. EWING, Mrs. EMERSON, Mr. BISHOP, Mr. HAYES, Mr. WHITFIELD, Mr. HILL of Montana, and Ms. DANNER):

H.R. 2530. A bill to amend the Food Security Act of 1985 to increase the maximum amount of marketing loan gains and loan deficiency payments that an agricultural producer may receive during the 1999 crop year; to the Committee on Agriculture.

By Mr. BARTON of Texas (for himself and Mr. HALL of Texas) (both by request):

H.R. 2531. A bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 2000, and for other purposes; to the Committee on Commerce.

By Mr. HEFLEY:

H.R. 2532. A bill to provide for the establishment of national heritage areas; to the Committee on Resources.

By Mr. HYDE (for himself, Mr. GEKAS, and Mr. GOODLATTE):

H.R. 2533. A bill to amend the Clayton Act and the Administrative Procedures Act; to the Committee on the Judiciary, 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. LARSON (for himself, Mr. SENSENBRENNER, Mr. BROWN of California, Mr. COSTELLO, Ms. WOOLSEY, Mr. ETHERIDGE, Mr. COOK, Mr. LAMPSON, Mr. CAPUANO, Mr. WU, Ms. JACKSON-LEE of Texas, Mr. UDALL of Colorado, Mr. GEJDENSON, Ms. BALDWIN, Mr. PRICE of North Carolina, Mr. CROWLEY, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2534. A bill directing the National Science Foundation to develop a report on the establishment of high-speed, large bandwidth capacity Internet access for all public elementary and secondary schools and libraries in the United States, and for other purposes; to the Committee on Science.

By Mr. WAXMAN (for himself, Mr. FATTAH, Mr. OWENS, Mr. DAVIS of Illinois, Mrs. MALONEY of New York, Ms. NORTON, Mr. CUMMINGS, Mr. KUCINICH, and Ms. SCHAKOWSKY):

H.R. 2535. A bill to preserve, protect, and promote the viability of the United States Postal Service; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California:

H.R. 2536. A bill to reduce the risk of oil pollution and improve the safety of navigation in San Francisco Bay by removing hazards to navigation, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NETHERCUTT:

H.R. 2537. A bill to amend the Internal Revenue Code of 1986 to exempt farm equipment and other property used in farming from the requirement that all gain on the sale of such property be recognized in the year of the sale; to the Committee on Ways and Means.

By Ms. ROYBAL-ALLARD (for herself, Mrs. EMERSON, Mr. ABERCROMBIE, Mr. ADERHOLT, Mr. BARCIA, Mr. BECERRA, Mr. BENTSEN, Ms. BERKLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BONILLA, Mr. BONIOR, Mr. BOSWELL, Ms. BROWN of Florida, Mrs. CAPPS, Ms. CARSON, Mrs. CLAYTON, Mr. COX, Mr. CRAMER, Mr. CUMMINGS, Mr. CUNNINGHAM, Ms. DANNER, Mr. DEFAZIO, Ms. DEGETTE, Ms. DELAURO, Mr. DICKEY, Mr. DICKS, Mr. DIXON, Mr. DOOLEY of California, Mr. EDWARDS, Mr. EVANS, Mr. FARR of California, Mr. FORBES, Mr. FRELINGHUYSEN, Mr. FROST, Mr. GONZALEZ, Ms. GRANGER, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Ms. NORTON, Ms. HOOLEY of Oregon, Ms. JACKSON-LEE of Texas, Ms. KAPTUR, Mrs. KELLY, Mr. KILDEE, Ms. KILPATRICK, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LANTOS, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MATSUI, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. MILLER of Florida, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mrs. MORELLA, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. NETHERCUTT, Mrs. NORTHUP, Mr. ORTIZ, Mr. PACKARD, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Mr. PETERSON of Pennsylvania, Mr. POMEROY, Mr. PRICE of North Carolina, Mr. REYES, Ms. RIVERS, Mr. RODRIGUEZ, Mr. ROMERO-BARCELÓ, Mr. RUSH, Ms. SANCHEZ, Mr. SANDLIN, Mr. SCOTT, Mr. SERRANO, Mr. SHOWS, Mr. SKELTON, Ms. SLAUGHTER, Ms. STABENOW, Mr. STARK, Mr. STUPAK, Mrs. TAUSCHER, Mrs. THURMAN, Mr. TOWNS, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Ms. VELÁZQUEZ, Mr. WALSH, Ms. WATERS, Mr. WAXMAN, Mr. WICKER, Mr. WISE, and Ms. WOOLSEY):

H.R. 2538. A bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes; to the Committee on Commerce.

By Ms. SANCHEZ (for herself, Mr. BERMAN, Mr. BROWN of California, Mrs. CAPPS, Mr. CONDIT, Mr. FARR of California, Mr. HORN, Ms. LEE, Mrs. NAPOLITANO, Ms. LOFGREN, Ms. PELOSI, Mr. RADANOVICH, Ms. ROYBAL-ALLARD, Mr. SHERMAN, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of California, Mr. WAXMAN, and Ms. WOOLSEY):

H.R. 2539. A bill to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the ''Hector G. Godinez Post Office Building''; to the Committee on Government Reform.

By Mr. SMITH of New Jersey (for himself and Mr. OBERSTAR):

H.R. 2540. A bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Commerce, the Judiciary, Banking and Financial Services, Armed Services, and Transportation and Infrastructure, 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. TAYLOR of Mississippi:

H.R. 2541. A bill to adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi; to the Committee on Resources.

By Mr. PORTMAN:

H. Res. 249. A resolution returning to the Senate the bill S. 254; considered and agreed to.

By Mr. LUTHER (for himself, Mr. LANTOS, Mr. HORN, Mrs. LOWEY, Mr. BLAGOJEVICH, Mr. MEEHAN, Mr. MINGE, Mr. VISCLOSKY, Mr. FARR of California, Mr. STARK, and Mr. CAPUANO):

H. Res. 251. A resolution expressing the sense of the House of Representatives with regard to the escalating violence in East Timor; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

156. The SPEAKER presented a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 29 and House Resolution No. 56 memorializing the Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste; to the Committee on Commerce.

157. Also, a memorial of the General Assembly of the State of Nevada, relative to Assembly Joint Resolution No. 2 memorializing Congress to amend the provisions of the Wild Free-Roaming Horses and Burros Act to require the Secretary of the Interior and the Secretary of Agriculture to establish the necessary regulations and procedures whereby horses and burros in excess of the appropriate management levels are gathered in a timely fashion, and unadoptable horses and burros are made available for sale at open market; to the Committee on Resources.

158. Also, a memorial of the Legislature of the Commonwealth of Guam, relative to Resolution No. 101 memorializing Congress to authorize the Guam Legislature to appropriate some or all of the Ten Million Dollars, currently earmarked to Guam for infrastructure costs due to the impact of the Compacts of Free Association, for use in job training and job development, entrepreneurial and business development programs as shall be enacted by the laws of Guam; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. MASCARA, Mr. FROST, and Mr. WATKINS.

H.R. 82: Mr. DAVIS of Virginia, Mr. FRANK of Massachusetts, and Mr. SMITH of New Jersey.

H.R. 110: Mr. LUCAS of Kentucky.

H.R. 123: Mrs. KELLY.

H.R. 303: Mr. KING, Mr. UNDERWOOD, Mr. BISHOP, Mr EHRLICH, Mr. NEY, Mr. PALLONE, Mr. STRICKLAND and, Mr. WATKINS.

H.R. 354: Mr. MEEKS of New York.

H.R. 486: Mr. DEMINT, Mr. LINDER, Mr. CHAMBLISS, and Mr. KINGSTON.

H.R. 498: Mr. SAM JOHNSON of Texas.

H.R. 531: Mr. GRAHAM and Mr. WU.

H.R. 583: Mr. LEECH.

H.R. 595: Mr. MASCARA.

H.R. 601: Mr. WATKINS and Mr. FROST.

H.R. 721: Mr. PETRI, Mr. SPRATT, Mr. JENKINS, and Mr. WHITFIELD.

H.R. 750: Mr. DEMINT, Mr. MANZULLO, and Ms. PELOSI.

H.R. 773: Mr. MOORE.

H.R. 783: Mr. KING, Mr. WHITFIELD, and Mrs. MORELLA.

H.R. 784: Mr. FRANKS of New Jersey, Mr. BRYANT, Mr. SWEENEY, and Mr. FRELINGHUYSEN.

H.R. 798: Mr. THOMPSON of California.

H.R. 815: Mr. MCINTOSH, Mr. GEKAS, and Mr. SPENCE.

H.R. 827: Mr. OLVER.

H.R. 852: Mr. DAVIS of Illinois.

H.R. 864: Mr. EHRLICH, Mr. BOYD, Mr. MANZULLO, Mr. GILLMOR, Mr. GOODLATTE, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. CASTLE, Mr. OXLEY, and Mr. TOOMEY.

H.R. 865: Mr. PICKETT, Mr. SHOWS, Mr. BOUCHER, Ms. LEE, Mr. SCARBOROUGH, Mr. HYDE, Mr. RAHALL, Mr. STUPAK, Mr. GOODE, Mr. MASCARA, Mr. GEJDENSON, Mr. HILL of Montana, Mr. FROST, Mr. WATKINS, Mr. SUNUNU, and Mr. PETERSON of Minnesota.

H.R. 969: Mr. ISAKSON.

H.R. 987: Mr. REYNOLDS.

H.R. 1046: Mr. MINGE.

H.R. 1053: Ms. ESHOO.

H.R. 1083: Mrs. CLAYTON.

H.R. 1093: Mr. LIPINSKI, and Mr. FRANKS of New Jersey.

H.R. 1102: Mr. CONDIT, and Mr. HINCHEY.

H.R. 1111: Mrs. CAPPS, Mr. PETERSON of Minnesota, and Mr. FARR of California.

H.R. 1116: Mr. HALL of Texas.

H.R. 1164: Mr. BORSKI.

H.R. 1168: Ms. STABENOW, Mr. LEVIN, and Mr. KIND.

H.R. 1193: Mr. BENTSEN, Mr. BACHUS, Mr. BILBRAY, and Mr. ADERHOLT.

H.R. 1195: Mr. HULSHOF and Mr. WATT of North Carolina.

H.R. 1200: Mr. BONIOR.

H.R. 1216: Mr. STUPAK, Mr. WYNN, and Mr. SABO.

H.R. 1222: Mr. FLETCHER.

H.R. 1256: Mr. PICKERING and Mr. BURR of North Carolina.

H.R. 1275: Mr. DEAL of Georgia, Mrs. MORELLA, Mr. SHERMAN, Mr. FRANK of Massachusetts, Mrs. THURMAN, Mr. WAXMAN, and Mrs. MEEK of Florida.

H.R. 1300: Mr. TANNER.

H.R. 1304: Mr. DUNCAN.

H.R. 1315: Mr. WAXMAN and Mr. BECERRA.

H.R. 1325: Ms. LOFGREN and Mr. PASTOR.

H.R. 1328: Mr. BLUNT.

H.R. 1345: Mr. YOUNG of Alaska.

H.R. 1347: Mr. PASCRELL.

H.R. 1352: Ms. MCKINNEY.

H.R. 1355: Mr. TIERNEY.

H.R. 1416: Mr. JEFFERSON.

H.R. 1454: Mr. HOEFFEL.

H.R. 1485: Mr. ABERCROMBIE.

H.R. 1505: Mr. CUMMINGS.

H.R. 1507: Mr. ROGAN.

H.R. 1510: Mr. BONIOR.

H.R. 1525: Ms. SCHAKOWSKY, Mr. BARCIA, Mr. RODRIGUEZ, Mr. BECERRA, Ms. PELOSI, and Ms. BROWN of Florida.

H.R. 1547: Mr. PETERSON of Minnesota.

H.R. 1585: Mr. MCINTOSH.

H.R. 1592: Mr. ADERHOLT, Mr. CRAMER, Mr. SHADEGG, Mrs. CHRISTENSEN, Mr. HILLIARD, and Mr. KNOLLENBERG.

H.R. 1594: Mr. PETERSON of Minnesota, Ms. WOOLSEY, Mr. MARTINEZ, Mr. FRANK of Massachusetts, Mr. SCOTT, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. LANTOS, and Mr. HUTCHINSON.

H.R. 1617: Mr. BUYER, Mr. RAHALL, and Mr. PAUL.

H.R. 1622: Ms. PRYCE of Ohio, Mr. UDALL of New Mexico, Mr. SHERMAN, Mr. CAMPBELL, Mr. HILL of Indiana, and Mr. COSTELLO.

H.R. 1684: Mr. BRADY of Pennsylvania, Mr. LUTHER, and Mrs. CHRISTENSEN.

H.R. 1685: Mr. ORTIZ.

H.R. 1775: Mrs. JOHNSON of Connecticut and Mr. LAZIO.

H.R. 1838: Mr. WHITFIELD, Mr. BARTON of Texas, and Mr. FRANK of Massachusetts.

H.R. 1841: Mrs. CHRISTENSEN, Mr. FILNER, and Mr. HOLT.

H.R. 1844: Mr. BERMAN and Mr. MCGOVERN.

H.R. 1863: Mr. DEFAZIO.

H.R. 1871: Mrs. MEEK of Florida.

H.R. 1887: Mr. BACHUS, Mr. BERMAN, and Ms. BALDWIN.

H.R. 1890: Ms. LEE.

H.R. 1907: Mr. MCDERMOTT and Mr. BOUCHER.

H.R. 1932: Mr. GONZALEZ, Mr. TOOMEY, Mrs. FOWLER, Mr. OBERSTAR, Mrs. MINK of Hawaii, Ms. NORTON, Mr. KANJORSKI, Ms. PELOSI, and Mr. MCINTOSH.

H.R. 1948: Mrs. CHRISTENSEN.

H.R. 1958: Mr. COYNE.

H.R. 1986: Mr. MCDERMOTT.

H.R. 2015: Mr. PASTOR, Mr. DAVIS of Florida, and Mr. PAUL.

H.R. 2028: Mr. FLETCHER.

H.R. 2053: Mr. OWENS, Ms. VELÁZQUEZ, Mr. SERRANO, Mr. WYNN, and Mr. WEINER.

H.R. 2068: Mr. TERRY.

H.R. 2086: Mr. BOEHLERT, Mr. DREIER, Mr. WU, Mr. LAFALCE, Mr. WICKER, Mr. ENGLISH, Mr. GOODLATTE, Mr. BAIRD, and Mr. MARTINEZ.

H.R. 2116: Mr. HANSEN, Mr. LAHOOD, Mr. REYES, Ms. CARSON, Ms. BROWN of Florida, Ms. BERKLEY, Mr. HILL of Indiana, Mr. FILNER, Mr. UDALL of New Mexico, and Mr. SHOWS.

H.R. 2159: Mr. COLLINS.

H.R. 2172: Mr. FOLEY.

H.R. 2243: Mr. FROST.

H.R. 2247: Mr. RYUN of Kansas and Mr. WELDON of Florida.

H.R. 2258: Mr. LAFALCE.

H.R. 2260: Mr. CANNON and Ms. PRYCE of Ohio.

H.R. 2294: Mr. KENNEDY of Rhode Island.

H.R. 2332: Mr. VISCLOSKY, Ms. KAPTUR, Mr. PETERSON of Minnesota, Mr. TRAFICANT, Mr. STUPAK, Mr. RUSH, Mr. ENGLISH, Ms. RIVERS, Mr. DAVIS of Illinois, Mr. LIPINSKI, Mr. BARCIA, Mr. CONYERS, Ms. KILPATRICK, and Mr. HOUGHTON.

H.R. 2339: Mr. GOODLATTE and Mr. RODRIGUEZ.

H.R. 2378: Mr. SMITH of Washington.

H.R. 2380: Mr. DELAHUNT.

H.R. 2384: Mr. GILLMOR, Ms. KILPATRICK, Mr. ENGEL, and Mr. KILDE.

H.R. 2389: Mr. HERGER and Mr. SCHAFFER.

H.R. 2396: Mr. ARMEY and Mr. HAYWORTH.

H.R. 2409: Mr. LAMPSON and Mr. SANDLIN.

H.R. 2420: Mr. WHITFIELD, Mr. BOEHLERT, Mr. GONZALEZ, Mr. MEEKS of New York, and Mr. BAKER.

H.R. 2436: Mr. BACHUS, Mr. HUTCHINSON, Mr. LAHOOD, and Mr. TANCREDO.

H.R. 2446: Ms. ROYBAL-ALLARD, Mr. BISHOP, Mr. BORSKI, Mr. MCDERMOTT, Ms. KAPTUR, Mr. SHERMAN, Mr. JACKSON of Illinois, Mr. BAIRD, Mr. BALDACCI, Mr. HOLDEN, Mr. OBEY, Mr. TRAFICANT, and Mr. PALLONE.

H.R. 2453: Mr. DUNCAN.

H.R. 2503: Mr. LUTHER.

H.R. 2506: Mr. WAXMAN, Mr. BONIOR, Mr. WHITFIELD, Mr. FARR of California, and Mr. DAVIS of Florida.

H.R. 2515: Mr. WEYGAND, Mrs. TAUSCHER, Ms. BERKLEY, Mr. CROWLEY, Mrs. MALONEY of New York, and Mr. PHELPS.

H.J. Res. 46: Mr. RANGEL and Mrs. MCCARTHY of New York.

H. Con. Res. 30: Mr. SPENCE.

H. Con. Res. 38: Ms. CARSON, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Mr. OWENS, Mr. TOWNS, Ms. WATERS, Mr. FATTAH, Mr. CONYERS, Ms. MILLENDER-MCDONALD, and Mr. CLAY.

H. Con. Res. 60: Mrs. CUBIN, Mr. KING, and Ms. ESHOO.

H. Con. Res. 111: Mr. RANGEL, Mr. DAVIS of Illinois, and Mr. NADLER.

H. Con. Res. 112: Mr. GANSKE, Mr. STENHOLM, Mr. LEVIN, Ms. PELOSI, Ms. DELAURO, Mr. STRICKLAND, Mr. OBEY, Mr. WU, Mr. HINOJOSA, Mr. FRANK of Massachusetts, Mr. SANDERS, Mr. BARTLETT of Maryland, Mr. DIAZ-BALART, Mrs. ROUKEMA, Mr. BOEHNER, Mr. PAUL, Mr. DOOLITTLE, Mr. HOYER, Mr. ANDREWS, Mr. LUCAS of Kentucky, Mrs. BIGGERT, Mr. COLLINS, Mr. DINGELL, Mr. BERRY, Mr. SHIMKUS, Mr. SKELTON, Mr. WAMP, Mr. BUYER, Mr. ROYCE, Mr. HEFLEY, Mr. SESSIONS, Mr. DEMINT, Mr. REYNOLDS, Mr. TANCREDO, Mr. HAYWORTH, Mr. SUNUNU, Mrs. CAPPS, Mr. BERMAN, and Mr. CROWLEY.

H. Con. Res. 134: Mr. MCGOVERN.

H. Con. Res. 136: Mrs. MINK of Hawaii, Mrs. KELLY, Mr. BRYANT, Mr. SISISKY, Mr. FILNER, and Mr. DAVIS of Illinois.

H. Con. Res. 145: Mr. RUSH.

H. Con. Res. 152: Ms. MILLENDER-MCDONALD, Mr. SHOWS, Mr. MCNULTY, Mr. BROWN of Ohio, Mr. HINCHEY, Mr. LATOURETTE, and Mr. MEEHAN.

H. Res. 172: Mr. MCHUGH and Mr. LOBIONDO.

H. Res. 203: Mr. MARTINEZ, Mr. ENGLISH, Mr. PORTER, and Mr. COYNE.

H. Res. 228: Mr. SAWYER, Ms. BALDWIN, and Mr. LEACH.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

35. The SPEAKER presented a petition of the Board of Education of the Leggett Valley School District, relative to a resolution petitioning Congress to keep its promise and pay for 40 percent of the costs of special education, or, in the alternative, remove federal mandates requiring the provision of these services; to the Committee on Education and the Workforce.

36. Also, a petition of the governing board of the El Centro Elementary School District, relative to Resolution No. 051199–476 petitioning Congress to restore parity to two classes of students by appropriating funds for IDEA to the full authorized level of funding for 40 percent of the excess costs of providing special education and related services; to the Committee on Education and the Workforce.

37. Also, a petition of the Knox County Commission, relative to Resolution 906 petitioning Congress to fully fund the state and local share of the Land and Water Conservation Fund; to the Committee on Resources.

EXTENSIONS OF REMARKS

J.C. WATTS, JR.—A BUILDER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SHUSTER. Mr. Speaker, it is with mixed emotions that I submit this statement for the RECORD. On one hand, I am always eager to express my great appreciation for the significant impact my friend and colleague, the Honorable J.C. WATTS, Jr., has had on the direction and legislation developed during his tenure on the Transportation and Infrastructure Committee. On the other hand, I regret that I must announce a temporary leave of absence for Mr. WATTS from the Transportation and Infrastructure Committee for the remainder of the 106th Congress.

As a member of the Committee J.C. provided critical support to legislation that impacted his congressional district, the state of Oklahoma, and the nation. Nearly 50 years ago, President Eisenhower recognized the need for a massive effort to build the infrastructure system of this great nation. He recognized that a robust infrastructure is vital to the economic health of America. In the same spirit of enterprise, J.C. WATTS demonstrated his commitment to the nation by ensuring the committee continue its work in building America's infrastructure.

J.C. WATTS was a member of the Surface Transportation Subcommittee during the 105th Congress when the subcommittee developed landmark legislation, the Transportation Equity Act for the 21st Century (TEA–21), creating a firewall around the Highway Trust Fund, enabling America to build its infrastructure at a level unprecedented in history. His leadership was also instrumental during the first session of the 106th Congress as J.C. served on the Aviation Subcommittee. In the same way, the Aviation Subcommittee was successful in sponsoring watershed legislation for the aviation community, the Aviation Improvement and Reform Act for the 21st Century (AIR–21), that took the aviation trust fund off budget and released unparalleled funding for the building of our nation's aviation infrastructure.

I am proud to have had the opportunity to have J.C. represent Oklahoma and the rest of the Nation on a committee so vital to the heart of our economic stability and growth. While always focused on ensuring the nation's benefit was considered foremost, J.C. fought for and succeeded in ensuring an equitable distribution of funding for the state of Oklahoma.

I am also pleased with the relationship I have developed with J.C. over the past four and one-half years. I have assured my friend that, although he may have accepted a leave of absence from the Transportation and Infrastructure Committee, he will continue to play a significant role on legislation impacting infrastructure issues as we continue to strive to build the heart of America.

IN HONOR OF ALINA DUNAEVA AND DAVID JOHNSON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor Alina Dunaeva and David Johnson, two recent high school graduates who have worked diligently to improve their community.

Alina and David are ending their terms as the leaders of the Tenth Congressional District Youth Congress, a group dedicated to making a difference for young people in the Cleveland area. This year, they lead members in following the group's mission to improve educational opportunities, community resources for students, and their environment, in part by holding a press conference about local levies and participating in a clean-up project on Cleveland's west side.

In guiding this group through its first full school year, Alina and David have helped to build a forum for a diverse group of students to share their ideas and create constructive solutions to issues that are important to young people.

My fellow colleagues, please join me in honoring Alina Dunaeva and David Johnson for their outstanding commitment to encouraging youth to become involved.

PERSONAL EXPLANATION

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. NUSSLE. Mr. Speaker, on Thursday, July 15, my vote was not recorded on rollcall vote No. 296. Had my vote been recorded, I would have voted "aye."

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. ROGERS. Mr. Speaker, on Monday, July 12, I was unavoidably detained for rollcall votes Nos. 277, 278, and 279. The votes were on agreeing to the day's journal, on passage of H. Con. Res. 107, and on passage of H. Con. Res. 117. If I had been present, I would have voted "aye" on all of these measures.

TRIBUTE TO STANLEY REMELMEYER

HON. STEVEN T. KUYKENDALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. KUYKENDALL. Mr. Speaker, I rise today to remember and honor a beloved figure from my district, Mr. Stanley Remelmeyer. Stan recently passed away at the age of 81, and he will forever be remembered for his unconditional dedication to the City of Torrance.

From 1995 to 1988, Stan Remelmeyer diligently served Torrance as City Attorney. During his tenure, small town Torrance with a population of 35,000 grew into a large urban center of more than 140,000 residents. Local officials credit Remelmeyer with guiding the city through years of complicated legal matters associated with the development.

Upon retirement in 1988, Remelmeyer fondly recalled his years as City Attorney and reaffirmed his belief that city government was "the heart of the country." He remained active as a consultant for the Redondo Beach City Attorney's Office right up until the day he died. Remelmeyer continued to keep a busy schedule, regularly traveling throughout California on behalf of Redondo Beach. A graduate of Harvard Law School, he remained dedicated to his two loves, the law profession and city government.

Remelmeyer was a pioneer and he leaves a lasting imprint upon the City of Torrance. He fought to preserve Madrona Marsh, now a Torrance landmark, and the city's telecommunications center bears his name.

The City of Torrance has lost a true friend. His lifelong career of service will forever be remembered in Torrance. Stanley Remelmeyer will be dearly missed, but his legacy will live on in the City of Torrance.

TRIBUTE TO CAPTAIN JEFFREY J. HATHAWAY, UNITED STATES COAST GUARD

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. COBLE. Mr. Speaker, I rise today to recognize an exceptional United States Coast Guard Officer, Captain Jeffrey Jay Hathaway. This week Captain Hathaway completes an extremely successful three-year tour as the Coast Guard's Liaison to this body and to the United States Senate. It is a pleasure to recognize a few of his many achievements.

A native of Whittier, California, Jeff Hathaway began his career by attending the United States Coast Guard Academy in New London, Connecticut graduating in 1974 with a Bachelor of Science degree. Upon entering the

Coast Guard fleet after graduation, then Ensign Hathaway was assigned to USCGC *Venturous* (WMEC 625) in Long Beach, California as a deck watch officer. Subsequent afloat tours have included duty as Operations Officer aboard *Venturous* and as Commanding Officer of USCGC *Citrus* (WMEC 300) in Coos Bay, Oregon, USCGC *Legare* (WMEC 912) in Portsmouth, Virginia and USCGC *Munro* (WHEC 724) in Alameda, California.

Captain Hathaway's experience ashore has included assignments as a duty officer in the Coast Guard Pacific Area Command Center, assignment officer in the Officer Personnel Division of Coast Guard Headquarters, and cutter management duty on the Pacific Area Operations Division staff. In 1989, he was handpicked to serve as the Military Assistant to the U.S. Secretary of Transportation and served in that assignment until 1991.

Captain Hathaway earned a Master of Business Administration degree from the University of California at Irvine in 1983 and a Master of Science Degree in National Resources Strategy from the Industrial College of the Armed Forces in 1994.

His continued exemplary performance led him to be selected ahead of his peers for the ranks of Commander and Captain. His numerous personal awards include two Legions of Merit, two Meritorious Service Medals, two Coast Guard Commendation Medals and three Coast Guard Achievement Medals.

Jeff Hathaway arrived for duty as the Chief of the Coast Guard's Congressional and Governmental Affairs Staff in July 1996. In this capacity, he has been instrumental in providing the Congress with an in-depth knowledge and understanding of the Coast Guard. Most importantly, Captain Jeff Hathaway has come to epitomize those qualities we expect from our Coast Guard men and women—an intense sense of honor, respect and above all devotion to duty.

Mr. Speaker, Jeff Hathaway has served our country with distinction for the past 25 years. As he continues to do so, I call upon my colleagues from both sides of the aisle and the other body to wish him, his lovely wife Rebecca, and their four children, Allison, Paul, Brianna, and Kenneth, much continued success in the future, as well as fair winds and following seas.

IN HONOR OF THE JOHN ADAMS HIGH SCHOOL CLASS OF 1969

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to recognize The John Adams School Class of 1969 as they are to celebrate their 30 year reunion on August 21st, 1999. The reunion committee has worked hard and been highly successful in tracking the class of 1969, holding a database of 400 out of the original 521 students who attended John Adams in that year. An amazing feat when it is considered that the former students are scattered the length of the country from California to New York, including those who have remained in Cleveland, where they began their education.

The John Adams High School, which opened in Cleveland in 1923, was unfortunately closed on June 13th 1995, making the reunion all the more important as a reminder of the exceptionally hard work done by the school staff in educating thousands of young people. In its seven and half decades, John Adams was a proud symbol of public education, an inspiration for many as a place were working class families sent their children to be educated in an environment rich in racial and cultural diversity. This proved to be decisive for many of the students of John Adams, lending them to use their experiences to motivate others.

The class of 1969 were a good, cohesive group, a rich pool of talent that has created a group of highly successful and motivated individuals. Of particular inspiration to the group has been the dedicated work and commitment of their former principal, Mr. J. Robert Kline, an attendee at every reunion held by the Alumni Association, and a highly instrumental player in the success of every reunion held by the Alumni Association, and a highly instrumental player in the success of the class.

My fellow colleagues, join me in saluting The John Adams High School Class of 1969 in their continual dedication to our community. They all benefited from their inspirational education in Cleveland and I am pleased to recognize their accomplishments.

CONGRATULATIONS TO THE PRESIDENT FOR MEDICARE PREVENTIVE CARE PROPOSALS: CONGRESS SHOULD ENACT THEM THIS YEAR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. STARK. Mr. Speaker, I rise today in strong support of enhancing the preventive benefits available in the Medicare program. The President's Medicare reform plan has taken a step in the right direction by eliminating cost sharing on preventive services. This will encourage more beneficiaries to seek out mammography and other valuable screening tests. Let's continue this work by encouraging outreach efforts targeting preventive care.

The number don't lie. Prevention saves lives. The Centers for Disease Control and Prevention has stated that ''our country cannot decrease its enormous healthcare costs, much less its priority health problems, without addressing in a fundamentally more aggressive manner, the prevention of chronic disease.'' (Unrealized Prevention Opportunities; Reducing the Health and Economic Burden of Chronic Disease, CDC Publication March, 1997)

The most preventable cause of death in our society is tobacco use. Although we hope to target new initiatives for preventing tobacco use primarily to children and adolescents, a lot can be accomplished with smoking cessation efforts in the senior population. The President's decision to include such programs in his reform plan makes good sense. Studies have shown that health risks attributable to smoking decrease significantly within a few years after quitting, regardless of age. Tobacco use costs the nation $50 billion annually, in medical expenses alone. Smoking cessation efforts can help to reduce this immense burden on the health care system.

With most chronic diseases, early detection is the key to successful treatment. Early detection also has the potential to save money. For example, treatment costs for breast cancer diagnosed in the localized stage are as much as 32 percent lower than treatment costs for later state diagnosis. Regular screening can detect cancers of the breast, colon, cervix, among others, at early stages. Currently, about 66 percent of people with these cancers survive for more than 5 years. With improved early detection efforts, about 95 percent or an additional 115,000 people would survive for 5 years or more. You can't put a price tag on that.

In the case of diabetes, the CDC has found that enhanced prevention could save the Medicare program nearly a billion dollars per year. For example, if all people with diabetes received recommended eye disease screening and followup, the annual savings to the federal budget could exceed $470 million. Second, over half of the 57,000 lower extremity amputations associated with diabetes could be prevented. These preventable amputations currently cost $285 million annually.

Finally, at least half of the 19,000 new cases of diabetes related kidney disease could be prevented. These preventable cases cost over $350 million annually.

Prevention makes good sense in terms of both human and monetary costs. To not support the prevention of chronic diseases is to turn our backs on addressing the major health issue of our time.

CONGRATULATING HAWTHORNE FIRE CO. NO. 2

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Hawthorne Fire Co. No. 2 on the completion of extensive renovations as its firehouse in Hawthorne, NJ. This virtually new structure will enhance the ability of the fire company's dedicated volunteers to protect the lives and property of community residents in the most efficient and modern manner possible.

Organized in 1910 by 25 Hawthorne residents concerned about the need for fire protection in their town, Fire Co. No. 2 is seen nearly a century of service. In the beginning, the fire company possessed a horse-drawn hose cart purchased by the town, but no formal firehouse. Since 1919, the company has been headquartered in a firehouse at 10 Llewellyn Ave.

Many changes and additions to the firehouse have been made in the past 80 years to accommodate new equipment, functions, and firefighting technique. With an increasingly large fleet of fire engines and the increasing

size of fire apparatus—including a recently purchased 85-foot ladder truck—it became clear in recent years that a new facility was needed, however.

The fire company launched a $280,000 fund-raising drive coordinated by a renovation committee chaired by veteran volunteer Tom Furrey. The committee conducted a number of fund-raisers and obtained both a mortgage and a loan from the New Jersey Division of Fire Safety to finance the project.

The result is an extensively renovated and enlarged firehouse. Additional space, a new roof, new heating and air conditioning and floor repairs were among the many improvements.

This weekend, the building will be dedicated with a major celebration including a dinner and ceremony to than those who have helped raise funds and donated materials and equipment.

A fire company is more than just a firehouse and fire engines, of course, Special recognition goes to Chief Victor Tamburro, Assistant Chief Richard McAuliffe and fire company President Richard Garthwait for their leadership.

Mr. Speaker, volunteer firefighters are among the most dedicated public servants in our communities. They set aside their own convenience—indeed, their own safety—to protect the lives and property of their neighbors and ask nothing in return. Volunteer firefighters turn out to do their duty in the darkness of freezing winter nights and in the heat of suffocating summer days without hesitation. The officers and members of Hawthorne Fire Co. No. 2 deserve our deepest gratitude and heartfelt thanks. God bless and Godspeed to all.

HONORING THE BOROUGH OF CROSS ROADS ON ITS 100TH ANNIVERSARY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. GOODLING. Mr. Speaker, I rise today to pay tribute to the Borough of Cross Roads on the occasion of its 100th anniversary celebration. I am pleased and proud to bring the history of this fine borough to the attention of my colleagues.

On October 16, 1899, the Borough of Cross Roads was incorporated. At that time the Honorable Judge Pittenger described the town as one with the potential of growing greatly to meet the needs of the expanding society. Then the borough included 36 houses, one of which was vacant, and a population of 154, 44 of whom were registered voters.

Now, 100 years later, Cross Roads is a mixture of farms and homes. Cross Roads has lived up to those expectations set forth by Judge Pittenger in 1899. This borough has provided many people with a friendly, family-oriented, and safe community.

I send my sincere best wishes as the Borough of Cross Roads celebrates this milestone in its history. I am proud to represent such a fine place and look forward to watching it grow as we enter the new millennium.

SALVATORE ''BUDDY'' SCOTTO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. TOWNS. Mr. Speaker, I rise today to honor Salvatore "Buddy" Scotto, son of Pasquale and Rose Scotto, who was born on October 1, 1928, and was raised in Carroll Gardens, Brooklyn, New York. He attended Sacred Heart & St. Stephens Grade School, Bishop Loughlin Memorial High School, and St. Francis College, where he graduated in 1953 with a Bachelors of Arts degree. In August of 1959, his National Guard unit was activated and sent to Korea. In April of 1951, he was sent on to the Guided Missile School at Ft. Sill, Oklahoma and received a commission. Buddy served three years of active duty and eight years of active reserve. He retired from the military in 1963 as a Captain.

As a seasoned U.S. veteran, he immediately became involved in the community. In 1964, Buddy was asked to head the Carroll Gardens Association. During his tenure, thousands of dollars was collected from landlords and tenants to revitalize the neighborhood and to improve the quality of life for all. Through his efforts, Carroll Gardens has become a model for local development. Later, in 1968, Buddy helped establish CIAO and provided assistance to securing funding for day care and senior citizen facilities. The Court Street Day Care Center at 292 Court Street, and the Eileen Dugan Senior Center, to name a few, were among the organizations to receive vital funding.

Through Buddy's dedication to improving Brooklyn and its surrounding boroughs, he was also a founding member of several organizations such as the Gowanus Canal Development Corporation and the New York City Partnership. These organizations had made tremendous strides towards developing affordable housing, local employment, and providing other vital community resources. As further testament to his unwavering commitment to the community, Buddy spearheaded the formation of the Cowanus Expressway Community Coalition. Recently, the Coalition secured $18 million from Congress to seriously investigate the viability of a tunnel replacing the elevated Gowanus Expressway.

Mr. Speaker, please join me in honoring Buddy Scotto, a jewel in Brooklyn's illustrious crown.

PAYING TRIBUTE TO HIS HOLINESS CATHOLICOS KAREKIN I

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to His Holiness Catholicos Karekin I who passed away Tuesday, June 29, 1999 after a long battle with cancer. He died in his residence in the town of Echmiadzin.

Born Nshan Sarkisian, in Syria on August 27, 1932, Karekin was admitted to the Theological Seminary of the Armenian Catholicate of Cilicia in 1946. He was ordained a deacon in 1949, and graduated with high honors in 1952. In the same year, he was ordained a celibate priest, receiving the name "Karekin," and entered the religious order of the Catholicate of Cilicia. He was granted the ecclesiastical degree of "vardapet" in 1955 and joined the Theological Seminary in Antelias, Lebanon, first as a faculty member and later as dean. He took a brief hiatus from his duties as dean in 1957 to study theology at Oxford University in Great Britain, and returned to his position upon the completion of his thesis in 1960.

In the following decade, Fr. Karekin served as a key aide to His Holiness Khoren I, Catholicos of the Great House of Cilicia, while attending several historic religious conferences and lecturing on theology and other subjects at several schools and universities across the globe. In recognition of his service to the Church, he was elevated to the position of senior archmandrite in 1963, consecrated as bishop in 1964, and made Archbishop in 1973. During this time Bishop Karekin served the Church in many capacities in the Middle East and North America.

Archbishop Karekin was elected Catholicos of the Great House of Cilicia in 1977, serving in the capacity of "Catholicos Coadjutor," along side His Holiness Khoren I until the latter's death in 1983. Subsequently, His Holiness Karekin II was fully installed as Catholicos of the Great House of Cilicia. In this capacity, Karekin II worked to improve and expand religious education in the Catholicate, as well as to expand its capacity to support research and publishing projects. In later years he acted as an Ambassador of the Church, making numerous visits to religious leaders all over the world. He also contributed to the leadership of the Middle East Council of Churches, and published extensively on a range of subjects.

In his travels, Karekin II made frequent visits to Armenia, both before and after the fall of the USSR. He visited Holy Etchmiadzin to express solidarity with His Holiness Vazgen I, the late Catholicos of All Armenians, during a trip to render spiritual assistance to the victims of the 1988 Spitak earthquake. He was also named to serve on the Central Board of Directors of the Armenia Fund, Inc. Karekin II was elected the Supreme Patriarch and Catholicos of All Armenians on April 4, 1995.

Mr. Speaker, I rise to extend my sincerest condolences to His Holiness and the Armenian Church. In the spring of 1996 I had the honor of meeting His Holiness when I traveled to Armenia. I am deeply saddened by his passing; June 29, 1999 will be remembered as a day of mourning for all Armenians.

JOETEN ENTERPRISES, INC.

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. UNDERWOOD. Mr. Speaker, fifty years ago, a dentist's office in the island of Saipan in the Northern Marianas was converted into a

small grocery store. Jose Tenorio and his wife, Soledad Duenas Takai ''Daidai'' Tenorio, financed the opening of Tenorio's Grocery Store also known as ''Daidai'' Store. Through the proceeds of a house sale made in 1949, this ''mom and pop'' operation became the groundwork of an extensive group of family-run companies, currently the biggest business enterprise in the Northern Mariana Islands. For the past fifty years, Joeten Enterprises has been at the forefront in providing goods and services to the people of the Northern Marianas. This was all made possible by Jose Camacho ''Joeten'' Tenorio.

Born on July 6, 1923, Joeten grew up during the Japanese administration of the Northern Marianas. Completing the standard five-year education under Japanese rule, he mastered the Japanese language. After the war, he learned English from soldiers and was granted a high school equivalency diploma after receiving instruction from an American principal in Saipan's junior high school. From being a sugar cane field worker, he went on to become an elementary school teacher.

In 1947, Joeten used personal savings of $200 as capital for a beer and soft drinks retail enterprise. Two years later, in 1949, the Tenorios sold their house to open the grocery store which offered basic necessities to the island of Saipan's growing population. Realizing that, in an island economy, a huge chunk from the profit is taken each time goods are shipped into the island, Joeten found to maximize his profit potential by getting together with several local businessmen, in 1956, to form the Saipan Shipping Company. To support the newly created shipping business, the Saipan Stevedore Company was established soon afterwards. As the scope of the island's business community broadened, the Saipan Chamber of Commerce was founded in 1959. Joeten was at the forefront.

In 1962, the office of the Trust Territory of the Pacific Islands moved its headquarters from Guam to Saipan, leading to an influx of jobs and money. The favorable business climate enabled Tenorio's Grocery Store to expand and diversify. Stores selling food, dry goods, hardware items, appliances and furniture were incorporated, in 1963, to constitute the Joeten Center. Three years later, Joeten was awarded the Trust Territory government's copra contract through the United Micronesia Development Association. By the close of the 1960's, Joeten was doing $3 million worth of business.

A major turning point occurred In 1970. Joe Screen joined the team as vice-president and comptroller. Under Joe Screen's leadership, the Joeten stores were transformed into the J.C. Tenorio Enterprises. Their business went beyond wholesale, retail and shipping. By the time Joe Screen passed away in 1984, Joeten Enterprises expanded to include automobile dealerships, a real estate firm, shopping malls, hardware stores and construction supplies distributors. By this time the company was handling $17 million worth of business per year.

For his accomplishments and contributions to the business community, Joeten was chosen as Saipan Chamber of Commerce's Businessperson of the year in 1989. However, business was not his only interest. Genuinely concerned with the Northern Marianas' political future, he ran an unsuccessful campaign, in 1977, to be the commonwealth's first governor. In 1990, he was appointed chairman of the governor's council of economic advisors.

Joeten passed away in 1993, leaving behind a legacy and a business empire that has been at the forefront of the growth and progress of the Northern Marianas. His sons, Clarence and Norman, together with daughters, Annie, Francisca, Patricia and Priscilla, have taken over since his passing. In its fiftieth year, Joeten Enterprises enjoys unprecedented growth. Sales reports show an increase from $74.7 million in 1992 to $123 million in 1998. Employment figures rose from 789 employees in 1992 to roughly 1,000 employees in 1998.

On behalf of the people of Guam, I congratulate Joeten Enterprises, Inc. as they celebrate their golden anniversary. I hope that the next fifty years brings continued success.

TRIBUTE TO RETIRED READING INSTRUCTOR BILLIE HULVER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SKELTON. Mr. Speaker, it has come to my attention that second grade Title I Reading Instructor Billie Hulver, of Lexington R–V School District in Missouri, retired from the teaching profession on May 24, 1999.

Mrs. Hulver began her teaching career after earning her Bachelor of Arts degree from Central Missouri State University in 1977, where she also later earned a Masters degree in Remedial Reading. She taught at the Leslie Bell School in Lexington, MO, for 22 years, helping many children learn to read in the ensuing years.

A highlight of Mrs. Hulver's career occurred recently when she had the opportunity to present the district's early intervention reading program at the International Reading Association annual convention in San Diego, CA. Mrs. Hulver was instrumental in the development of the district's special 90-minute reading program for those students who could benefit from the extra help in learning this all-important educational skill.

With special assistance and encouragement from Leslie Bell Elementary School Principal Barbara Kitchell, Mrs. Hulver designed a ''pull-out'' program—where students are pulled out of their regular classroom for their extra reading instruction—in 1994. Most school districts have only a 30-minute duration reading assistance program.

In the ''pull-out'' program, each group attending a 90-minute session is broken down into smaller, more flexible groups of 3 or 4 students, with each small group spending a predetermined amount of time at several work centers set up around the room. At the end of each time period, the students at one learning center move on to the next learning center, eventually making their way around the room, having spent some time in each of the learning centers. Activities are directed by the teachers at some of the learning centers, with the students working independently at others. The program has resulted in significant improvement in the reading scores of participating students.

Mr. Speaker, I know my colleagues will join me in extending our heartfelt gratitude to Billie Hulver for her dedication and professionalism in helping the youth of our country develop their reading skills, and in wishing her a happy and healthy retirement.

HONORING MR. JOHN L. SAMPSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. TOWNS. Mr. Speaker, I rise today to honor Mr. John L. Sampson, a new and welcome addition to the New York State Senate. Mr. Sampson was elected to the New York State Senate in 1996, representing the 19th Senatorial District which encompasses Canarsie, Starrett of Spring Creek, East Flatbush, parts of Brownsville, Crown Heights, and East New York. He resides in Canarsie, Brooklyn with his wife Crystal, an experienced manager at Arthur Anderson, LLP., and their daughter Kyra.

Born to American and Guyanese parents on June 17, 1965, in Bedford Stuyvesant, Brooklyn, John Llewllyn Sampson moved to Brownsville/East Flatbush, Brooklyn with his family at the age of two. Mr. Sampson grew up in the Brownsville/East Flatbush section of Brooklyn and attended New York City Public Schools, graduating from Tilden High School in Brooklyn.

After graduating from Tilden High School in 1983, Mr. Sampson attended Brooklyn College and graduated in 1987. While in college, he was employed as a paralegal for the Corporation Counsel of the City of New York. Graduating with a Bachelor of Arts Degree in Political Science, Mr. Sampson worked for Proskauer Rose Goetz & Mendelsohn as a Litigation Assistant. In 1988, he entered Albany Law School. During his studies there, he worked with the Department of Environmental Conservation until his graduation in 1991. In April 1992, Mr. Sampson was admitted to the New York Bar, at which time he became a staff attorney for the Legal Aid Society of New York, repesenting clients in Real Estate, Criminal and Election matters.

Mr. Sampson has been an active participant in community affairs, conducting free legal clinics and representing candidates in election matters before the New York Supreme Court. Mr. Sampson is a member of several political organizations including the Rosetta Gaston Democratic Club, the New Era Community Democratic Club, the Thomas Jefferson Democratic Club and the New Era PAC.

Mr. Speaker, I would like you and my colleagues from both sides of the aisle to join me in honoring Mr. John L. Sampson.

TRIBUTE TO JAMES L. FARMER

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. DIXON. Mr. Speaker, I join my colleagues today in mourning the passing of one of America's greatest civil rights leaders, James L. Farmer, Jr. Mr. Farmer who served alongside Martin Luther King, Jr., and other civil rights giants of the 1950's and 1960s and led Freedom Rides throughout the South, died July 9 in a Fredericksburg, VA, hospital.

As one of the founders of the Congress of Racial Equality (CORE) in 1942, Farmer was considered one of the "Big Four" Civil Rights leaders along with Dr. King, NAACP chief, Roy Wilkins, and Urban League head Whitney Young. Farmer was the last surviving member of that courageous and august group.

James Farmer was born on January 12, 1920, in Marshall, TX. He was the son of Dr. James Leonard Farmer, who was the first African American in Texas to hold a doctorate, and Pearl Farmer. James entered Wiley College in Marshall as a 14-year-old freshman. He graduated from Wiley in 1938 and entered the Howard University School of Religion here in Washington, DC. He received his bachelor of divinity degree in 1941, and planned to follow his father into the ministry. However, upon learning that he would be required to preach to a segregated congregation, he declined ordination and set course on a path that would lead him into the civil rights movement.

In 1942, James Farmer and a few others organized CORE. Later that year in Chicago, Farmer initiated what is believed to be the first organized sit-in in United States history. In 1961, Farmer became CORE's national director. He organized and led the famous Freedom Rides of 1961, which took black and white protesters on Greyhound and Trailways buses from Washington, DC, to Jackson, MS, to challenge Jim Crow laws requiring racial segregation on public transportation. Soon after the famed Freedom Rides, Mr. Farmer met with Vice President Johnson and recommended what he called "preferential treatment" for black people trying to get into all-white schools and workplaces. This suggestion would later become the cornerstone of President Johnson's "affirmative action" policies.

Mr. Farmer's involvement with the civil rights movement often brought him face to face with threats of violence. He endured beatings and jailings and barely escaped lynching one night in Louisiana.

Mr. Farmer was an early proponent and follower of the nonviolent ideology espoused by Mahatma Gandi. In recognition of his esteemed contributions to equality and civil rights, President Clinton in 1998 bestowed on Mr. Farmer the highest government honor a civilian can receive, the Presidential Medal of Freedom.

James Farmer's contribution to the cause of equality cannot be understated. After stepping down as CORE's national director, Mr. Farmer went on to teach at Lincoln University, the alma mater of another of America's finest sons, Supreme Court Justice Thurgood Marshall. He also served a brief stint as the Assistant Secretary at what was then known as the Department of Health, Education, and Welfare, and authored two books. Mr. Farmer was a quiet but indefatigable warrior in helping to open doors and create opportunities for thousands of African-American citizens. He leaves a lasting legacy and will be sorely missed. I extend my condolences to his surviving daughters, Tami Farmer Gonzales and Abbey Farmer Levin.

JAMES LEONARD FARMER, JR.

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Ms. CARSON. Mr. Speaker, today I would like to honor and remember an American hero, James Leonard Farmer, Jr. who passed away on July 9 at the age of 79.

James Farmer was one of the leaders of the Civil Rights Movement who helped to shape America. He was a pioneer in both his ideas and actions. His accomplishments and courage over the course of his life are unparalleled.

James Farmer is often overshadowed in the Movement by Martin Luther King Jr. However, he was the first in the Movement to implement the ideas of Mahatma Ghandi and use non-violence and civil disobedience to fight segregation and hatred. He founded the Congress of Racial Equality (CORE) in 1942. He organized the first sit-in in the country in a restaurant with members of CORE. CORE was also responsible for the Freedom Rides in the summer of 1961. These accomplishments led to the desegregation of interstate buses in the South and, in part, led to the Civil Rights Bill of 1964.

His leadership led to great strides that were made early in the Civil Rights Movement. His intellect, bravery, and commanding oratory skills were a primary reason that the Movement was able to gain support from all people.

He continued his work in the Civil Rights Movement in other facets, such as running for Congress, working in the Nixon administration, and teaching, which is what he continued doing until the end of his career.

He continued to educate young people about the history of the Civil Rights Movement. He continued combating hate with ideas of love, brotherhood, and non-violence. He knew fear did not mean cowardice, and that hate was ignorance. He espoused that love and cooperation transcends race, gender, and differences and creates a better mankind. The better humankind for which he strived is a humankind that is truly one and truly unified, and when we as a people achieve this, it is then that we approach our Dream.

TRIBUTE TO RETIRING INSURANCE AGENT WES LANGKRAEHR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SKELTON. Mr. Speaker, it has come to my attention that a distinguished career in the insurance industry has come to an end. Wes Langkraehr recently retired after 34 years as an American Family insurance agent.

Mr. Langkraehr was raised and educated in the Concordia, MO, area. After short stints at the Sweet Springs shoe factory and working construction at Whiteman Air Force Base, Mr. Langkraehr left Concordia in 1953 to work at the Kansas City Power and Light Company (KCP&L). In 1954, he joined the Army. Upon completion of his tour of duty as a soldier, he returned to KCP&L, where he worked for a total of 14 years.

While working at KCP&L, Mr. Langkraehr also started working part-time in the insurance business. By 1964, he was making more money with insurance than he was in his full-time job at KCP&L. He quit KCP&L in 1967 and began working full-time in the insurance business with American Family. In July 1969, he was selected as the Company Agent of the Month, boosting his confidence in his ability as an insurance agent. He never looked back.

With his insurance business booming, Mr. Langkraehr began to buy, sell, and develop real estate. He formed Metro East Corporation in the early 1980's. With his retirement from the insurance industry, Mr. Langkraehr now has time to devote more attention to Metro East.

Mr. Langkraehr is a full-time booster for the town of Concordia, MO. He remains active in the community, rarely missing meetings of either the Lions Club or the City Council.

Mr. Speaker, I know the Members of the House will join me in extending our best wishes in the years ahead to Wes Langkraehr.

JONI YOSWEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. TOWNS. Mr. Speaker, Joni Yoswein is President of Yoswein New York, Inc. (YNY), a government affairs and public relations firm based in New York City. Representing a range of clients that includes health care providers, educational institutions, community based organizations, trade groups, labor unions, Yoswein New York has become one of the fastest growing public policy and government relations firms in New York State.

Ms. Yoswein founded YNY in 1994. The firm quickly developed a reputation as a tireless governmental advocate for its clients, successfully representing many Brooklyn institutions.

Until 1992 Joni Yoswein served as a member of the New York State Assembly from Brooklyn's 44th Assembly District, joining the ranks of only several dozen women ever elected to legislative office in New York. During her

tenure as an Assembly member she was instrumental in securing additional funding for the Higher Education Applied Technology Program, and for New York City's recycling programs. She was also a leader on voter access issues, initiatives focused on displaced homemakers, and on funding for New York City's infrastructure. Immediately prior to forming YNY in 1994, she was a Deputy Commissioner for the City of New York Department of Aging.

Joni Yoswein's career in State government began when she became a legislative representative for Brooklyn Assembly Member Mel Miller. She worked in the legislature for 14 years, becoming Director of Operations for the Assembly, responsible for its 2,000 employees statewide. At the time, Ms. Yoswein was the highest ranking woman on the Speaker's staff. She was a delegate to the Democratic National Convention in 1984 and 1988, and Democratic District leader and State Committee member for 10 years.

Ms. Yoswein is a graduate of the State University at Albany. She is married to Glenn C. Van Bramer, and resides in Brooklyn. I want to commend her dedicated service to both her government and community, and for being a role model for all women to follow.

TRIBUTE TO BISHOP ANDREW CHARLES JACKSON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Bishop Andrew Charles Jackson who for over 36 years, tirelessly served his community and congregation as a spiritual leader and model citizen.

Bishop Jackson was born in Columbia, South Carolina, to Malcolm and Charlotte Jackson. He was educated in the public schools of Richland County, and Columbia Bible College. He married Jennie Lumpkin. They had 5 children, and currently have 7 grandchildren.

Early in his life, Bishop Jackson was baptized and immediately began strengthening his ties to the church. He served as a Sunday School teacher and Superintendent, Youth Leader, and Deacon at the Bible Way Church of Hampton Street. He was called to the ministry in 1963 and installed as a pastor in 1964.

In January, 1966 the Church building burned and he and the congregation held services in homes and a school on Atlas Road. In October, 1967 Bishop Jackson, "Mother" Elizabeth Simmons and 11 members established a new church on Bluff Road in Columbia, South Carolina.

In 1969, Bishop Jackson dedicated a new 350 seat sanctuary on Atlas Road and established a Nursery School. He was also ordained and Elder in 1969 and appointed a District Elder in 1970. He continued his building program on Atlas Road, adding a youth center and dining hall in 1971. He established a radio broadcast the following year.

In May of 1972, Bishop Jackson was appointed Diocesan Bishop of South Carolina, Eastern North Carolina and Prince Frederick, Maryland, and served in this capacity for many years. It was during this time that he established the Bible Way Social Action Foundation (BSAF) to serve needy community members. In 1980, he was appointed as Liaison Bishop for West Africa, and a school was named in his honor in West Africa in 1988. While sharing his faith around the world, he continued serving his home church and in 1981 they built a 1,000 seat sanctuary. From 1983–1988, Bishop Jackson assisted Bishop Chester Byrd with the Florida Diocese and was appointed Bishop of the Florida Diocese in addition to South Carolina, and was later appointed as Director of Finance for Bible Way Church World Wide.

Still remaining in the Columbia area, Bishop Jackson helped to establish a state of the art Family Life Center in May of 1995, and he was consecrated as Co-Vice Presiding Bishop of Bible Way Church in July of 1995. He retired from full time pastorate in November of 1996, after over 33 years in the ministry, and is now Pastor Emeritus of the Atlas Road Bible Way. Throughout his ministry, Bishop Jackson has received numerous honors and recognitions. Of particular note was his 1997 induction into the South Carolina Black Hall of Fame.

Mr. Speaker, we seldom meet people who give so tirelessly of their time and resources as Bishop Andrew Charles Jackson. Please join me in paying tribute to this wonderful South Carolinian, devoted Christian, and personal friend.

TRIBUTE TO MRS. BESSIE CANNON, PRESIDENT, SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 880 OF CHICAGO, ILLINOIS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. RUSH. Mr. Speaker, I rise today to recognize and honor the life of Mrs. Bessie Cannon who made her heavenly transition on Friday, July 9, 1999 at the age of 57.

Mrs. Cannon served diligently as the President of the 10,000 member Service Employees International Union (SEIU) Local 880 for seven years. She was a strong and effective voice for the "little people", fighting in Chicago for the passage of the city's first "Living Wage" ordinance. She championed many causes within the labor movement in Chicago and across this nation during her 13 years as a member of SEIU.

A deeply devoted Christian woman, Mrs. Cannon served faithfully as a member of the Fellowship Missionary Baptist Church of Chicago, under the leadership of the Rev. Dr. Clay Evans. She had an unwavering commitment to the cause of Christ, believing that in Him we have everlasting life. Mrs. Cannon was a loving wife, mother, grandmother, sister and friend. She was an anchor in her home, in her church, in her community and indeed in this nation.

Mr. Speaker, I have known Mrs. Cannon for several years. She has been a supporter and friend. I want to encourage her family and many friends to always remember to look to the hills from which comes all of their help. I am truly honored to pay tribute to her distinguished life and am privileged to enter these words into the CONGRESSIONAL RECORD of the United States House of Representatives.

TRIBUTE TO MR. CHRIS CHIAVERINA AND MR. RICHARD BERNOTOS: TWO EXCELLENT EDUCATORS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. MANZULLO. Mr. Speaker, I am proud to take this opportunity to officially recognize two outstanding gentlemen from the 16th District of Illinois for their important contributions to advancing educational excellence in Illinois.

Mr. Chris Chiaverina lives in Crystal Lake and is a physics teacher at New Trier High School in Winnetka, IL. He exemplifies the innovativeness and creativity that teachers can bring to education. Through his collaborations with fellow educators in math and science, Mr. Chiaverina has helped to develop the Connections Project, which has recently won a grant from the GTE GIFT (Growth Initiative For Teachers) program. GTE offers 60 grants to groups integrating math and science with technology in innovative ways. I would like to include a summary of this inspiring project that won this national award.

I also would like to praise the dedicated work of Mr. Richard Bernotos, Superintendent of School District 47 in Crystal Lake, IL, who was recently chosen as the Parade Grand Marshal for the Crystal Lake Fourth of July celebration. The Crystal Lake Gala Committee picked the Grand Marshal of the parade based on nominations from the community including that of Franklin McAnally, a sixth grade student from Lundahl Middle School. Franklin's letter is included as a testimony to Mr. Bernotos' legacy.

THE CONNECTIONS PROJECT

WHAT IS THE CONNECTIONS PROJECT?

The New Trier Connections Project is an ongoing endeavor which was initiated several years ago as a result of collaboration among art, mathematics and science teachers. The specific goals of the Connections Project include: (1) the production of interactive, interdisciplinary exhibits; (2) the creation of hands-on curricular resources that permit the integration of the exhibits into existing art, mathematics and science courses; (3) the promotion of sender school/high school articulation; (4) the fostering of intra- and inter-departmental collaboration; (5) the implementation of in-service opportunities to acquaint faculty at New Trier and its sender schools with interactive, interdisciplinary resources; and (6) the operation of a web-site to provide on-line access to information about our project.

The teachers and students involved in this initiative have created more than 80 hands-on, museum-type exhibits that demonstrate interrelationships between art, mathematics, science and human perception. The multi-disciplinary exhibits are grouped in

thematic clusters that currently include ''bubbles'', ''curves'', ''illusion and perception'', ''iteration and fractals'', ''light, color and optics'', ''symmetry and reflection'', ''tessellation''. These exhibits are used to create motivating experiences for students and to enhance and expand the curriculum.

The displays are being used in a variety of venues. In addition to being presented in exhibitions in the Brierly Gallery, the exhibits have been used in a wide range of classes at New Trier, in local and Chicago elementary schools, at professional meetings, and in university classes.

HOW DOES THE CONNECTIONS PROJECT BENEFIT NEW TRIER STUDENTS?

New Trier's motto, ''to commit minds to inquiry'', is at the heart of the Connections Project philosophy. Our exhibits are designed to encourage students to actively explore the world around them while discovering elements common to the arts, mathematics and science. Connections exhibits complement student course work in art, math, science, and other subjects by giving students a common set of experiences through which they may understand basic ideas, make connections between related concepts, and integrate newly acquired understanding with prior knowledge. By presenting seemingly disparate disciplines in a real-world context, the artificial boundaries between subjects become less pronounced.

While fun is not the main goal of education, the Connections Project exhibits permit students to experience interdisciplinary relationships in a less structured, more playlike atmosphere. Furthermore, interactive exhibits address the need to expose students to concrete examples of phenomena prior to the development of abstract concepts. A student's interaction with an exhibit is often the first step in the understanding of a more abstract idea.

APRIL 9, 1999.

CRYSTAL LAKE GALA COMMITTEE,
Crystal Lake, IL.

DEAR COMMITTEE: My family and I would like to nominate Mr. Richard Bernotos, District 47 School Superintendent, for Parade Grand Marshall. I feel Mr. Bernotos deserves this honor because of his dedication to the children of District 47. His outstanding services as a teacher, administrator, and now as Superintendent has shown commitment and the extra effort that has made Crystal Lake ''A better place to live.'' The children of this district are always his number one priority as he makes sure that our schools are safe and that we get the best education possible. His commitment to children and his efforts on our behalf have made District 47 an outstanding place to live and learn. I don't think you can do more for a community than to help the children of that community. Even when Mr. Bernotos was in the hospital and undergoing treatment for an illness, he thought about the children of District 47. He returned to work earlier than he probably should have to be sure that our schools ran smoothly and safely.

For these reasons, I hope that you will honor Mr. Bernotos by naming him Grand Marshall of the Crystal Lake Gala's Parade. He has helped every single person in this community by working for the children of the community.

Thank you very much.
Sincerely,

FRANKLIN MCANALLY,
Lundahl Middle School.

DR. EUGENE STANISLAUS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. TOWNS. Mr. Speaker, I want to recognize the achievements of Dr. Eugene Stanislaus. Dr. Stanislaus was born and raised in Brooklyn, NY. He received his B.A. in Biology from New York University in 1980. He received his Doctor of Dental Surgery degree from the State University of Stony Brook, School of Dental Medicine in 1984. After dental school he completed a one year general practice dental residency program at The Long Island College Hospital, Department of Dentistry.

Upon completion of his residency, he joined the practice of his father Dr. Lamuel Stanislaus where he has practiced for the past 14 years. Presently he is an attending dentist at The Long Island College Hospital, Department of Dentistry. Some of his professional affiliations include memberships in the American Dental Association, the Second District Dental Society, the Academy of General Dentistry and the International Congress of Oral Implantology at the University of Pittsburgh for a 1-year course in the surgical replacement of dental implants.

Several times each year he visits public and private schools to speak to the students about dental health issues and to encourage them to consider a career in dentistry. He also participates in several community and church sponsored health fairs each year.

Dr. Stanislaus has been married for 13 years to his wife Koren. They have two children, Travis and Jeanine. During his free time he coaches Little League Baseball and he is an assistant Cub Scout leader at St. Thomas Aquinas Church. He is an Eucharistic minister at St. Vincent Ferrer Church and he is a former lector at St. Francis of Assisi Church.

I want to commend Dr. Stanislaus for his outstanding commitment to his community, and hope that he is able to continue such valuable work for many years to come.

THE FAIRNESS IN TELECOMMUNICATIONS LICENSE TRANSFERS ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. GEKAS. Mr. Speaker, today I am proud to join with my chairman on the Judiciary Committee, Mr. HYDE, to introduce a bill that will restore stability and fairness to the process by which telecommunications licenses are transferred.

In the House Judiciary Committee's Subcommittee on Commercial and Administrative Law, which I chair, we recently held a hearing where it was revealed that the Federal Communications Commission (FCC) has no administrative rules in place to govern license transfer proceedings. This is one of the most unusual oversight hearings I have ever conducted, because we are usually examining relatively narrow questions about whether given procedures have their intended effects. In this case, we observed bureaucrats unfettered by any rule or law. It inspired to confidence on my part, nor does it, I am sure, on the part of the American people.

At risk of boring the Speaker through the sheer obviousness of my comments, let me say this: Regular administrative procedures are an essential protection for Americans. They force the government to play by rules that are known in advance. They give the public a chance to be heard, and they give the public finality. This allows Americans to organize their affairs in compliance with the law. When procedures change, all the benefits of regular order disappear, and the stink of unfairness begins wafting.

In the absence of established procedures that stink has wafted over past and pending license transfer matters before the FCC.

Our legislation requires the FCC to promulgate procedures for considering license transfers, but pushes the agency in no direction on what the procedures should be, other than open, honest, and fair.

We are also interested in whether the FCC's ''public interest'' standard is a legal standard, or something different. A legal standard can be learned from public sources of law. It is written clearly so that the regulated public can predict what the agency will do. And a legal standard can be reviewed in court. It's unclear that the public interest standard meets any of these tests.

Therefore, this legislation calls for the FCC to define and articulate that standard in a public rulemaking.

Let me make something clear about this legislation, though, Mr. Speaker. It is an exercise of our jurisdiction over the administrative processes that govern this land. We require no particular outcome and offer no definition to guide the FCC's wisdom. We merely say, write whatever rules you like and adhere to them. I know of no way to ensure fairness in the regulatory process with a lighter touch than that.

I call on the FCC—and I'm confident that my Committee Chairman, Mr. HYDE does as well—to promulgate clear regulations, both procedural and substantive, so that the telecommunications industry can continue to evolve at a rapid pace. If the FCC fails to deal with the telecommunications world evenhandedly and fairly, I will be prompted to join those in Congress who are calling for a top-to-bottom review of the agency's authority.

HATE CRIMES; INCOME TAX SYSTEM; AND INTERNATIONAL STUDENT ACTIVISM ALLIANCE

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SANDERS. Mr. Speaker, I submit for the RECORD statements by high school students from my home State of Vermont, who were speaking at my recent town meeting on issues facing young people today. I am asking

that you please insert these statements in the CONGRESSIONAL RECORD as I believe that the views of these young persons will benefit my colleagues.

HATE CRIMES

(On behalf of Ryan Creedon, Jeff Davis, Demere Kasper, and Jesse McCall)

Ryan Creedon: Hate crimes have been prevalent in America's history since its conception. A hate crime has been legally defined by Congress in the Violent Crimes and Law Enforcement Act in 1994 as a crime in which the defendant intentionally selects a victim, in the case of property crime, property that is the object of a crime because of the actual or perceived race, color, national origin, ethnicity, gender, disability or sexual orientation of any person.

The Violent Crimes and Law Enforcement Act does not serve as the nation's hate crime law. The law that does act as the nation's hate crime law does not include crimes that are gender- and sexually-orientated and motivated.

Currently, it is being debated whether or not a hate crime should be separated from what would usually be a crime. Take for example the unfortunate suffering Matthew Shepard was subject to in Wyoming. Shepard, a homosexual man, was tied to a fence and assaulted numerous times with the butt end of a pistol by two men because of his sexual orientation. Should the two men be convicted of murder alone, or should they be charged for a hate crime as well?

Jeff Davis: In this case, it is not logical to take the time, energy or money to further try the subjects. They will spend the rest of their lives in jail. However, it does make sense to further punish less severe crimes that are committed by the aggressor because of the subject's race, ethnicity, religion, sexual orientation or gender.

In these circumstances, you can look at the case of Re Beaver St. Paul, 1992. The defendant, along with other juvenile delinquents, built a cross by taping together pieces of wood and burning it in a nearby neighbor's yard. The teenagers were punished under the St. Paul bias-motivated crime ordinance, which prohibits the placement of racial symbols on public property. The balancing test guarantees the rights of life, liberty, and the pursuit of happiness better than any other legislation to date, and sets forth a division line between what is personally offensive and what is free expression.

Demere Kasper: The balancing test weighs the importance of one's rights to express themselves against another's rights to live comfortably. This test is used in many cases. For example, the state of Kansas responds to the actions of Reverend Fred Phelps, the antihomosexual activist. Phelps, along with protesters, verbally directed antigay slander towards those of a homosexual AIDS victim. The Kansas legislature voted that Phelps' actions were immoral, and passed a ban which prohibited such acts, citing a balancing test as the reasoning.

When delivering biased beliefs, the line should be drawn when one begins to attack (inaudible). This insures that the freedom of free expression is still protected. The case of Comver versus Smith in 1949 proves this. When the Nazi party wanted to march through a predominantly Jewish town of Skokie, Illinois, they were denied a permit to march by civil courts. The Supreme Court cited the balancing test and overruled the decisions of the lower courts, which indicated that the denial was fair and just.

Jess McCall: Currently, in the Vermont state legislature, they are trying to pass a bill that would allow the victims of bias-motivated crimes to obtain a court order similar to abuse-prevention orders, prohibiting their attackers from further harassment.

To guarantee freedom of speech and the security of minorities, one's rights to freedom of speech must be outweighed when that speech is intended to harm an individual because of their minority status. Legislation must be passed to significantly increase punishment to those who violate this test. However, this must only be applied when trying a crime that does not already include a life sentence. While it is important to protect our nation's freedom of speech, it is more important to protect the individuals of our nation from racial, gender, ethnic, sexual-orientation, or religious-based slander.

INCOME TAX SYSTEM

(On behalf of Erin Gray and Sara Voight)

Sara Voight: The problem with the current tax system is it is complex, unfair, inhibits savings, and imposes a heavy burden on families. It cannot be replaced by a little change; it must be completely replaced.

The U.S. income tax code is a burden and a waste. The IRS publishes 480 tax forms, and 280 forms to explain the 480 tax forms. Annually, the IRS sends out 8 million pages of tax forms. If you were to lay these out end to end, they would circle the earth 28 times. This amount of paper is wasteful and would be better used for other things.

The main reason the tax code is so complex is the deductions, credits and other special preferences in the tax law. Because of all these loopholes, Americans with very similar incomes can pay vast differences in the amount of taxes. The progressive tax is complicated, but it has the right idea about giving a separate percentage to each income bracket.

Erin Gray: An example of a flat-tax solution was introduced by Congressman Dick Armey and Senator Richard Shelby. The Armey-Shelby flat tax scraps the entire tax code and replaces it with a flat-rate income tax. The flat rate would be phased in over a three-year period, with a 19-percent rate for the first two years and a 17-percent rate for later years.

Individuals and businesses would pay the same rate. This particular plan eliminates all deductions. The only income that is not taxed is a generous personal exemption that every American would receive. For a family of four, the first $35,000 in income are not taxed. No loopholes, no checks; just a simple plan that treats everybody in America the same.

Sara Voight: Both plans have their positive sides. The flat tax has its simplicity, but it also makes it unfair for people with largely different incomes. The progressive tax, which we have now, has the right idea, but all the loopholes and deductions make it unfair. But if you were to combine both plans, and make a progressive flat tax, you will have a tax system that is simple, fair, and works for everyone.

Congressman Sanders: Thank you for dealing with an issue that receives a great deal of attention and debate, and people have great differences of opinion on it.

INTERNATIONAL STUDENT ACTIVISM ALLIANCE

(On behalf of Jess Field, Claire Bove, and Tara Quesnel)

Tara Quesnel: The International Student Activism Alliance was formed almost three years ago by a group of high school students in Connecticut. Since then, it has grown to include over 1,200 members, with at least one chapter in each of the 50 states. The ISAA strives to empower students and give them a voice in issues that concern them.

Past and present ISSA issues include censorship of student publications, community curfews, and getting students with voting rights on state boards of education.

Claire Bove: The ISAA is different from any activism organizations and extracurricular opportunities open to students. First, it is entirely student-run. The power structure consists of a national chair, the official head of the organization, and a cochair in each state. The national chair is assisted by an executive board. Members of the board include the newsletter editor, the national technology fundraising and recruiting directors, and the national coordinators. At the chapter level, there are chapter representatives. All these positions are filled by high school students.

The second thing that differentiates the ISAA from any other organization is the freedom individual chapters have. Chapter members organize around issues that are important to them. The issues are not partisan, they're student. Additionally, there is no action required of any member.

Jess Field: I believe that organizations like the ISAA are very important. As Congressman Sanders said earlier, voter turnout in our country is incredibly law. We need to find ways to allow young people to become more involved and interested in the government. Opportunities like becoming active in organizations like ISAA should not be passed up.

The experience goes well beyond the actual activism. Organizations like this teach youth self-confidence and self-respect as well as giving us a sense of what power we actually hold in a democracy like this one.

Our government needs to endorse positive civic involvement with youth. This could be accomplished with grants toward student organizations like the ISAA. Forums like this one are also very effective ways of allowing students to speak out and have their voices heard. If any members of the audience are interested in becoming more involved with the ISAA, they should find me afterward.

Congressman Sanders: Thank you very much for an excellent presentation on an important issue.

HONORING AMY NORDQUIST, LANAY M. LINNEBUR, AND SHEILA NIGHTINGALE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize three high school junior scholars; Amy L. Nordquist of Kit Karson, CO, Lanay M. Linnebur of Byers, CO, and Sheila Nightingale of Berthoud, CO, upon receiving the Discover Card Tribute Award Scholarship. This award is very competitive. There are 10,000 applicants and 470 recipients. Each scholar is noted for excellence in community service, leadership, special talents, unique endeavors and obstacles they have overcome. Each individual was rewarded for expertise in various fields. Ms. Lanay received $2,500 award in Trade and

Technical Studies, Ms. Nightingale received a $1,750 award in Arts and Humanities, and Ms. Nordquist received a $1,750 award in Trade and Technical Studies. I commend these students for their phenomenal work.

TRIBUTE TO WILLIE MAE RIVERS

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. BERRY. Mr. Speaker, I rise today to recognize a woman whose leadership and caring nature have influenced so many, Ms. Willie Mae Rivers.

Willie Mae Rivers was born in Charleston, SC. She aligned herself with Calvary Church of God in Christ in 1946, where she has served over the past 50 years. Ms. Rivers has also served as district missionary and assistant state supervisor for the state of South Carolina. Ms. Rivers has also held various positions on Screening and Program committees, District Missionaries, and instructor of the State Supervisor's class.

Ms. Rivers is the mother of 12 children. She currently maintains a satellite office in addition to the Church of God in Christ headquarters in Memphis, TN.

Ms. Willie Mae Rivers is a leader and giving individual who deserves the respect and admiration of everyone.

THE INTRODUCTION OF THE FAIRNESS IN TELECOMMUNICATIONS LICENSE TRANSFERS ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. HYDE. Mr. Speaker, today I am pleased to join with Chairman GEKAS of the Subcommittee on Commercial and Administrative Law and Congressman GOODLATTE to introduce the "Fairness in Telecommunications License Transfers Act."

As chairman of the Judiciary Committee, the committee with jurisdiction over antitrust and administrative procedure matters, I have long been concerned about the treatment of mergers in the telecommunications industry. During the consideration of the Telecommunications Act of 1996, Ranking Member JOHN CONYERS and I were instrumental in updating the law to make sure that telecommunications mergers received a full antitrust review under the normal Hart-Scott-Rodino process in addition to the broader public interest review of license transfers by the Federal Communications Commission.

Since that time, the Committee on the Judiciary has continued to study this matter. On June 24, 1998, we held an oversight hearing on "The Effects of Consolidation on the State of Competition in the Telecommunications Industry." Chairman William Kennard of the FCC was invited to appear at that hearing, but he had a scheduling conflict. At that time, I remained hopeful that the dual review would enhance the process rather than detracting from it.

I have been pleased with the Department of Justice's role in these mergers. Although I may not agree with their substantive decisions in every respect, they have reviewed these mergers in a reasonable procedural manner under tight time deadlines. I think that their work has shown that Mr. CONYERS and I did the right thing in 1996 when we succeeded in getting these mergers into the Hart-Scott-Rodiono process.

The FCC's record on the other hand has been disappointing to say the least. On May 25, 1999, Chairman GEKAS's Subcommittee on Commercial and Administrative Law held an oversight hearing on that record entitled "Novel Procedures in FCC License Transfer Proceedings." Again, Chairman Kennard was invited to appear, but had a scheduling conflict. At that hearing, the Subcommittee heard disturbing testimony from Commissioner Harold Furchtgott-Rott about the utterly standardless decisionmaking process that the Commission employs in these matters. His testimony proved that the title of that hearing was instructive in at least two regards. First, as Commissioner Furchtgott-Roth testified, under current law, the FCC has authority to review license transfers—not mergers. Second, he told us that the FCC's procedures are novel indeed—they are not written down anywhere.

Let me address both these areas. On the substance of the review, I have not in the past opposed the FCC's consideration of competitive factors as part of its public interest review of license transfers. I thought that some additional competitive analysis might be helpful. Based on the experience of the last year, and particularly the experience of the SBC and Ameritech merger, however, I am now much more skeptical. Having reviewed the governing law and Commissioner Furchtgott-Roth's testimony. I have substantial doubts as to whether the FCC should be redoing the competitive analysis done under the Hart-Scott-Rodino process. It appears to me that the license transfer authority was primarily intended to allow the Commission to determine whether the transferee is a responsible and qualified party—not to launch a full scale competitive analysis. At the least, the kind of far-flung proceeding that SBC and Ameritech have faced strikes me as beyond the intent of the statute.

For that reason, Section 2 of the bill would clarify that the FCC is not an antitrust enforcement agency. It removes language in the Clayton Act that currently appears to give the FCC concurrent authority to enforce the antitrust laws against telecommunications carriers. That authority has rarely been invoked in any formal manner, but I think that this change will help to clarify the appropriate role of the FCC in license transfer review and in other areas.

Second, we must address procedural fairness in license transfer proceedings. I do not think I can say it any better than Commissioner Furchtgott-Roth put it to the Subcommittee: "debates about process are not trivial debates. To the contrary, regularity and fairness of process are central to a governmental system based on the rule of law. As the law recognizes in many different areas, the denial of a procedural right can result in the abridgment of a substantive right."

What is wrong with the FCC's procedures? Let's consider SBC and Ameritech as a case study. First, the FCC simply does not have any rules for dealing with license transfer—none. As Commissioner Furchtgott-Roth testified, there simply is no place to go to look up the rules. Rather, in the case of SBC and Ameritech, the Commission has adopted a "make it up as you go" approach. Whenever the deal has neared the goalposts, the goalposts have been moved. That is confusing and costly for all concerned.

Second, because there are no clear rules, some license transfers are treated in one fashion and some in another. Thousands are dealt with in a perfunctory fashion, and a few are dealt with extensively. There is nothing inherently wrong with that, but it ought to be done according to some neutral principle. For example, without commenting on their substance, it is hard to see why the AT&T–TCI transaction was approved in less than six months and the SBC-Ameritech transaction still is not completed after more than a year. That necessarily affects competition between these companies. A fundamental principle of fairness is that similarly situated parties ought to be treated similarly. Moreover, government bureaucracies ought not to be dictating market outcomes.

Third, as I just pointed out, the SBC-Ameritech transaction has been pending for over a year. I have usually been circumspect in commenting on pending matters, but because of the extraordinary delay here, I wrote to Chairman Kennard on March 22, 1999 asking him to act expeditiously. A month later, he wrote back to me stating that the Commission had instituted a new round of procedures and that a decision was possible by the end of June. The end of June has come and gone. The Commission and the parties have reached a tentative agreement on 26 conditions for the merger, but the Commission has not voted on it. Again, without commenting on the substance of the merger, this level of delay is simply unacceptable. These companies are involved in fiercely competitive markets, and time is of the essence. Billions of dollars of commerce have been held hostage to bureaucratic delay.

Fourth, I am concerned about the conditional nature of this tentative approval as a procedural matter. The statutory basis for such conditional approvals in FCC license transfer proceedings is unclear at best. When the number of conditions rises to 26 and they are as extensive as those we see here, I have to question whether this is a public interest review or something else. These conditions may well be helpful as a policy matter, and I am at least pleased that this lengthy process is coming to an end. However, the legal and procedural basis for them is less than clear to me.

All of these examples show what is wrong procedurally with the consideration of license transfers at the FCC. Section 3 of our bill would amend the Administrative Procedure Act to require the FCC to write rules governing their license transfer proceedings. We do not try to dictate what those rules should be. We simply require that there must be neutral rules accessible to all in advance. That seems to me simple fairness. With such rules in place, all parties will have an equal chance in these

proceedings. If the FCC fails to write such rules or it does not follow them, parties to license transfers can bring a court action to have their transfers deemed approved.

Mr. Speaker, I believe these simple changes will bring order and fairness to what has become a chaotic and unfair process. I urge my colleagues to join me, Chairman GEKAS, and Congressman GOODLATTE in passing this important legislation.

THE FINANCIAL SERVICES ACT OF 1999

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. DINGELL. Mr. Speaker, as ranking member of the Committee on Commerce, which has jurisdiction over securities including the standards of financial accounting, and to whom was referred the bill H.R. 10, the Financial Services Act of 1999, I rise to clarify a matter involving the legislative history of this legislation. My remarks are an extension of remarks that I made during House consideration of H.R. 10 on amendment No. 8 offered by Mrs. ROUKEMA (July 1, 1999, CONGRESSIONAL RECORD at H5295 and H5299).

During House consideration of this amendment (July 1, 1999, CONGRESSIONAL RECORD at H5294–H5300), several Banking Committee Members were recognized for unanimous-consent requests to revise and extend their remarks on that amendment which related to the manner in which insured depository institutions or depository institution holding companies report loan loss reserves on their financial statements. Because the House adjourned following completion of H.R. 10 at midnight on July 1, 1999, until 12:30 p.m. on Monday, July 12, it was not possible to review the material inserted by these Members until after the Independence Day District Work Period.

In conducting that review, I have discovered nongermane and inaccurate remarks about an accounting practice known as ''pooling.'' These remarks, which were not before the House when it voted on the Roukema amendment, assert that the Financial Accounting Standards Board (FASB or Board) ''has not always sought adequate input from the accounting or banking communities on proposed changes in regulations''—a patently false statement when compared with both the public record and FASB's own procedures regarding due process—and asks the conference committee on H.R. 10 to ''include language either in this bill or future legislation to ensure that this process is an open and fair one'' (July 1, 1999, CONGRESSIONAL RECORD at H5296, bold type-face material, 2d column).

I have the following comments on that material which follows the statement that the gentleman from Alabama (Mr. BACHUS) actually delivered to the House:

Since 1996, FASB, the independent private sector organization that establishes and improves standards of financial accounting for the United States, has been publicly deliberating issues relating to the accounting treatment for business combinations.

Currently in the United States, companies can account for a business combination in one of two very different ways: the ''purchase'' method—in which one company is the buyer and records the company being acquired at the price it actually paid—and the ''pooling-of-interests'' method—in which two companies merge and just add together the book values of their net assets.

The availability of two different accounting methods for business combinations is problematic for several reasons. First, it is difficult for investors to compare the financial statements of companies that use the different methods. The purchase method of accounting provides investors with different and much more useful financial information than does the pooling method—because the financial statements of the acquiring company in a purchase business combination reflect the investment it has made and provide feedback about the subsequent performance of that investment. Second, it affects competition in the mergers and acquisitions market (both domestically and internationally). Because companies that can use the pooling method do not report the cost of goodwill and other similar costs of the acquisition, they may be more willing to pay more than companies that must use the purchase method. This obviously can have a dramatic effect on shareholders. Third, the United States is out of step internationally—most other countries either prohibit the pooling method entirely or permit its use only as an exception.

Finally, since the current accounting standards for business combinations were issued in 1970, the FASB, the American Institute of Certified Public Accountants, the Emerging Issues Task Force, and the United States Securities and Exchange Commission (SEC) have all been inundated with issues resulting from companies' seeking to use the pooling methods. Numerous interpretations of the pooling method rules have been required to address those issues. The high degree of required maintenance of those rules has led many to conclude that the current accounting rules are broken.

After over a dozen public Board meetings, public meetings with the Financial Accounting Standards Advisory Council and the Business Combinations task force (both of which include preparers, users, and auditors), the issuance of two documents for public comment, and after carefully considering the input from all of its constituents, including the accounting and banking communities, the Board has tentatively decided that only one method, the purchase method, should be used to account for all business combinations.

The Board's tentative decision reflects the view that virtually every business combination represents the purchase of one company by another and that the purchase method is the most appropriate method of reporting the economics of those transactions to investors. By allowing only one method of accounting for all business combinations: The investment made in the purchase of the other company is always reflected; feedback about the performance of those investments is provided; and investors can more easily make comparisons between investment opportunities, both domestically and internationally.

As part of the FASB's extensive and open due process, the tentative decision regarding the methods of accounting for business combinations will be exposed for public comment later this summer as part of an Exposure Draft of a proposed new business combination accounting standard. In addition, early next year, the Board will hold public hearings to provide constituents an additional opportunity to directly discuss any concerns with the Board. Comment letters received in response to the Exposure Draft and the public hearing testimony will be carefully and fully considered by the Board at public meetings prior to reaching any decisions on the content of a final standard on the accounting for business combinations. FASB has kept the Congress fully informed on these matters of substance and process through document submissions and staff briefings.

This accounting issue is controversial and will require extensive and careful review, realities that FASB fully recognizes and has taken steps to fully address. Legislation is not warranted. But I would like to point out that for some time, U.S. stock exchanges and many U.S.-based multinational companies have been pushing for adaption of international accounting standards. I find it ironic that some segments of the industry are now opposing the adoption of international standards in area where those standards are arguably tougher and more honest and accurate than the current U.S. standard.

The Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 are the basic laws that govern securities market regulation in the United States. Those laws, and related rules and regulations subsequently adopted by the SEC, establish the initial and continuing disclosure that companies must make if their securities are sold to or traded by the U.S. investing public. The goals of this disclosure system are to promote informed decisions by the investing public through full and fair disclosure, which includes preventing misleading or incomplete financial reporting. The success of this system has produced the world's most honest, fair, liquid, and efficient capital market. Financial statements are a cornerstone of this approach, and the quality and usefulness of those financial statements are directly dependent on the accounting principle used to prepare them.

While the federal securities laws grant the SEC the authority to establish U.S. generally accepted accounting principles of GAAP, the SEC historically has looked to the private sector, and has formerly endorsed FASB, for leadership in establishing and improving accounting principles to be used by public companies, while the SEC retains it statutory authority to supplement, override or otherwise amend private sector accounting standards in the rare occasions where such action may be necessary and appropriate. This partnership with the private sector facilities input into the accounting standard-setting process from all stakeholders in U.S. capitol markets, including financial statement preparers, auditors and issuers, as well as regulators.

This systems isn't broken and does not need to be fixed.

CRESSY LEAVES A GREAT IMPRINT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. FRANK of Massachusetts. Mr. Speaker, the University of Massachusetts Dartmouth is an extremely valuable institution. It is an excellent educational facility, and it is a great example of a public institution of higher education that not only seeks to provide a first rate education to its students, but cooperates indeed often takes a leadership role—in regional economic development.

One of the reasons this University has been such a valued part of Southeastern Massachusetts in recent years is the leadership of its Chancellor, Peter Cressy. On behalf of my colleague from Massachusetts (Mr. MCGOVERN) and myself, I want to insert here in the RECORD the editorial from the New Bedford Standard Times, on Wednesday, July 14, which pays a well deserved tribute to the high quality leadership Peter Cressy provided.

In several areas of great importance to Southeastern Massachusetts economically, particularly including textiles and fishing, Peter Cressy has done everything possible to make sure that the University provided significant help to the broader community, while at the same time fully maintaining the educational mission that is the primary justification of a college.

At a time when some question the value of publicly funded enterprises, Peter Cressy's leadership at the University of Massachusetts Dartmouth gave us an excellent example of how tax dollars can be put to excellent use for the broadest possible public benefit.

My colleague (Mr. MCGOVERN) and I will miss his leadership, his energy, and his enthusiasm at the head of this extremely important institution. And we ask that the editorial from the New Bedford Standard Times be printed here as one example of how excellent leadership can help us get the best of our public efforts.

CRESSY LEAVES A GREAT IMPRINT

When Dr. Peter H. Cressy jumped from the Massachusetts Maritime Academy in Bourne after two years to take over at the helm of UMass Dartmouth, there were those who suggested that this energetic and effective leader might not stay more than two or three years. I wasn't his style.

Dr. (former Rear Adm.) Cressy's career was marked by one success after another, though his Navy days and then on his own. He made his mark and moved on. He had turned Mass. Maritime around when some thought that to be impossible; he then plunged into his UMass Dartmouth job with energy and enthusiasm that were rarely witnessed before. Sometimes controversial but always self-assured and outgoing, Dr. Cressy set about to remake the university and to multiply its ties to the surrounding community.

He stayed for six years, putting the university on the national map, bringing it up to full membership in the UMass system, vastly improving its fund raising, and as he said in his unexpected resignation announcement on Monday, established the marine science and technology program, improved the budget process, improved admissions and retention, increased research, added a Ph.D. program, established centers for business and so on.

Dr. Cressy's methods were not to everyone's taste; that is not uncommon for a bright, visionary individual. But there is no doubt that SouthCoast Massachusetts would be far behind where it is today without his leadership and his initiatives. We wish him the best in his new career in Washington, D.C., as president and CEO of the Distilleries Council of the United States, and we hope to see him follow through on his promise to eventually retire to our part of the world. We would be happy to put him back to work.

IN MEMORY OF WILLIAM CRAVEN (1921–1999)

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. CUNNINGHAM. Mr. Speaker, I rise to honor the memory of William A. "Bill" Craven: a husband and father, a public servant, a veteran of the Armed Forces of the United States, and a leading citizen of San Diego County, California, who has passed away.

Bill Craven was a courageous political leader who represented the citizens of San Diego County for more than a quarter century. Many of us will always remember Bill as a strong leader with a tremendous commitment to public service. During his storied life he served as a U.S. Marine, San Diego County Supervisor, California State Assemblyman, Oceanside Planning Commissioner, the City Manager for San Marcos and the Chief Assistant to a County Supervisor. However, it is his many accomplishments as a California State Senator that will ensure his legacy. The crown jewel of those accomplishments was the successful establishment of California State University San Marcos.

I submit for the RECORD a column from the San Diego Union Tribune and both an article and editorial from the North County Times, which further highlight the life of this great man.

To be loved by friends and admired by opponents and to serve the people is the goal of all great leaders; it is a goal that Bill admirably attained. Speaking for all the people of California's 51st Congressional District, my heart goes out to Bill's wife, Mimi, and his entire family upon their loss. I am honored to have been Bill's friend.

Let the permanent RECORD of the Congress of the United States show that Bill Craven was a tireless advocate for his constituents, and a friend of America.

[From the San Diego Union Tribune, July 13, 1999]

WILLIAM A. CRAVEN (1921–1999)—CAL STATE SAN MARCOS IS A LASTING LEGACY

(By Gerry Braun and Jeff McDonald)

William A. "Bill" Craven, the courtly North County legislator who was known for his candor and independence and for delivering a state university to the heart of his district, is dead at 78.

Craven, a heavy smoker for much of his life, suffered from congestive heart failure and complications of diabetes, a family member said. He died Sunday morning at the Villas de Carlsbad Health Center.

An old-school politician equipped with charm and a long memory for names and local problems, Craven represented the North County for a quarter of a century, from his election to the Board of Supervisors until term limits and failing health forced him from the state Senate last year.

He was an Oceanside planning commissioner, the city manager of San Marcos and a county supervisor's chief assistant before being elected a supervisor in his own right in 1970. The lifelong Republican moved up to the state Assembly in 1973, and then to the state Senate in 1978, without losing a race or facing serious competition.

In the Legislature, colleagues looked to the longtime Oceanside resident for his expertise in such unglamorous policy arenas as local government funding and mobile-home park regulation. Yet he also wielded considerable clout through his longtime seat on the powerful Senate Rules Committee and his ability to offset his party's minority status by cultivating personal relationships with his colleagues.

In his latter years, Craven was one of a dwindling species in Sacramento—a moderate Republican who prided himself on his bipartisanship and his friendships with Democratic leaders such as Willie Brown, Leo McCarthy, Bill Lockyer and David Roberti, the latter a longtime Senate president pro tempore whom Craven affectionately called "Boss."

Craven crossed party lines without apology, and many times delivered the final vote needed to send Democratic bills to the governor.

"Before government became the enemy, in the perspective of some, Bill was one who wanted government to work and to solve problems," said Lockyer, who served with Craven in both houses of the Legislature and is now California's attorney general. "He was a man with a devotion to public service and a wonderful, wonderful, giant heart."

Craven's district underwent explosive growth during his career—he represented nearly 1 million people in parts of three counties in the late 1980s—and he battled to steer state money to its water systems, parks, highways and courtrooms, and to sustain the growth with tax credits for first-time home buyers.

PRIDE IN ACCOMPLISHMENTS

He was proud of winning extra funding for Torrey Pines State Reserve; supporting anti-pollution legislation that targeted aerosol cans and vapor-recovery systems on gas pumps; increasing the size of Butterfield Park in San Pasqual; and raising from five to seven the number of judges at the Vista courthouse.

But the crown jewel of his legislative career was the creation of Cal State San Marcos, the North County public university that Craven started lobbying for even before he was elected to the Assembly in 1973. The university was finally christened in 1990, and the grand opening capped one of the longest and most ardent drives of Craven's years in Sacramento.

In gratitude, one of the main buildings of the growing San Marcos campus was named Craven Hall. A bust of the longtime legislator rests in front and a nearby thoroughfare was named in his honor.

"He had the vision for that university for as long as I've known him, which goes way back, I think 30 years ago," said banker Jim Rady, a former Escondido mayor.

"Throughout his career he put the well-being of North County ahead of politics. He

was a moderate Republican in times when it was not fashionable, but people who knew him respected him,'' Rady said. ''He was an honest man.''

A MAN OF MANY TALENTS

In his many and varied careers, Craven worked as a newspaperman, a salesman, an ad man and an actor.

He was born on June 30, 1921, in Philadelphia and graduated from Villanova, where he earned a degree in economics. Craven enlisted in the Marines during World War II and returned to service when his country came calling at the outbreak of the Korean War.

During his second military stint, Craven devised and wrote a Marine Corps radio program that aired weekly over more than 130 stations. By 1951, he had turned to television and produced a weekly program that ran for more than three years.

He left the service as a major and a military buff who devoured the books of historian W.E.B. Griffin. The lessons of war stayed with him throughout his public service, as when he opposed a nuclear-freeze proposal in 1982, bluntly explaining, ''I don't trust the Russians. I never have. I probably never will.''

Between the wars, Craven turned to sales and promotion, working for a Kentucky-based company that specialized in leather and binding.

After the Korean War, Craven took a sales job with Philco Electronics, roaming the Eastern Seaboard for new clients. It wasn't long, however, before he migrated west, with his young wife, Mimi, to accept a management position at a Los Angeles concessions company that sold various goods to the military.

DEEP ROOTS

Much of that business took Craven south to San Diego County and Camp Pendleton, where he began planting deep roots in the Oceanside community.

His interest in writing was sparked by a short stint as a police reporter in his native Pennsylvania—skills that helped Craven launch his own public relations business in the 1950s.

He wrote advertising copy, did market research and consulted on merchandising and sales tactics for a variety of clients.

His years of public service began with 12 years on the Oceanside Planning Commission and working as an executive assistant to the Board of Supervisors from 1962 to 1969. He also served as the county's first public information officer.

He spent four months as the San Marcos city manager before winning election to the Board of Supervisors in 1970, when he was named North County Man of the Year by the Northern San Diego County Associated Chambers of Commerce.

But his service on the Board of Supervisors was not without its squabbles.

Craven was criticized in 1971 for accepting guest privileges to a local country club, then voting on a rezoning application filed by the company when it came before the Board of Supervisors. He gave up the membership soon thereafter.

In 1972, Craven was targeted for recall by a Chula Vista water company owner upset with a redistricting plan pushed by the supervisor. The attempt fizzled when the business owner was unable to muster enough support for the recall drive.

Like many county officials before him, Craven also tangled with the San Diego mayor, at that time a rising a powerful Republican named Pete Wilson. As early as 1972, Craven was warning county residents that the regional planning hierarchy favored the city of San Diego over the county.

''We shouldn't have to take a back seat to San Diego,'' he once boomed at a breakfast meeting in Fallbrook, where he criticized the distribution system for regional gas tax revenue.

SACRAMENTO BOUND

The supervisor beat out eight other Republicans—and 14 rivals overall—in the 1973 primary election for a vacant Assembly seat. Craven was the top campaign spender—reporting more than $43,000 in expenses, some $2.85 for every vote he received—and carried more than 65 percent of the vote.

He served three terms in the Assembly and was one of only two Republican assemblymen to head a legislative committee in the Democrat-controlled lower house—the Local Government Committee.

A self-described moderate Republican with ''conservative leanings—especially in fiscal areas,'' he opposed Proposition 13, the landmark tax-slashing initiative approved by California voters.

After its passage, he pushed for a state constitutional amendment that would have made it easier for local governments to issue general obligation bonds—a key target of the 1978 measure.

Craven pointed to his seniority, and key Rules Committee assignment, in 1981 when he stunned constituents by announcing that he would forsake running for an open congressional seat to remain in the state Senate.

''I've come, with some degree of experience and years, to understand that service here is something that I've become very accustomed to,'' he told supporters at a weekend fundraiser.

CSU SAN MARCOS

By remaining in Sacramento, Craven was able to pull off his crowning legislative achievement—the funding for CSU San Marcos. It is widely considered the product of Craven's finely honed legislative skills.

Just last March, Craven donated $250,000 in leftover campaign funds to the university for the establishment of an academic scholarship with just one condition: That it go to ''average'' students with special qualities.

He is survived by his wife of 55 years, Mimi, and three children: sons William Craven Jr. and John Craven, and daughter Tricia Craven Worley.

In lieu of flowers, the family asks for donations to Tri-City Medical Center or to the William A. Craven Scholarship Fund at Cal State San Marcos.

[From the North County Times, July 13, 1999]

NORTH COUNTY STATESMAN DIES AT 78

(By Terry Wells)

OCEANSIDE.—Former state Sen. William A. Craven, a statesman whose nonpartisan style and flair for oratory led to the founding of Cal State San Marcos, died Sunday after a long battle with diabetes and emphysema.

He was 78.

Craven, an Oceanside Republican who held the 38th District state senate seat from 1978 to 1998, was fondly remembered Monday as a man who put getting the job done above politics—sometimes to the consternation of his GOP colleagues.

''He worked both sides of the aisle when he wanted to get something done, and the Democrats respected him as well as the Republicans,'' said Vista Mayor Gloria McClellan, whose long career in city politics parallels Craven's in Sacramento. ''What an intelligent, thoughtful man he was. And very, very effective.''

Born June 30, 1921, in Philadelphia, Craven attended a private high school and graduated from prestigious Villanova University with a bachelor's degree in economics.

He then joined the Marines during World War II and was commissioned as a lieutenant. Craven soon found himself landing on the beach at Iwo Jima, one of the most ferocious battles in the Pacific theater.

Craven emerged a major, remaining a Marine reserve officer and attaining the rank of brigadier general after being called back to active duty during the Korean War. Years later, an accomplished legislator in Sacramento, Craven chaired an informal social group of legislators who had served in the Marine Corps, the ''Marine Legislative Brigade.''

CRAVEN REMEMBERED

Craven's successor, state Sen. Bill Morrow, R-Oceanside, said there were a dozen or so brigade members in that group a decade ago, but Morrow himself is now the Legislature's only ex-Marine. It just isn't the same without him, Morrow said.

''Everybody here recognizes him to this day for what he was, a true gentleman who was compassionate in his politics—and also a real fightin' Marine,'' Morrow said. ''It didn't take me too long to know that you don't replace a Bill Craven. You just carry on.''

Craven and his wife, the former Marion ''Mimi'' L. Wahl, married in April 1944, and made their home in Oceanside, raising three children.

While Craven had worked various jobs including one as a leather salesman, he gravitated toward public life. Mimi Craven shared that tendency, and was a fixture at his side during decades of appearances at civic events.

Craven learned public administration from the ground up, serving as a staff aide to the San Diego County Board of Supervisors in the 1960s, and briefly as the city manager of San Marcos.

RUNNING FOR OFFICE

In early 1970, then-Gov. Ronald Reagan appointed Robert Cozens, the county's 5th District supervisor, to be the new director of the state Department of Motor Vehicles, and Craven decided to make his play for the empty seat.

But the four supervisors deadlocked 2-2 on naming a successor, and Reagan appointed the late Miles W. Kratka to finish out Cozens' term.

Undeterred, Craven entered the primary race and gathered more than half the vote in June, avoiding a November runoff.

Bill Dominguez, who later served as county Supervisor Craven's chief of staff, said it was no surprise that Craven won in the primary, despite never having held elected office.

In 1970, as one of a small handful of aides that served all the county supervisors, Craven ''lived in his car'' while visiting county residents who had called to raise concerns with the board of supervisors. Dominguez said.

''He had a great flair with people, and a great sense of humor;'' Dominguez said. ''Once of his favorite mottos was, 'If you can leave them smiling, then you've won the war.' ''

THE FIRST STEP

Craven's experience at the street level shaped his thinking, Dominguez said, but the former Marine sought and won a state Assembly seat in 1973, halfway through his first term.

In 1978, the year of California's property tax revolution, Craven jumped to the state Senate, a seat he held for 20 years.

The more collegial environmental of the Senate—where partisan fights are rare by comparison to the rough-and-ready Assembly—suited Craven's gentlemanly style, said Assemblyman Howard Kaloogian, R-Carlsbad.

''Republicans will vote for a Democrat to be the Senate leader, and here in the Assembly we don't understand that,'' Kaloogian said. ''He epitomized the image of a state senator. And today, in an era of term limits, there will never again be a Bill Craven.''

Craven specialized in legislation that concerned local governments—a ''true policy wonk in the truest sense of that term,'' Dominguez said. But the senator will be remembered for generations for one accomplishment, according to those who knew him: the founding of Cal State San Marcos in 1992.

UNIVERSITY LEGACY

It was the first new Cal State campus in decades—for years the idea was only to build a satellite campus of San Diego State University.

''When it happened, it went beyond their wildest dreams and we got a full, four-year institution of our own in North County,'' Dominguez said.

ADVOCATES FOR SENIORS

Craven won respect throughout North County as an advocate for residents of mobile-home parks, many of whom are seniors living on fixed incomes.

When those efforts veered into rent control—a taboo topic among most Republicans—Craven didn't flinch. He also made it happen with a series of bills fought by mobile-home park owners.

''His highly developed sense of decency and his intellectual rigor made it possible for him to succeed where others were shuttled aside,'' said veteran GOP political consultant Jack Orr. ''I disagreed with him on a lot of things, including rent control. But I respected him, and so did just about everybody else.''

Mayo Jo Kerlin, who worked for Craven for 25 years, said the senator had a way of attracting and keeping loyal staff members because he didn't put politics at the top of his agenda.

Kerlin noted that Craven sponsored bills that created the state's network of freeway call-boxes; laid the groundwork for Coaster light-rail service; and bought habitat at Torrey Pines and in Poway before habitat preservation was in full swing in a rapidly developing state.

Craven also played a major role in the 1994 bailout of Orange County, where risky investments created the nation's largest municipal bankruptcy.

''He has touched more people's lives in North County than anyone I know, or I'm likely to know,'' Kerlin said. ''It seems like everywhere I go, I see his fingerprints.''

[From the North County Times, July 14, 1999]

A LONG LEGACY OF GOOD WORKS

An ex-Marine who stormed the beaches at Iwo Jima in his youth, former state Sen. Bill Craven could hold his own in most any fight in the Capitol's halls and cloakrooms, but he made his name in North County and Sacramento as a peacemaker and statesman.

Craven, who died Sunday morning at age 78, represented the bulk of North County in the California Senate for 20 years until declining health and term limits forced him to relinquish his seat last year. Many legislators, once they get to Sacramento, lose touch with their home districts and become more focused on statewide or national issues, but Craven never lost his focus on North County. He worked hard to make sure his constituents got the services and goods they paid for through their taxes and fought efforts to shift funding from local governments to state.

Most of his causes weren't glamorous—he pushed for tougher anti-pollution regulations and greater investment in highways, parks, courts and habitat protection—but his greatest legacy will always be Cal State San Marcos, who administration building and main road bear his name. He began campaigning for a North County university campus in 1973, five years before he was elected to the Senate. When it finally opened in 1990, it was the first new state university anywhere in the country in more than 20 years.

In this day of term limits, we won't see a long record of service like Craven's again, and in this era of bitter partisanship we're unlikely to see his form of statesmanship again.

''THE OMNIBUS ADOPTION ACT OF 1999''

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing the Omnibus Adoption Act of 1999. I am pleased that my friend and colleague, Congressman Jim Oberstar, is joining me in introducing this key piece of legislation, which seeks to promote and raise awareness about adoption.

As someone who has been a passionate advocate for helping families and children through adoption, I urge all of my colleagues to support this important proposal, because adoption is truly a loving option for women and families who find themselves in less than optimal circumstances.

The existing evidence shows that adoption generates overwhelmingly positive benefits to all persons involved in the process—including the birth mother. In fact, some research indicates that those women who choose to make a adoption plan for their child are less likely to live in poverty, more likely to complete high school, and less likely to have additional unplanned pregnancies.

Adoption also provides a child who might otherwise face a bleak or difficult childhood the prospect of having loving parents, a stable home, a higher standard of living and enhanced career opportunities as the child matures into adulthood. Adoption also provides adoptive parents who desperately want to raise children and form a family the opportunity to fulfill that dream. It is estimated that about 1 million children in the United States live with adoptive parents, and that between 2% to 4% of American families include an adopted child.

The statistics about adoption reveal a downward trend away from this life-affirming choice made by women who face an unplanned or difficult pregnancy. For instance, the estimated number of annual adoptions by couples who are not related to the birth mother has been as high as 89,200 in 1970 to an estimated 60,000 in 1998. The number of children placed with relatives, known as kinship care, is estimated at 200,000 clearly, the benefits of adoption as they pertain to non-familial placement are for being clearly articulated to women in American today.

We can and should do more to help women with difficult pregnancies as they seek life-affirming alternatives.

The Omnibus Adoption Act takes a three pronged approach to this important issue. First, it assists the birth mother who chooses to make an adoption placement for her child by providing her with the resources that she will need during and after her pregnancy. The bill authorizes new vouchers that can used for maternity homes, nutrition counseling and job training. Secondly, the bill assists the adoptive parents with the financial costs that come with an adoption by raising the current $5,000 tax credit for adoption expenses to $10,000. And, finally, it enhances the ability of non-profit organizations, such as maternity homes, who work with both birth mothers and adoptive parents by providing services to the birth mothers, including room and board and medical care, as well as advising and facilitating adoptions in many cases.

The Omnibus Adoption Act contains the following 12 titles:

Title I: Expansion of Adoption Tax Credit from Current Level of $5,000 to $10,000.

Title II: Family Leave Equity for Adoptive/Foster Families—Provides leave benefits to employees who need leave for the care of a newly placed son or daughter through foster care or adoption.

Title III: Adoption Counseling for Public Health Grant Recipients: Requires adoption counseling training for staff in certain federally-funded clinics including Title X recipients and Section 330 health centers. Requires certain federally-funded health clinics to provide non-directive counseling and referrals regarding prenatal care and delivery, infant care, foster care, and adoption.

Title IV: Adoption Information for Members of the U.S. Armed Forces: Requires that the Department of Defense and its service branches, as well as the Coast Guard, make available to military couples information about adoption as well as information to unmarried female members of the military about adoption placement for their child if they are pregnant.

Title V: Federal Prisons: Requires the Attorney General to make available information on adoption options available to pregnant female prisoners.

Title VI: Adoption Counseling Accreditation: Requires states to accredit individuals or organizations who provide adoption services, as well as requiring states to establish standards for such adoption providers.

Title VII: Adoption and Foster Care Data Collection: Within 6 months of enactment, the Secretary of Health and Human Services shall submit a report to Congress which would provide information on adoption and foster placement in the United States as contained in the Advisory Committee's Report to the Secretary put forth in 1987. States would be required to transmit data on adoption and foster care to the Secretary on a quarterly basis for future reporting.

Title VIII: Refundable Tax Credit for Medical Expenses Associated With Pregnancy: Would provide a $5,000 tax credit for the medical expenses of pregnant women who give their child up for adoption.

Title IX: Maternal Health Certificate Program: Pregnant women would be eligible for this program which could be used for maternity and housing services including room and board, medical care, counseling services, nutrition services and counseling, child and family development counseling, adoption counseling, vocational and educational counseling, and transportation services.

Title X: Rehabilitation Grants for Maternity Housing and Services Facilities: Requires the Department of Housing and Urban Development to establish a grant program for nonprofit entities to rehabilitate structures for use as maternity housing and services facilities. These facilities could provide a variety of services including room and board, medical care, counseling (nutrition, health, prenatal, family, adoption, vocational/educational), and transportation.

Title XI: Repeal of the National Clearinghouse on Adoption Information.

Title XII: National Commission on Adoption: Establishes a commission to review all adoption programs, all activities pertaining to adoption in the United States including a focus upon how adoption is presented as an option to unmarried pregnant women and the extent to which prospective adoptive parents are made aware of children waiting to be adopted. Nine appointees (2–Speaker, 1–House Minority Leader, 2–Senate Majority Leader, 1–Senate Minority Leader, 3–President). Commission will report back to Congress within 3 years and will subsequently disband.

Mr. Speaker, in conclusion, The Omnibus Adoption Act brings to the table a solid package of provisions which would benefit children, their prospective parents, and their birth mothers. Any adoption legislation that Congress enacts must ensure that each of these groups is represented because they are all part of the adoption equation.

HONORING BILL WATSON OF WEST UNIVERSITY PLACE, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. BENTSEN. Mr. Speaker, I rise today to honor William (Bill) Watson for his outstanding contributions to West University Place, Texas where he has been selected as Citizen of the Year.

Bill Watson exemplifies the title Public Servant and well deserves the honor of being Citizen of the Year. Among his most outstanding professional accomplishments are:

Serving as a member of the West University City Council from 1989 to 1991 and as the city's Mayor from 1993 to 1997.

Founding Board Member of the Medical Center Chaplaincy, now known as the Lifeline Chaplaincy. The purpose of the organization is to provide training for chaplains to work in hospitals as well as provide housing and spiritual support for families.

Founding Board Member of the Christian Child Help Foundation that helps to place children in foster care.

Currently serving on the Board of Trustees of the Institute of Christian Studies, which is affiliated with the University of Texas.

Currently a member of the Greater Southwest Houston Chamber of Commerce, the West University Zoning and Planning Commission, and the West University Rotary Club, from which he recently received the 1997 Outstanding Vocational Service Award.

On a more personal note, Bill and his wife, Lois, have been residents of West University Place since 1961. They are active members of the Southwest Central Church of Christ where Bill has been teaching bible school since 1958.

While raising children in West University, Bill and Lois were active in Little League, the PTA, and Scouts. Bill was also President of the Parents Association at Southwest Texas State University. Bill and Lois will soon be retiring to their ranch in Luling, TX.

Mr. Speaker, I rise to congratulate Bill Watson. He is an ideal public servant and truly deserving of this award.

TRIBUTE TO ROBERT A. MUNYAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. PALLONE, Mr. Speaker, on July 20, 1999, a long and illustrious career will come to an end with the retirement of Mr. Robert A. Munyan, the Business Manager of the International Brotherhood of Electrical Workers (IBEW) Local Union 1289 in Wall, NJ.

Mr. Speaker, Mr. Munyan was hired by Jersey Central Power and Light Co. in 1956, and he retired in 1996 after four decades of loyal service. He became President and Business Manager for Local Union 1289 in 1980. Prior to becoming President and Business Manager, he has held the following positions in the Local: Shop Steward, Executive Board Member and Chairman, and Vice President. He has been involved in contract negotiations for the members of the Local and System Council U–3 since 1979.

Mr. Munyan has had a significant role in many of the key public policy issues facing our state. He represented the New Jersey State AFL–CIO in shaping the New Jersey Master Energy Plan. He has been actively involved in protecting workers' rights as the electricity deregulation issue is debated in the State Legislature. Throughout his career, Robert Munyan has been a strong proponent of the importance of political education. He has done a tremendous job of instilling in working men and women an appreciation of the need for organization and political awareness. He has also reached out to educate the political leadership about the needs and aspirations of working people.

Mr. Speaker, after his August 21st retirement dinner, I know that Mr. Munyan—who has been married for 40 years, with two children and two grandchildren—is looking forward to the opportunity that retirement will provide for him to spend more time with his family. But I hope he will continue to play an important role in public affairs. We will still benefit from his leadership, energy and dedication to the fight on behalf of the working men and women of our state and our nation.

IN CELEBRATION OF THE 30TH ANNIVERSARY OF THE APOLLO 11 MOON LANDING AND ANNIVERSARY CELEBRATION ABOARD THE U.S.S. HORNET MUSEUM IN ALAMEDA, CA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Ms. LEE. Mr. Speaker, I rise in celebration of the 30th anniversary of the historic Apollo 11 moon landing by astronauts Neil Armstrong, Edwin "Buzz" Aldrin and Michael Collins. This milestone will be commemorated aboard the U.S.S. Hornet Museum with a nine-day festival, called "Moonfest 1999."

Moonfest 1999 is an event blending history, education and family entertainment together in celebration of one of the greatest achievements of the 20th Century. The festival will include an airshow, lectures, exhibits, moon and star gazing parties, a film series, receptions and youth activities beginning on Friday, July 16th and concluding on Saturday, July 24th, 1999.

The dates of the festival have special meaning because July 16, 1969, is the date the Apollo 11 crew departed from earth, landing on the moon on July 20th, and recovered safely by the aircraft carrier U.S.S. Hornet in the Pacific Ocean on July 24th.

Planning for the first human landing on the moon began in April 1957 and in July 1960, NASA named the program "Project Apollo" with five goals: (1) to land American explorers on the Moon and return them safely to Earth; (2) to establish the technology required to meet other national interests in space; (3) to achieve for the United States preeminence in space; (4) to carry out a program of scientific exploration of the Moon; and (5) to develop human kind's capability to work in the lunar environment. With Apollo 11's mission, these goals were met.

On the morning of July 24, 1969, the Aircraft Carrier U.S.S. Hornet, as the Primary Recovery Carrier, successfully recovered the Apollo 11 astronauts. On board the Hornet to welcome the astronauts back was the President of the United States, NASA personnel, distinguished guests and the Hornet's crew.

This historic landing, and the many that followed, was achieved in large part by the dedication and creatively of several California aerospace corporations and their subcontractors, as well as citizens, universities and government agencies of the State of California.

I proudly join citizens throughout the world in celebrating the 30th anniversary of the monumental achievement of the first lunar landing. I also want to thank the U.S.S. Hornet, her crew and all of the people involved with the Apollo Program for successfully bringing the Apollo 11 crew home safely. I am excited and

honored to join in this celebration and encourage all to participate in the Moonfest 1999 activities.

A POINT OF LIGHT FOR ALL AMERICANS: REVEREND BOOKER T. MCCOLLUM

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. OWENS. Mr. Speaker, I rise to honor Reverend Booker T. McCollum, an individual who has tirelessly dedicated his life to making society better. This individual has made a lifetime commitment to the church and to the community. His vision, generosity, and devotion have empowered Reverend McCollum to not only spread the word of God but to uplift all those he has encountered. Reverend Booker T. McCollum is a great ''Point-of-Light'' whose work has not gone unappreciated or unnoticed.

Although his roots are in Mississippi, Reverend McCollum began his ministry in Brooklyn, NY. After relocating to New York, he joined the Friendship Baptist Church in Brooklyn and faithfully served as assistant church clerk, chairman of the trustees and deacon boards, and later as assistant to the pastor. In 1964, Reverend McCollum accepted the call to preach. By 1966, the reverend became an ordained and licensed Baptist minister. He continued to work diligently at the Friendship Baptist Church until he was moved by God to pursue his vision of starting a new church mission.

The vision would materialize as the St. Anthony Baptist Church located at 425 Utica Avenue, Brooklyn, NY. Reverend McCollum adopted the philosophy: ''St. Anthony Baptist Church is the church where everybody is somebody and God is over all and where there are no big I's and little U's.'' This philosophy has helped what was once a gathering of a few faithful members at the home of Mr. & Mrs. James Parker become a pillar in the Brooklyn community.

Reverend McCollum was educated at Cornell Labor College of Law and the Baptist Education Center. His professional career includes employment with The United Furniture Workers Labor Union, Local 140 where he held the position of secretary/treasurer. He served in a religious capacity as president of the Evangelical Minister's Union, and he is the recipient of countless awards and citations. In addition to serving God and his community, Reverend McCollum served his country with distinction in the U.S. Navy.

Reverend Booker T. McCollum married ''Grace Barnes'' in 1943. There were happily married for more than 50 years and had three children: David, Gloria and Russell. His distinguished life marks one of dedication to community, to God, and to family. Reverend McCollum is a great ''Point of Light,'' not only for people of his New York community, but for all of the people of America.

IN RECOGNITION OF HOUSTON ASTROS MANAGER LARRY DIERKER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. BENTSEN. Mr. Speaker, I want to offer my best wishes to Houston Astros manager Larry Dierker who will return to the dugout tonight, just four weeks after undergoing surgery that removed the cause of a grand mal seizure he suffered on June 13, 1999.

Although he must still take medication for the foreseeable future, Larry's doctors have told him he has little chance of recurrence of the seizure that struck without warning as he sat in the Astros' dugout. Like all Houstonians, I was shocked and alarmed by the severity of the seizure which played out on television and before nearly 30,000 fans at the Astrodome in Houston. In the moments following his seizure, I was struck by the presence and courage of the Astros players, personnel and paramedics who rushed to Larry's aid. In particular, I was impressed by the response of outfielder Derek Bell, who took direct, physical action to keep Larry from further injury.

As every Astros fan knows, Larry Dierker is in his third season as manager of the Astros. In 1998, he was named the National League Manager of the Year after leading the Astros to a record 102 wins. Before taking over as manager in October 1996, Dierker spent 17 seasons as an Astros radio and television broadcaster. He led the Astros to the National League Central title in his first season, then to their second straight division crown in 1998. For those of us that remember the early days of the Astros, we also know Larry for his 14 remarkable seasons as a top-notch pitcher in the National League who was the Astros' first 20-game winner in 1969. He was named to two All-Star games and pitched a no-hitter in 1976.

Mr. Chairman, many sports fans, including myself, can easily become caught-up in the importance of winning games, division titles and championships. We rejoice at the success of the great athletes, whose guile and ability seem to defy our human limitations. While winning is important, injuries and losses teach both athletes and fans alike to keep humility in check, for we are all mortal, and every moment of triumph and success can be quickly supplanted with bad fortune and loss. In many ways, the battles of winning and losing, through good times and bad, mirror the unpredictable course of our own lives.

On June 13, 1999, Larry Dierker, a quiet, humble man who has accomplished many great things in the arena of baseball, brought this lesson home to the sports fans of Houston. Now that he has rejoined the Astros, I join with Larry Dierker's family and many friends in the major leagues in celebrating his quick recovery and offering my best wishes in his able return to the Astros dugout.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, today I rise to support Representative SLAUGHTER's amendment which will add money to the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH).

Ms. SLAUGHTER's amendment raises the appropriation level for the National Endowment for the Humanities (NEH) and the National Endowment for the Arts (NEA) by $10 million each.

The NEH is vital to our educational systems and provides numerous services in the area of the humanities. The NEH provides grants to individuals and institutions. These grants support valuable aspects of the humanities such as research in the humanities; educational opportunities for teachers; the preservation of texts and materials; translations of important works; museum exhibitions, television and radio programs; and public discussion and study.

The humanities encompass a wide variety of subject matter. They are all around us and evident in our daily lives. When you visit an exhibition on ''The Many Realms of King Arthur'' at your local library, that is the humanities. When you read the diary of a 17th-century New England midwife, that is the humanities. When you watch an episode of ''The Civil War,'' that is the humanities, too. The humanities include the study of literature, history, philosophy, religion, art, history, and archaeology.

NEH also provides many educational tools for children. Most recently, the NEH has provided students with the educational foundations necessary for the use of the internet. NEH maintains EDSITEment, a gateway Web site that provides links to 49 sites carefully selected for their quality of educational content and design. Instead of having to sift through more than 65,000 humanities-related sites on the Web, anyone seeking the best humanities education materials on the Internet can easily find and access them through EDSITEment. Each site comes with lesson plans offering suggestions on how to use the materials effectively in the classroom.

NEH works closely with schools and is currently awarding grants to schools around the nation through an initiative called ''Schools for a New Millennium,'' which will enable those schools to become models of how teachers, principals, librarians, and the community can fully incorporate CD–ROM's and the Internet into their everyday teaching.

To increase its efficiency, the NEH is organized into three divisions—Education and Research, Preservation and Access, and Public

Program—and three offices—Challenge Grants, Federal/State Partnership, and Enterprise.

The Hogg Middle School in my district received a grant from the NEH to do a historical study of the Heights, an area in my district, which will be published on the world-wide-web along the side and connected to the official online guide to Texas history. This is a tremendous achievement that could only be done with the help of the NEH.

The NEA is an independent agency of the Federal government charged with supporting the arts in America for All Americans. The NEA carries out their mission through grants, leadership initiatives, partnership agreements with state and regional organizations, partnerships with other Federal agencies and the private sector, research, arts education, access programs, and advocacy.

Since 1965, the example at the Federal level has led to the establishment of public arts agencies in every state and the creation of seven regional arts agencies. Public arts agencies in small towns and cities have grown to over 3,800. Through the NEA partnerships, they have helped to increase the amount of private donations to the arts. For every dollar the endowment awards, other sources contribute $12 to make art happen in thousands of communities.

The NEA in Texas has provided money for such programs to the Houston Symphony Society, the Houston International Jazz Festival, the Alley Theater and the Texas Institute for Arts in Education. These programs ensure that Houston, TX, will remain a hub of arts and culture for years to come, and I look forward to their continuing important work.

Mr. Chairman, I urge my colleagues to support funding for both the NEA and the NEH.

IN HONOR OF COLOMBIA AND THE COLOMBIAN PEOPLE ON THE 189TH ANNIVERSARY OF THEIR INDEPENDENCE FROM SPAIN AND OF THE COLOMBIAN COMMUNITY IN ELIZABETH, NJ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the 189th Anniversary of the Declaration of Independence of Colombia from Spain and to proclaim July 19–23, 1999, as "Colombian Week" in the City of Elizabeth, NJ.

The Colombian Community in the City of Elizabeth has made great contributions to my district, as well as to the State of New Jersey. They have provided many invaluable services, and their culture and heritage continues to enrich the entire 13th District. Repeatedly, they have worked diligently to realize every opportunity that American democracy provides.

Because of their spiritual and cultural values, the Colombian community of Elizabeth has exemplified civil responsibility. They have emerged as true role models for all Americans by working not only for the welfare of the Colombian community, but for the health, wealth, and welfare of the city at large.

The initiation of "Colombian Week" offers a time for the Colombian community to celebrate Colombia's growth as a nation and to share that feeling with the entire community of Elizabeth. Through teaching and learning from each other's experiences, we are able to build a strong and united community. I invite all the people of Elizabeth to unite and help to commemorate this great Colombian anniversary.

I am happy to honor the Colombian community for their many achievements and contributions to the City of Elizabeth. As the city unites to commemorate the 189th anniversary of Colombia, may we all take a moment to recognize their great efforts and accomplishments.

WHY I'M OPPOSED TO A PAY HIKE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1999

Mr. SCHAFFER. Mr. Speaker, very soon the House will decide on the matter of Congressional pay raises. This topic has also been considered by the State of Colorado. The Colorado General Assembly recently adopted Senate Joint Memorial 99–005—sponsored by Senate President Ray Powers of Colorado Springs, and State Representative Doug Dean of Colorado Springs, Colorado.

Mr. Speaker, the Constitution of the United States also speaks to the topic of legislative pay raises. It forbids Members of Congress from voting themselves pay raises. Amendment XXVII—"the Madison Amendment"—says, "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

As one who has served in the Colorado State Senate, I am persuaded Colorado's official position on the matter of pay raises is thoughtful and representative of Coloradans generally. Therefore Mr. Speaker, I urge our colleagues to consider my state's perspective, as enumerated in SJM 99–005, which I hereby submit for the RECORD.

Furthermore, I offer this Memorial as the basis for my vote against the pay raise in question.

COLORADO STATE SENATE,
Denver, CO, May 21, 1999.

Hon. BOB SCHAFFER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SCHAFFER: The Senate and the House of Representatives of the First Regular Session of the Sixty-second General Assembly of the State of Colorado have adopted the enclosed Senate Joint Memorial No. 99–5 and directed that a copy be forwarded to you for your information.

Sincerely,

PATRICIA K. DICKS,
Secretary of the Senate.

Enclosure.

SENATE JOINT MEMORIAL 99–005

Whereas, The twenty-seventh amendment to the constitution of the United States, also known as "The Madison Amendment", provides that "No law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened."; and

Whereas, The twenty-seventh amendment requires that an intervening election be held between the enactment of any congressional pay increase and its subsequent application to any member of Congress; and

Whereas, The twenty-seventh amendment requirement's requirement for an intervening election is intended to allow voters in each state and congressional district to obtain direct information regarding salary increases prior to the reelection of incumbents or the election of others in their stead; and

Whereas, Salary increases for members of Congress currently are regulated by "The Government Ethics Reform Act of 1989," ("The Act") pursuant to 2 U.S.C. sec. 31; and

Whereas, The Act gives members of Congress an immediate one-time salary increase and, in subsequent years, an annual cost of living adjustment increase to salaries or pensions; and

Whereas, Such annual cost of living adjustment is established in accordance with federal law and incorporated in an executive order of the President in December of each year to establish salary increases that are put into effect on January 1 of the next year; and

Whereas, Through the automatic operation of the cost of living adjustment provisions, congressional salaries have been increased on the first day of January for several years; and

Whereas, Without the action of legislation, each Congress effectively and automatically enacts for itself a cost of living adjustment salary increase in violation of the twenty-seventh amendment; and

Whereas, When each year's cost of living adjustment increase is paid on the following January 1 to members of Congress, former members, or spouses of deceased members without the process of an intervening election, the twenty-seventh amendment is violated; now therefore,

Be It Resolved by the Senate of the Sixty-second General Assembly of the State of Colorado, with the House of Representatives concurring herein:

That the General Assembly hereby expresses its opposition to automatic annual cost of living adjustment salary increases for members of Congress of the United States as violative of the twenty-seventh amendment to the United States Constitution and hereby memorializes the Congress to refrain from enacting any pay increase for members of Congress without an affirmative vote or that takes effect before the following Congress has been elected and fully sworn into office. Be it further

Resolved, That copies of this Memorial be sent to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Congressional delegation representing the state of Colorado.