HOUSE OF REPRESENTATIVES—*Wednesday, June 5, 1991*

The House met at 10 a.m.

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

On this new day of grace, we pray, O God, that You will give us hearts full of thanksgiving and praise for the opportunities for service that are before us. Teach us to use the abilities and talents You have given in ways that heal the hurts of the land and to minister to those who seek justice and mercy. May we be ambassadors of good will and ministers of understanding and thus do the work that we have been called to do. 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. NAGLE. 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. NAGLE. 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. 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 282, nays 116, answered "present" 1, not voting 32, as follows:

[Roll No. 129]

YEAS—282

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Bacchus
Barton
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates

NAYS—116

Allard
Armey
Baker
Ballenger
Barnard
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cunningham
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (CA)
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hyde
Inhofe
Jacobs
James
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Oxley
Packard
Paxon
Quillen
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Taylor (NC)

NOT VOTING—32

Abercrombie
Aspin
Boucher
Boxer
Brown
Crane
Dickinson
Dixon
Dornan (CA)
Edwards (OK)
Glickman
Hunter
Ireland
Kanjorski
LaFalce
Lehman (FL)
McCrery
McDermott
McHugh
Mollohan
Mrazek
Neal (NC)
Peterson (FL)
Riggs
Sanders
Sisisky
Staggers
Valentine
Waters
Weiss
Yatron
Zeliff

□ 1025

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Mr. Speaker, a previous commitment at the Pentagon precluded my presence in the Chamber for rollcall No. 129, approval of the Journal. Had I been present, I would have voted "aye."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentleman from Georgia [Mr. JONES] please come forward and lead the House in the Pledge of Allegiance?

Mr. JONES of Georgia 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.

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will take seven 1-minute statements from each side of the aisle.

JOHN OLVER MAKING HISTORY IN MASSACHUSETTS' FIRST CONGRESSIONAL DISTRICT

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

Mr. FAZIO. Mr. Speaker, in just a few days, a public servant from Massachusetts named John Olver will come to Washington and fill the seat left vacant by the death of our good friend and colleague, the late Silvio Conte.

When we lost Sil, Republicans and Democrats remembered a man whose public service was defined by his values and independence. And these principles clearly guided the voters of Massachusetts' First Congressional District.

In this election, voters had a clear choice. One candidate practiced the politics of racial division, took his instructions from the White House, defied America's belief in choice, and worshiped at the altar of the status quo. Perhaps, out of nostalgia for 1988, or to roadtest the Republican campaign strategy for 1992, Willie Horton was back on furlough, and "no new taxes" was back in the dialog, as if the Republican strategists have learned nothing new.

Not surprisingly, this candidate lost—even though Sil, and his Republican predecessors held the seat for nearly a century.

But the other candidate, the Democrat, the victor, steered a different course. He was a healer, he respected the values of choice and of honoring seniors and, most of all, he took his cues from the needs of his district rather than the political agenda of Washington.

Tuesday night, John Olver made history in a congressional district where the Republicans had been on a century long winning streak. Let us recognize our new colleague for the accomplishment of his victory, and for the promise of his service yet to come.

CONCERN ABOUT CUBA'S NUCLEAR REACTOR

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

Mr. GOSS. Mr. Speaker, it does not take long to travel 90 miles—in Washington, DC, houses that are 90 miles from the city are considered suburban. No wonder Floridians are alarmed about a nuclear reactor under construction 90 miles south—in Fidel Castro's Cuba.

Especially now that we know from recent defectors that much of the work is flawed and one site is located in an earthquake zone.

There's a laundry list of reasons why a nuclear reactor under Castro's control is anathema to the free world, not least of which is the enormous threat substandard construction, poor inspection, and inept management would pose to our safety and our environment. Castro has shown that he has little regard for human life, let alone the health and safety of U.S. citizens. A mishap at a Cuban nuclear facility could wreak havoc. The world has moved a long way to shed sunlight on Castro's abuse of power and manipulation of his own people. Now, with his threat to the region becoming even more strident because of his economic desperation, we owe it to ourselves and the world to know what's going on. Are the Soviets really going to send enough enriched uranium to Cuba for four nuclear weapons? Is the nuclear powerplant primarily to energize the Soviet naval base on Cuba? Mr. Speaker, we need answers.

□ 1030

CALLING FOR THE RESIGNATION OF ATTORNEY GENERAL THORNBURGH

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

Mr. KOSTMAYER. Mr. Speaker, it is simply outrageous. Today's headlines tell a sorry story of a sitting Attorney General of the United States who will not do the right thing, the judicious thing, the ethical thing, and resign as he prepared to seek a seat in the U.S. Senate.

One cannot be both the Nation's top law enforcement officer and a candidate for the Senate. The president of Common Cause had it exactly right when he said, "Attorney General Thornburgh should not be making any more decisions in this office." Every action, from civil rights to the S&L debacle, will be tainted by political considerations.

Mr. Speaker, all of America will be asking, how can Mr. Thornburgh be prosecuting the S&L crooks and ask them for campaign contributions at the same time?

It is time to step down, Mr. Thornburgh. Justice demands it. Come home now. Pennsylvania is waiting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded that they should address their remarks to the Chair.

THE PRICE-WATERHOUSE DECISION IN CIVIL RIGHTS

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

Mr. FAWELL. Mr. Speaker, the majority wants the Justice Brennan decision in Price-Waterhouse to be repealed because it was not liberal enough. When Judge Brennan ruled that if an employer can prove it would have made the same decision, that is, not to accept the lady as a partner in that particular case, regardless of the improper bias against the lady, a cause of action would not exist. He therefore sent the case back to the trial court and the trial court took additional evidence and then ruled in favor of the lady and she collected $435,000 in back pay and was accepted as a partner in the Price-Waterhouse firm. This was all done, Mr. Speaker, under the present remedies section of title VII of the Civil Rights Act. And in lieu of that decision which the majority want to junk now, they bring up a new definition for "unlawful employment practice."

Under the new definition, unlawful employment practice "is established whenever race, religion, sex, or national origin is a motivating factor for any employment practice, even though other factors also contribute to the employment practice." No discriminatory intent is required.

Just think of it, Mr. Speaker. If Freud is right that mankind is motivated primarily by sex, then we have an awful lot of problems here, because all you have to prove, for instance, in order to prove the employer was guilty of commiting an unlawful employment practice, is to show that sex is a motivating factor, de minimus in proportions, for any employment practice. Then you have proven a violation of title VII and the employer has no defense. Now, that is unbelievable, and it is ridiculous. In addition, a complainant would be entitled to unlimited compensatory damages for mental distress, as well as punitive damages, for any such unlawful employment practice. So, you see, unlimited damages also apply for employment practices which do not involve any discriminatory intent. Few people realize these provisions are in the bill.

THE CHICAGO BULLS-L.A. LAKERS WAGER

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

Mr. RUSSO. Mr. Speaker, this year's NBA final is one of the greatest match ups in basketball history. All eyes will be on the Windy City tonight for game 2 between the L.A. Lakers and my own Chicago Bulls.

This series is a tale of two cities: The Lakers represent the Perrier-sipping set from La La Land, while the Bulls represent the blue-collar, hard-working men and women from the Nation's heartland. We know that the Lakers are aching and aging, so we let them win the first game just to make it interesting. But now we are serious.

If nothing else, this NBA final will be thrilling and spectacular because of just two letters: M.J., and I do not mean Magic Johnson; I mean Michael Jordan, the most exciting player in basketball history. He, Scottie Pippin, and the rest of the Bulls are going to give the L.A. Lakers a headache worse than the one they normally get when they go outside and try to breathe that L.A. air.

I am so confident that the Bulls are going to blow the doors off the Lakers that I have made a wager.

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

Mr. RUSSO. I will yield to my good friend, the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding, and I say, "Right on."

Mr. RUSSO. Mr. Speaker, I have made a wager with my friend, the gentleman from California [Mr. DREIER], from La La Land, that if the Bulls win, he can give me seedless grapes and seedless watermelons, and since the Third District is famous for Tootsie Rolls and Tootsie Pops and Oreo cookies, and God forbid that the Bulls should lose, he will get some Tootsie Rolls and Tootsie Pops.

THE WAGER ON THE BULLS-LAKERS CHAMPIONSHIP SERIES

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

Mr. DREIER of California. Mr. Speaker, I think that a response from me is in order here.

After taking a much deserved 1-year sabbatical, the Los Angeles Lakers are knocking on the door of yet another NBA championship. This is the Lakers' ninth trip to the finals in 12 years. Having captured the title in 5 of those 9 years, with such an incredibly impressive record, it is surprising to me that some Members of this body are still anxious to relinquish the goods and services of their respective States.

The very athletic gentleman from Illinois [Mr. RUSSO], whose better judgment appears to have been clouded in the wake of the Chicago Bulls' euphoric four-game sweep of the Pistons, has accepted this friendly wager on the outcome of the Los Angeles Lakers-Chicago Bulls series. When Los Angeles wins, I look forward to receiving those Nabisco cookies and Tootsie Rolls. If by chance we do not quite pull this one off, I will proudly present him with Sun World Red Flame seedless grapes and seedless watermelons, a demonstration that our State is clearly innovative and looking toward the future, unlike some other parts of the country.

Mr. Speaker, very clearly, this will be like taking candy from a baby.

THE NIXON TRANSCRIPTS ON THE IRS

(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, since we are wagering on the Lakers and the Bulls, how many of the Members would wager that the White House uses the IRS for political purposes? If you have any doubt, read the new Nixon published transcripts. I want to quote the former President:

> Get those Democrats. Make them squeal. Pull their tax files, and to make it look good, pull some Republicans' too, but don't check those out.

Mr. Speaker, I think we do have some great problems. We have a problem in America when the average taxpayer has to hire a Philadelphia attorney to figure out his tax burden, but what is even worse is when American taxpayers start to fear their own Government. No American should fear their Government. Congress should do something about the IRS.

Mr. Speaker, I think the Bulls will win tonight.

H.R. 1—A LAWYERS' BONANZA

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

Mr. BALLENGER. Mr. Speaker, any businessman worth his salt prepares for the worst case scenario, and this new bill, H.R. 1, is it. If he is confronted with jury trials, unlimited liability, and an impossible task of proving his innocence of discrimination, there is only one defense, and he will take that sure defense, namely, hiring by the numbers, matching local population percentages.

If that does not equal forced quotas, I have a bridge I would like to sell you.

I realize the economy is in weak condition, but do we need to spend all of our time and effort in creating a lawyers' bonanza? Attacking the President, who had a good civil rights bill defeated yesterday, will not prove that the Democrats are pro-civil rights but only that they are trying to protect their own trial lawyers.

A CONSTITUENT'S EXPRESSION OF SUPPORT FOR SPACE STATION FREEDOM

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

Mr. BACCHUS. Mr. Speaker, I received this morning in my office a letter from Ms. Louise Kleba of Cape Canaveral, FL, that I would like to read in part into the RECORD:

> DEAR CONGRESSMAN: The decision by the Appropriations Committee to cancel the Space Station Freedom was and is the most blatantly damaging statement and action that could have come from any form of representation.
>
> We have just had a revitalization of patriotism through our decisive actions in the Middle East. Are we now to sit back and rock on the memory and countless retelling of that event and hope that the rest of the world will continue to consider us with awe long after history has moved to the next chapter?
>
> Why don't we take the opportunity to begin that next chapter?
>
> America * * * Americans have always risen to meet a challenge. If the progression into space is cancelled when we have just had a taste for it, I am wondering what challenges we could possibly offer our children to motivate them to reach for a little bit more. If we destroy the dreams, don't we also destroy ambition? Space is still something just a little out of their reach. A space station opens the doors.
>
> Do not close the door. Do not condemn my children to reading about America's "ancient" history. Please, do not support the recommendation to cancel the Space Station Freedom.

Mr. Speaker, Ms. Kleba is absolutely right, and I intend to do everything I can to save Space Station Freedom and save our dreams for America.

□ 1040

GEORGE AND BARBARA BUSH: FAIR AND KIND PEOPLE IN A CYNICAL CITY

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

Mr. KYL. Mr. Speaker, it says something about the merits of the so-called Civil Rights Act that the primary argument of its supporters yesterday was that President George Bush is a racial hypocrite, that he only wants a political issue.

George and Barbara Bush are two of the kindest, fairest people in this cynical city. Accusing George Bush of playing racial politics with an issue as serious as civil rights is the lowest, most vicious, most political thing I have seen as a Member of this body. It can only reflect frustration by those who find themselves on the losing side of the issue.

Supporters of H.R. 1 said George Bush does not want a civil rights bill, even after the President offered his own legislation. Honesty demands acknowledgment that his is a serious bill. So the rhetoric is as untrue as it is unfair.

Mr. Speaker, after the serious responsive debate we had on the Persian Gulf war, I expected better of the debate yesterday. But it was sad to watch one after another come to the floor and forsake rational debate in favor of inflammatory rhetoric and cheap shots at President George Bush.

This is too important a subject for Members to lose their cool, to become hysterical, and that is the only way I can describe yesterday's attacks on one of the most decent Presidents ever to serve this country.

Today, let us elevate both the content and the tone of the debate. Let us stop questioning motives and debate the merits.

AMERICANS REMAINING ON DUTY IN PERSIAN GULF SHOULD BE REMEMBERED

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

Mr. JOHNSON of South Dakota. Mr. Speaker, as we look toward the upcoming victory parades in Washington, New York, and other cities, it is extremely important that we not forget the thousands of men and women who remain on duty in the Persian Gulf.

From my own State, two units are still in the Middle East.

The 740th Transportation Company of the South Dakota National Guard is made up of approximately 170 men and women from Aberdeen, Milbank, Sisseton, Brookings, other parts of northeastern South Dakota, and from areas in the northern Black Hills.

Almost 80 men and women from the 109th Engineering Group of the South Dakota National Guard also remain in the gulf region. Their homes are in Rapid City, as well as other communities, farms, and ranches in the western part of our State.

For them—and for their family members, friends, and loved ones who await their return—these days of celebation are a bittersweet time of frustration, anxiety, and intense longing.

To the men and women who remain in the Persian Gulf—especially the members of our two units from South Dakota—I bring this message on behalf of everyone in your home State and your Nation: "We have not forgotten you. We are hoping and praying for your safe return soon. We are more proud of you than words can express."

H.R. 1: A LITIGATION NIGHTMARE

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

Mr. RITTER. Mr. Speaker, President Bush has taken on some real mud thrown by the Democrats over civil rights. The President is simply trying to do the right thing. He is trying to do the right thing for all Americans, not a Balkanized or fragmented America. The President wants to do the right thing for all American workers.

Mr. Speaker, by not allowing employment decisions to be based on merit, the Democrat's H.R. 1 is anticompetitive. It is anticompetitive for U.S. business, U.S. workers, and U.S. jobs. It amounts to a jobs bill for offshore employees.

Mr. Speaker, yes, this is a real export promotion bill, the export of American jobs. We cannot continue to put more and more pressure on American employers. They need to be nurtured, not assumed guilty until proven innocent.

Mr. Speaker, H.R. 1, as with so much of our legislation and regulation, the ever-increasing payroll taxes, reduced investment incentives, stifling regulation, and litigation, litigation, litigation, are killing American business. It makes us uncompetitive. It sends our jobs abroad. Jobs are lost when litigation's Sword of Damocles threatens the very existence of American business.

Mr. Speaker, H.R. 1 is a litigation nightmare, and it is unfair.

VOTE FOR SPACE STATION FREEDOM

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

Mr. STALLINGS. Mr. Speaker, we will soon decide whether we terminate the space station Freedom. This decision is about more than canceling a large program in the face of a tight budget. It is about terminating more than 200 years of American leadership at the frontier of exploration. The decision to cancel the space station would signal that the United States no longer chooses to lead, but prefers to follow.

In the early 1970's Congress made some difficult decisions concerning America's future in space. We decided that we couldn't sustain Apollo-era funding levels, yet we continued our claim to leadership by pressing ahead with the space shuttle.

In 1984 we reaffirmed our leadership position in approving a Space Station Program that would provide America's first permanent outpost at the border of the space frontier. Since that decision we have encountered difficult fiscal times. However, we have dealt with these obstacles while maintaining a space program second to none. We are now being tested again.

The question before us is whether we remain the preeminent Nation in space, or abandon that status to others with more stamina and vision.

Deciding to terminate the space station would be easy, since it would free up billions of dollars for other programs. But we were not elected to this body to make the easy choices. We were elected to make the tough choices, such as ones aimed at maintaining leadership for our Nation.

John F. Kennedy told us that we do not lead because it is easy or cheap, but because we know that it is difficult. Voting for the space station may seem difficult, but it will help assure continued leadership. With that in mind, our choice should be clear. Let us vote for continued leadership at the frontier of exploration; let us vote for the space station.

DEMOCRATS RESORTING TO POLITICS OF HYSTERIA

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

Mr. BOEHNER. Mr. Speaker, George Bush is a decent human being, who is working hard as our President. He is providing unmatched leadership on both the domestic and the international fronts. But yesterday in this Chamber he was assailed as a race baiter, practicing politics of hate; a demagogue, reviving Willie Horton; and, just this morning, we have heard the chairman of the Democratic Campaign Committee use all these same phrases again.

George Bush is a good man, a good man who wants to sign a civil rights bill, a civil rights bill that does not create preferences, but one that provides equal opportunity for all.

Mr. Speaker, the fact is the Democrat Party is frustrated that they cannot move their political agenda, and are resorting to politics of hysteria.

CIVIL RIGHTS AND WOMEN'S EQUITY IN EMPLOYMENT ACT OF 1991

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 162 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1046

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 4, 1991, the amendment offered by the gentleman from Illinois [Mr. MICHEL] had been disposed of.

It is now in order to consider Amendment No. 3 printed in House Report 102-83.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment in the nature of a substitute.

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

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

Amendment in the nature of a substitute offered by Mr. BROOKS: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Women's Equity in Employment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

TITLE I

SEC. 101. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means the practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance.

"(2) Paragraph (1) is meant to codify the meaning of, and the type and sufficiency of evidence required to prove, 'business necessity' as used in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co. Inc., v. Atonio*, 490 U.S. 642 (1989).

"(p) The term 'requirements for effective job performance' may include, in addition to effective performance of the actual work activities, factors which bear on such performance, such as attendance, punctuality, and not engaging in misconduct or insubordination.

"(q) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 102. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1)(A) An unlawful employment practice based on disparate impact is established under this title if a complaining party demonstrates that a disparate impact on the basis of race, color, religion, sex, or national origin results from an employment practice or group of employment practices, and the respondent fails to demonstrate that such practice or group of practices is required by business necessity, except that an employment practice or group of practices demonstrated to be required by business necessity shall be unlawful if the complaining party demonstrates that another available practice or group of practices with less disparate impact (which difference is more than merely negligible) would serve the respondent as well.

"(B) If a complaining party demonstrates that a disparate impact results from a group of employment practices, such party shall be required after discovery to demonstrate which specific practice or practices within the group results in disparate impact unless the court finds that the complaining party after diligent effort cannot identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact.

"(C) If the respondent demonstrates that a specific employment practice within a group of employment practices does not contribute in a meaningful way to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

"(5) For purposes of this subsection, a respondent may rely upon relative qualifications or skills as determined by relative performance or degree of success on a selection factor, criterion, or procedure: *Provided*, That if such reliance results in a disparate impact based on race, color, religion, sex, or national origin, such reliance must be demonstrated by the respondent to be required by business necessity.".

SEC. 103. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2), as amended by section 102, is amended by adding at the end thereof the following:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for such employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 104. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2), as amended by sections 102 and 103, is amended by adding at the end thereof the following:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the original proceeding;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 105. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "540 days";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 106. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) DAMAGES GENERALLY.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102(b) of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 107. CLARIFYING ATTORNEY'S FEE PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following:

"(2) No waiver of all or substantially all of an attorney's fee shall be compelled as a condition of a settlement of a claim under this title, except that nothing in this section shall be construed to limit the right to negotiate a settlement in which an attorney's fee is voluntarily waived in whole or in part.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion and in order to promote fairness, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from either an unsuccessful party challenging such relief or a party against whom relief was granted in the original action or from more than one such party under an equitable allocation determined by the court, a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.".

SEC. 108. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 109. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights and Women's Equity in Employment Act of 1991 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 110. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 111. VOLUNTARY AND COURT-ORDERED AFFIRMATIVE ACTION APPROVED; QUOTAS DEEMED UNLAWFUL EMPLOYMENT PRACTICE.

(a) RULES OF CONSTRUCTION.—Nothing in the amendments made by this Act shall be construed—

(1) to limit an employer in establishing its job requirements if such requirements are lawful under title VII of the Civil Rights Act of 1964, as amended; or

(2) to require, encourage, or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin, and the use of such quotas shall be deemed to be an unlawful employment practice under such title: *Provided*, That the amendments made by this Act shall be construed to approve the lawfulness of voluntary or court-ordered affirmative action that is—

(A) consistent with the decisions of the Supreme Court of the United States in employment discrimination cases; or

(B) in the absence of such decisions, otherwise in accordance with employment discrimination law;

as in effect on the date of the enactment of this Act.

(b) DEFINITION.—For purposes of subsection (a), the term "quota" means a fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications to perform the job.

SEC. 112. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 113. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 102 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 103 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 104 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 105(a)(1), 105(a)(3) and 105(a)(4), 105(b), 106, 107, 108, and 109 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 105(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 110 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by section 102, 103, 105(a)(2), or 110 shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 104.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 104, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 104, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires, pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 102, 103, 105(a)(2), or 110.

SEC. 114. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988), as incorporated into the Rules of the House of Representatives of the One Hundred Second Congress as Rule LI, or any other provision that continues in effect the provisions of such resolution.

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Of-

fice, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16).

SEC. 115. DISCRIMINATORY USE OF TESTS.

The first sentence of section 703(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(h)) is amended—

(1) by striking "to give and to" and inserting ", labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to give, use, or",

(2) by striking "test provided that" and inserting "test provided that (1)"; and

(3) by striking the period at the end and inserting the following:

"and (2) such test validly and fairly predicts without regard to the race, color, religion, sex, or national origin of such test takers, the ability of such test takers to perform the job with respect to which such test is used. If such test does not meet the criteria specified in paragraphs (1) and (2) of the preceding sentence, an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) may develop, give, use, or act upon the results of a test which satisfies such criteria or may use other non-discriminatory selection criteria, in a manner consistent with this title, which measure qualifications to perform the job.".

SEC. 116. PROHIBITION OF DISCRIMINATORY USE OF TEST SCORES.

Section 704 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-3) is amended by adding at the end the following:

"(c) It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) in connection with the selection or referral of applicants or candidates for employment or promotion to adjust test scores of, or use different cut-off scores for, a written employment test on the basis of the race, color, religion, sex, or national origin of individual test takers.".

SEC. 117. ADEA STATUTE OF LIMITATIONS; NOTICE OF RIGHT TO SUE.

(a) STATUTE OF LIMITATIONS.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "540 days"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF RIGHT TO SUE.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed by the Commission, the Commission shall so notify the person aggrieved and within 90 days after the giving of such notice a civil action may be brought against the respondent named in the charge by a person defined in section 11.".

SEC. 118. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

SEC. 119. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) is amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended—

(1) by inserting "(a)" after "SEC. 702.", and

(2) by adding at the end the following:

"(b) It shall not be unlawful under section 703 or 704 for an employer (or a corporation controlled by an employer) labor organization, employment agency, or joint management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

"(c)(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by section 703 or 704 engaged in by such corporation shall be presumed to be engaged in by such employer.

"(2) Sections 703 and 704 shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

"(A) the interrelation of operations;

"(B) the common management;

"(C) the centralized control of labor relations; and

"(D) the common ownership or financial control;

of the employer and the corporation.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

SEC. 120. CLARIFYING OTHER ATTORNEY'S FEE PROVISION.

The last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988) is amended—

(1) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee"; and

(2) by striking out "as part of the".

TITLE II

SEC. 201. GLASS CEILING COMMISSION.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) despite a dramatically growing presence in the workplace, women and minorities remain underrepresented in executive, management and senior decisionmaking positions in business;

(B) artificial barriers exist to the advancement of women and minorities in employment;

(C) enforcement of Federal equal employment opportunity laws by Federal agencies has not effectively addressed such underrepresentation or eliminated such artificial barriers;

(D) the "Glass Ceiling Initiative" recently undertaken by the Department of Labor has been instrumental in raising public awareness of—

(i) the underrepresentation of women and minorities at the executive, management and senior decisionmaking levels in the United States work force; and

(ii) the desirability of eliminating artificial barriers to the advancement of women and minorities to such levels;

(E) the establishment of a commission to examine issues raised by the Glass Ceiling Initiative would help—

(i) focus greater attention on the importance of eliminating artificial barriers to the advancement of women and minorities to executive, management and senior decisionmaking positions in business; and

(ii) promote work force diversity; and

(F) a comprehensive study that includes analysis of the manner in which executive, management and senior decisionmaking positions are filled, the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement, and the compensation programs and reward structures utilized in the corporate sector would assist in the establishment of practices and policies promoting opportunities for, and eliminating artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions.

(2) PURPOSE.—The purpose of this section is to establish a Glass Ceiling Commission to study—

(A) the manner in which business fills executive, management and senior decisionmaking positions;

(B) the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement into such positions; and

(C) the compensation programs and reward structures currently utilized in the workplace.

(b) ESTABLISHMENT.—There is established a Glass Ceiling Commission (referred to in this section as the "Commission"), to conduct a study and prepare recommendations concerning—

(1) eliminating artificial barriers to the advancement of women and minorities in employment; and

(2) increasing the opportunities and developmental experiences of women and minorities to foster advancement of women and minorities to executive, management and senior decisionmaking positions in business.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 19 members—

(A) 3 individuals appointed by the President;

(B) 4 individuals appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate;

(C) 2 individuals appointed by the majority leader of the House of Representatives;

(D) 1 individual appointed by the minority leader of the House of Representatives;

(E) 2 individuals appointed by the majority leader of the Senate;

(F) 1 individual appointed by the minority leader of the Senate;

(G) 2 Members of the House of Representatives appointed jointly by the majority leader and the minority leader of the House of Representatives;

(H) 2 Members of the Senate appointed jointly by the majority leader and the minority leader of the Senate;

(I) the Secretary of Labor; and

(J) the Chairman of the Equal Employment Opportunity Commission.

(2) CONSIDERATIONS.—In making appointments under subparagraphs (A) and (B) of paragraph (1), the appointing authority shall consider the background of the individuals, including whether the individuals—

(A) are members of organizations representing women and minorities, and other related interest groups;

(B) hold executive, management or senior decisionmaking positions in corporations or other business entities; and

(C) possess academic expertise or other recognized ability regarding employment and discrimination issues.

(d) CO-CHAIRPERSONS.—The Secretary of Labor, and one individual appointed under subsection (c)(1)(B) who is designated jointly by the appointing authority, shall serve as the Co-chairpersons of the Commission.

(e) TERM OF OFFICE.—Members and Co-chairpersons shall be appointed for the life of the Commission.

(f) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(g) MEETINGS.—

(1) MEETINGS PRIOR TO COMPLETION OF REPORT.—The Commission shall meet not fewer than five times in connection with and pending the completion of the report described in subsection (j)(2). The Commission shall hold additional meetings if the Co-chairpersons or a majority of the members of the Commission request the additional meetings in writing.

(2) MEETINGS AFTER COMPLETION OF REPORT.—The Commission shall meet once each year after the completion of the report described in subsection (j)(2). The Commission shall hold additional meetings if the Co-chairpersons or a majority of the members of the Commission request the additional meetings in writing.

(h) QUORUM.—A majority of the Commission shall constitute a quorum for the transaction of business.

(i) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission and travel.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, as authorized by sections 5702 and 5703 of title 5, United States Code.

(3) EMPLOYMENT STATUS.—A member of the Commission, who is not otherwise an employee of the Federal Government, shall not be deemed to be an employee of the Federal Government except for the purposes of—

(A) the tort claims provisions of chapter 171 of title 28, United States Code, and

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

(j) STUDIES OF ADVANCEMENT OF WOMEN AND MINORITIES TO EXECUTIVE, MANAGEMENT AND SENIOR DECISIONMAKING POSITIONS IN BUSINESS.—

(1) STUDY.—The Commission shall conduct a study of opportunities for, and artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions in business. In conducting the study, the Commission shall—

(A) examine the preparedness of women and minorities to advance to executive, management and senior decisionmaking positions in business;

(B) examine the opportunities for women and minorities to advance to executive, management and senior decisionmaking positions in business;

(C) conduct basic research into the practices, policies, and manner in which executive, management and senior decisionmaking positions in business are filled;

(D) conduct comparative research of businesses and industries in which women and minorities are promoted to executive, management and senior decisionmaking positions, and businesses and industries in which women and minorities are not promoted to executive, management and senior decisionmaking positions;

(E) evaluate the efficacy of enforcement (including, but not limited to, such enforcement techniques as litigation, complaint investigations, compliance reviews, conciliation, administrative regulations, policy guidance, technical assistance, training, and public education) of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment;

(F) compile a synthesis of available research on programs and practices that have successfully led to the advancement of women and minorities to executive, management and senior decisionmaking positions in business, including training programs, rotational assignments, developmental programs, reward programs, employee benefit structures, and family leave policies; and

(G) examine any other issues and information relating to the advancement of women and minorities to executive, management and senior decisionmaking positions in business.

(2) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(A) the findings and conclusions of the Commission resulting from the study conducted under paragraph (1); and

(B) recommendations based on the findings and conclusions described in subparagraph (A) relating to the promotion of opportunities for, and elimination of artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions in business, including recommendations for—

(i) policies and practices to fill vacancies at the executive, management and senior decisionmaking levels;

(ii) developmental practices and procedures to ensure that women and minorities have access to opportunities to gain the exposure, skills, and expertise necessary to assume executive, management and senior decisionmaking positions;

(iii) compensation programs and reward structures utilized to reward and retain key employees; and

(iv) strategies for enforcement of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment.

(3) ADDITIONAL STUDY.—The Commission may conduct such additional study of the advancement of women and minorities to executive, management and senior decisionmaking positions in business as a majority of the members of the Commission determines to be necessary.

(k) POWERS OF THE COMMISSION.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements in any fiscal year only to such extent or in such amounts as are provided in appropriations Acts;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(l) OATHS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(m) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(n) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Co-chairpersons of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

(o) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(p) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(q) CONFIDENTIALITY OF INFORMATION.—

(1) INDIVIDUAL BUSINESS INFORMATION.—Except as provided in paragraph (2), and notwithstanding section 552 of title 5, United States Code, in carrying out the duties of the Commission, including the duties described in subsection (j), the Commission shall maintain the confidentiality of all information that concerns—

(A) the employment practices and procedures of individual businesses; or

(B) individual employees of the businesses.

(2) CONSENT.—The content of any information described in paragraph (1) may be disclosed with the prior written consent of the business or employee, as the case may be, with respect to which the information is maintained.

(3) AGGREGATE INFORMATION.—In carrying out the duties of the Commission, the Commission may disclose—

(A) information about the aggregate employment practices or procedures of a class or group of businesses; and

(B) information about the aggregate characteristics of employees of the businesses, and related aggregate information about the employees.

(r) STAFF AND CONSULTANTS.—

(1) STAFF.—

(A) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the

compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(B) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(s) EXPERTS AND CONSULTANTS.—The Co-chairpersons of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(t) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Co-chairpersons of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(u) TECHNICAL ASSISTANCE.—On the request of the Co-chairpersons of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section. Such sums shall remain available until expended, without fiscal year limitation.

(w) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall terminate 4 years after the date of the enactment of this Act.

SEC. 202. PAY EQUITY TECHNICAL ASSISTANCE.

(a) STATEMENT OF PURPOSE.—Recognizing that the identification and elimination of discriminatory wage-setting practices and discriminatory wage disparities is in the public interest, the purpose of this section is to help eliminate such practices and disparities by—

(1) providing for the development and utilization of techniques that will promote the establishment of wage rates based on the work performed and other appropriate factors, rather than the sex, race, national origin, or ethnicity of the employee; and

(2) providing for the public dissemination of information relating to the techniques described in paragraph (1), thereby encouraging and stimulating public and private employers, through the use of such techniques, to correct wage-setting practices and eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors.

(b) PROGRAM SPECIFICATIONS.—In order to carry out the purpose of this section, the Secretary of Labor shall develop and carry out a continuing program relating to pay equity. Such program shall include—

(1) the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors;

(2) the undertaking and promotion of research into the development of techniques to reduce or eliminate wage disparities, to the extent that they are based on the se , race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors; and

(3) the provision of appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors.

(c) DEFINITION.—For the purpose of this section, the term "other appropriate factors" includes factors such as—

(1) the skill, effort, responsibilities, and qualification requirements for the work involved, taken in their totality;

(2) geographic location and working conditions; and

(3) seniority, merit, productivity, education, and work experience.

SEC. 203. SUBMISSION OF EEOC SUMMARY AND ANALYSIS OF EQUAL EMPLOYMENT OPPORTUNITY DATA.

Section 705(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(e)) is amended by inserting after the first sentence the following: "The Commission shall include in each such report a summary and analysis of data submitted by employers concerning employment opportunities by sex, race, national origin, or ethnicity occurring among and within industries and occupational groups.".

SEC. 204. EDUCATION AND OUTREACH.

Section 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following:

"(2)(A) In exercising its powers under this title, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

"(i) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

"(ii) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination; concerning rights and obligations under this title or such law, as the case may be.

"(B) As one means of satisfying the requirements specified in subparagraph (A), the Commission may make grants to State or local governmental entities, or public or nonprofit private organizations.".

SEC. 205. ANNUAL REPORT BY OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS.

Section 718 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–17) is amended—

(1) by inserting "Programs" after "Compliance"; and

(2) by adding at the end the following:

"At the close of each fiscal year, the Office of Federal Contract Compliance Programs shall submit to the Congress and to the President a report that includes—

"(1) a summary and analysis of affirmative action reports submitted to such Office by employers who enter into Government contracts; and

"(2) an analysis of employment opportunities and wage differentials by sex, race, national origin, or ethnicity occurring among and within industries, occupations, job groups, and job titles.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Does the gentleman from Illinois [Mr. HYDE] stand in opposition?

Mr. HYDE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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

Mr. Chairman, civil rights is important in the American experience because it is this society's most visible reaffirmation of our continuing commitment to the bill of rights. The debate over the nature and extent of that commitment is a valid and necessary one if we are to pursue the twin pillars guaranteed by our Constitution—that of individual opportunity and individual liberty. Neither can be permitted to suffer at the other's expense.

But let us be clear about one point: We are now debating civil rights in 1991 not because of political expediency. We are debating civil rights because civil rights in the employment area have been set back 25 years by a string of disastrous Supreme Court decisions.

We have now reached a point in the debate when I think most Members will be able to fully appreciate the work embodied in the bipartisan substitute. Two months ago, I presided over a markup of the House Judiciary Committee of H.R. 1, a bill I introduced on the first day of the 102d Congress. At that time, the bill passed without amendment. Chairman FORD, presiding in the House Education and Labor Committee, presided over a similar markup that produced a similar result. Quite simply, the bill as reported addressed in a forthright manner the issues raised by these five recent decisions by the Supreme Court.

Unfortunately, subsequent events overtook the careful and good efforts of everyone involved in the two committees who moved H.R. 1 forward. Those events included the intense and good faith negotiations between members of the business community and the civil rights community, the disruption of those discussions by the White House as they began to come to fruition, and a stream of unceasing rhetoric from the White House about the mystical existence of quotas in a bill that had absolutely nothing to do with preferences.

However, just as subsequent events overtook the original H.R. 1, I believe they have finally overtaken the President's cynical ploy of saying the word

"quota" without respect to the substance of the legislation as well. By attacking the issues head on, by listening to the input of a wide range of legislators as well as the business community, the bipartisan substitute has come to be recognized as both a good bill and a fair bill. During yesterday's debate, the change was leveled that it is a lawyers' bill. Yes, that is correct. It has to be a lawyers' bill since the sole purpose of the legislation is to remedy five highly complex and technical decisions handed down by the Supreme Court. Unlike 1964 and 1965, this is not the occasion for broad-stroke legislation or bold and novel ideas. Yet, despite the complexity of the subject matter, the simplicity of the legislative goal remains clear—that of restoring what had been the law and what had been the operating procedures for the past 25 years before the Supreme Court decided to change the rules in midcourse.

In the swirl of rhetoric surrounding this debate, I believe it is essential to go straight to the core provisions of the Brooks-Fish substitute. Those key areas involve the questions of damages, the legal standard of business necessity, the burden of proof, question of adjusting test scores, and quotas. On the question of the burden of proof, a fallacy has been perpetrated in some of the debate witnessed yesterday. That fallacy maintains that the bipartisan substitute would somehow shift the burden of proof to the employer, while the President's bill would not. That is simply not true; both bills recognize the fallacy of the Supreme Court's change in this area, and there should be no further confusion on this point.

With respect to damages, you are also well aware that in the substitute there is a cap on punitive damages in cases of intentional discrimination of $150,000, or the amount of compensatory damages, whichever is greater. This is the identical provision that the Members voted on last Congress and which passed this body in overwheming fashion. Let us remember that on the issue of damages, damages only apply to cases of intentional discrimination and not to cases of unintentional discrimination that may have a discriminatory impact. In those cases, the bill provides that victims of unintentional discrimination will receive only equitable relief, such as back pay and reinstatement.

In defending against a discrimination case, businesses may show that employment practices that have resulted in unintentional discrimination were taken because they bore a significant and manifest relationship to the business practice in question. With that showing of business necessity, a case of unintentional discrimination will not lie.

Important to note is that the standard utilized—that of "significant and manifest"—is taken directly from the language of the 1971 Supreme Court decision Griggs versus Duke Power Co. Time and time again, the White House and the Attorney General have gone on record as saying that the key to city rights legislation was the restoration of Griggs as the operative standard. This has been done.

Subsequent to the markup of H.R. 1, the so-called issue of race norming of test scores was raised to fever pitch. Though not related in any fashion to the substance of the five Supreme Court decisions under review, it was felt that a responsible civil rights act in 1991 had to deal with that issue as well. For that reason, the Brooks-Fish substitute outlaws race norming and provides that if you cannot utilize a test that validly and fairly predicts the ability of the test taker to perform the job, then you, as an employer, may use other methods to assist you in the employee selection process.

Finally, there is the quota issue. The Members are all well aware that even before the President saw the revised bill, he was quoted through his Press Secretary as saying that it was still a quota bill. The unassailable fact is that, quite to the contrary, my substitute will for the first time state in law that quotas are an unlawful employment practice and that any person will have a cause of action if they are harmed by a quota. The sharp contrast between the shrillness of the President's charges and the silence of his bill to address the very issue which he has inflamed, is curious, to say the least. Nevertheless, the issue is a false one and should be dismissed from substantive debate.

In crafting this balanced substitute, we have had the vital input of a number of Members who made extraordinary efforts to dig into the difficult substantive issues. They read cases; they posed questions; and they were always ready to listen. This substitute bears their imprint and they can deserve and receive our sincere thanks. In addition, the understandings reached by the business community and civil rights groups are preserved in the substitute. Their willingness to work together under intense outside pressure shows that such alliances are possible when the stakes are so high and when good will is present.

Finally, the willingness of both parties to rise above the level of partisan politics and pursue the higher ground of principle decisionmaking have helped restore the type of bipartisan consensus that has always characterized the civil rights effort in this body for 40 years. I want to extend particular thanks to the ranking minority member of the committee, Mr. FISH, for his assistance, counsel, and complete dedication to achieving a fair and balanced piece of legislation. By ignoring the naysayers and those who would inflame passions over reason, he and others have moved the debate forward in our effort worthy of the civil rights legislative tradition.

This may be a tough vote for some of you—it will require you to take a personal stand, to decide whether you will support the principles that made this Nation great. The bill is a good one and a fair one, and it certainly deserves your support.

□ 1050

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

Mr. HYDE. Mr. Chairman, I yield myself 5 minutes..

Mr. Chairman, in the few minutes left it is impossible to spell out in detail why this bill is quota-friendly, but Justice Sandra Day O'Conner anticipated H.R. 1 back in 1988, when in the case of Watson versus Fort Worth, she said, and I quote, "If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted.

The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met.

Now, H.R. 1 does not outlaw quotas. Its definition of quotas only outlaws them if you hire unqualified people. Nobody does that. As long as the threat of jury trials with unlimited damages is in this bill, it is a quota bill.

□ 1100

Now, civil rights under this bill becomes something you measure by computer. It becomes a game of statistics. It assigns your civil rights by your membership in a group, not as an individual citizen.

As to race norming on employment tests, H.R. 1 only appears to outlaw this fraudulent practice. What they actually outlaw is valid and honest testing. So what they give with the one hand they take away with the other.

I want to talk about divisiveness, the divisiveness of hiring by racial and ethnic preferences which is the heart and soul of H.R. 1. There is afoot in this world a great centrifugal force, the Serbians fighting Croatians, the Catholics fighting Protestants in Northern Ireland, Ethiopians fighting Eritreans, Armenians versus Moldavians, Georgians, Uzbekistanis, Kazakhstanis, and even in Canada, we have a separatist movement in Quebec. It seems that the world is coming apart at the seams. We need a centripetal force to bring us together. We have that unifying force in our constitutional promise of equal protection of the law, and that constitutional promise resonates like a tuning fork with the Civil Rights Act of 1964 which forbids discrimination based on race, ethnicity, religion, and gender, and because it fine-tunes our

Constitution, it has the support of most Americans.

We, as a nation, solved our tribal problems by insisting that it was individuals who have rights and rejecting the notion of group rights. I once heard Ronald Reagan remark that you could move to Germany and become a German citizen but you would never be a German; you could move to France and become a French citizen, but you will never be a Frenchman; but no matter who you are and where you come from, you come to America and become a citizen, you are an American. We are a multiethnic and a multiracial nation, and we are the envy of the world, because its the individual that counts, not race, not gender, not group.

We need to emphasize our shared national identity.

This legislation pits group against group, race against race, ethnic against ethnic. It is a backward leap from 1964 and the Civil Rights Act.

You cannot fight discrimination with discrimination. It is like treating a man who is bleeding to death with leeches.

The civil rights crusade which is one of the shining moments in the history of self-government has been hijacked by certain groups bent on group entitlement. Let us vote no on H.R. 1 and, thus, reaffirm our Constitution and the Civil Rights Act of 1964.

Mr. Chairman, of course, I oppose the Brooks-Fish substitute. It contains supposed antiquota language that does not ban quotas and, in fact, encourages them. The language they have chosen—whether unintentional or intentional—simply does not work. In addition, this substitute contains no real limitation—no real cap—on damages. Damages, of course, are the primary problem in this bill for America's employers.

Also, once again, they have chosen not to use the language from the holding in the Griggs case. So, a new business necessity test in disparate impact cases will confuse employees and prompt extensive litigation.

Again, I must stress that the language they have put in their substitute ostensibly to resolve the questions I have raised regarding the problem of race norming will leave the opposite effect. Their language means that employers will have to undertake lengthy, expensive validaiton studies and may not be able to use existing aptitude tests at all.

In my estimation, this substitute proposes to do far more than merely restore title VII of the Civil Rights Act of 1964 to its legal posture prior to a series of Supreme Court decisions that occurred in May and June 1989. Instead, for the first time, this legislation will allow the recovery of compensatory and punitive damages in employment discrimination cases under title VII. It will encourage costly and unnecessary litigation, delays in settling disputes, jury trails and large damage awards. Furthermore, because disparate treatment cases are often built on statistics, quotas will be the easiest and surest way for an employer to protect against these new and potentially expensive remedies in H.R. 1.

The Brooks-Fish substitute contains the same cap on damages as was adopted on the House Floor last year. Of course, it is a phony cap—in reality, it is not a cap at all. First of all, compensatory damages would be left unlimited and unchanged. Second, the real measurement of possible punitive damages becomes whatever a plaintiff is awarded in compensatory damages. Under the language, a plaintiff can receive up to $150,000 in punitive damages or an amount of punitive damages equal to compensatory damages, whichever is greater. So, if a plaintiff recovers $1.5 million in pain and suffering, they also could receive up to $1.5 million in punitive damages as well. It is not a cap that gives much aid and comfort to employers.

Another much discussed, but little understood, aspect of this debate focuses on the employer's burden of proof in disparate impact; that is, unintentional discrimination cases. Here again, the proposed substitute does not restore the same evidentiary standards that were used in disparate impact cases prior to the Supreme Court's Wards Cove decision. It contains a totally new definition of "business necessity." It still permits a plaintiff to lump all of an employer's employment practices together, merely allege they have a discriminatory impact and attack an employer's bottom line work force numbers. Under this substitute if, after discovery, a plaintiff is still unable to identify the specific employment practice causing disparity, the judge still has the discretion to waive that requirement. In the face of these blanket allegations, an employer would then have to prove that each and every one of its hiring practices either had no statistical effect or was required by business necessity.

Further, effective job performance becomes the standard for hiring or promotion decisions. Employers will be discouraged from considering a prospective employee's long range potential for promotion and be forced to hire persons who may only meet the minimum requirements of the job at hand. It will be an unfair employment practice to hire for excellence, not merely for adequacy.

Once again, the civil rights groups and their supporters have chosen not to deal with the problematic language in this legislation that will inevitably lead to quotas. Instead, they have come up with another new version of the term "required by business necessity." Now, they want employers to prove that there is a significant, as well as manifest, relationship between employment practice and the job in question. What does significant mean? The language they have selected has never been used in any court in any case interpreting the disparate impact theory. This language has been the focus of no hearings, no testimony and there is virtually no legislative history as to what it could mean. What it really means is total uncertainty for an employer.

What an employer has to prove to justify the business necessity of a specific employment practice ought to be governed by the landmark holding in the 20-year-old Griggs decision and the subsequent cases applying the Griggs standard. In stark contrast to the Brooks-Fish substitute, the administration's bill would codify the exact holding of Griggs in its definition of business necessity—"manifest relationship to the employment in question." This very language, by the way, has been cited in every subsequent Supreme Court case discussing the disparate impact theory since 1971.

Unquestionably, quotas will be the natural result of the new, untested and financially threatening language in both the reported version of H.R. 1 and the new alternative. Employers will simply choose to hire by the numbers to protect themselves against lengthy, complicated, and expensive law suits.

As both President Bush and the Attorney General have stated, the language contained in new section 111 that purportedly outlaws quotas is a hoax and farce. It simply takes away what it pretends to give.

Proponents of the Brooks-Fish substitute argue that this language outlaws quotas. But by its very terms, it's only a quota if:

First, an employer hires a fixed number or a fixed percentage based upon their race, color, religion, sex, or national origin;

Second, an employer actually reaches; that is, attains the specific number or percentage; and

Third, an employer hires persons, regardless as to whether they are qualified.

Ironically, this provision actually could encourage quotas because employers could hire solely based upon race, ethnicity or sex, but still easily evade the new Federal prohibition against quotas. Goals and preferences that actually amount to quotas would still be allowed. It encourages employers to hire marginally qualified persons, rather than search for excellence. Most importantly, this substitute does nothing to alter the provisions contained elsewhere in H.R. 1 that actually cause the quota problem; that is, the language on disparate impact cases and damages.

Last, but not least, I want to comment on the language in the Brooks-Fish substitute that again claims one thing but does another. The substitute's proponents say they are outlawing the practice known as "within group norming," or as it is sometimes called "race norming." This practice, which I have criticized publicly, is totally inconsistent with the principles and intent of title VII. "Within group norming" is a method of adjusting or altering the results of employment aptitude tests. Under this so-called score adjustment strategy, an individual's actual score is converted into a percentile reflecting that person's score compared only to others in his or her own racial or ethnic group. A group-based percentile score is then substituted for an individual's real score. Actual scores become meaningless and the job relatedness value of these tests is subsumed in favor of achieving a certain racial or ethnic mix. Typically, persons who score higher on the underlying test appear to have scored lower once their within group percentages are substituted for their actual score.

While this employment practice has only recently received media attention, the practice itself is not new. In fact, it dates back more than a decade, where it has been continuously used by State employment services across the Nation with the active encouragement of the U.S. Labor Department. As of April 15, 1991, the norming scoring method was being used in 34 States as well as by numerous private employers.

But the substitute chooses to deal with this problem by creating a new and potentially worse problem. It appears that the civil rights advocates now want to prevent employers from using any aptitude tests at all. I have objected to a scoring method tied to race or ethnicity. Now, rather than deal effectively with that discriminatory practice, the social engineers want to outlaw tests.

Here, we are not just talking about potential quotas. This practice is aimed at achieving a particular racial/ethnic makeup in a work force—it is an employment practice specifically aimed at the establishment of a quota hiring system. Now, I thought title VII meant that employment decisions should be made without regard to race, color, religion, sex, or national origin. Further, this legislation—which amends title VII—is also supposed to be about equal employment opportunity and not statistical fixes.

The Brooks-Fish substitute contains two sections—section 115 and 116—ostensibly dealing with the issue of discriminatory test scoring. But, section 115 permits employment tests only if such tests validly and fairly predict an individual's ability to perform a specific job, without regard to race, color, religion, sex, or national origin. Importantly, the provision contains no definition of "valid" and "fair." "Fairness," in particular, is a highly subjective term. In the context of aptitude testing, fairness can mean many different things to many different people.

"Validly" connotes applying the formal validation techniques of the industrial psychologist. It implies that anything less than a full blown sophisticated study cannot be used in defense of charges. This is a clear path to quotas. "Fairly" is not a technical term. Many people are promoting their own definitions of "fairness" these days and claiming scientific support for such definitions, when in fact there is no such support. The term "fairly" can only lead to endless litigation. The word "predicts" implies a type of validation that involves a statistical study. The common typing test and experience requirements, based on the content of the job would be in jeopardy.

Because of the vagueness and lack of definition this language will prompt years of litigation, with the courts ultimately deciding what these terms mean. In the intervening period, employers will have to run expensive statistical and validation studies, even if their test has no adverse impact on minorities or women. Further, the language states that a test can only be used to measure aptitude for a specific job. Tests could only be used to measure qualifications of the job at hand. This provision may well prevent the use of tests to gauge a employee's general aptitude or long range potential for promotions.

At best, section 115 will discourage the use of employment related aptitude tests by employers as well as by public and private employment agencies. At worst, aptitude testing could be jeopardized. Under current law, an employer or employment agency can use an aptitude test, if its general job relatedness can be demonstrated. This section will place a much greater burden on employers, in an attempt to either outlaw all employment aptitude testing or severely restrict its use. Tests are "employment practices" that should be judged under the same standard as all other employment practices—the business necessity test. Once a plaintiff claims adverse impact through a showing of statistical disparity, an employer should be able to justify the business necessity of a test by showing that it is job related and that no less discriminatory alternative is available which measures the tester in the same manner.

Section 116 says it outlaws race norming, but while the language is patterned after my amendment, there are some major changes that could alter the legal result. Of course, the restrictive language in the preceding section 115 strongly devalues and undermines the utility of the language in section 116. Further, section 116 says it only applies to written employment tests. What about aptitude tests that measure manual dexterity? What about tests taken on computers or scored on computers? What about routine typing tests?

In addition, the prohibition only applies to "individual test takers." Does this language mean that scores may continue to be adjusted for groups of test takers? It may be an attempt to raise a question that could later be litigated, as to whether or not this language only prohibits score adjustments for individuals and not score adjustments for particular racial or ethnic groups.

Unfortunately, the amendment that I offered in the House Judiciary Committee and which was contained in the Michel substitute, is the only language that would clearly end this discriminatory practice without any other adverse side effects. It is very unfortunate that this House, because of a restrictive rule, never had an opportunity to vote on my amendment separately.

Mr. Chairman, for all of these reasons and more, the Brooks-Fish substitute deserves to be rejected by this House. If adopted, I will continue to work to make sure that this counterproductive proposal does not become law.

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

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. FISH] for the purpose of a colloquy.

Mr. FISH. Mr. Chairman, I am going to introduce into the RECORD of the debate a statement concerning the antiquota provisions of the Brooks-Fish substitute. You are familiar with my statement, and I would like to ask you whether you find such statement consistent with your views of these provisions.

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

Mr. FISH. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Yes, I find the remarks reflective of the understandings and intent behind the antiquota provisions, as already enunciated in my colloquy with the majority leader, Mr. GEPHARDT, during general debate. Together with the colloquy with Mr. GEPHARDT, this statement should constitute the authoritative legislative history on the antiquota provisions.

Mr. FISH. Mr. Chairman, on behalf of the chairman, the gentleman from Texas [Mr. BROOKS], and myself, I would like to address the antiquota provisions of the Brooks-Fish substitute found in section III of the bill, and I am incorporating the document which I discussed with Chairman BROOKS into my remarks at this point in the RECORD.

JOINT STATEMENT OF THE SPONSORS OF THE BROOKS-FISH SUBSTITUTE REGARDING ANTI-QUOTA PROVISIONS

On behalf of Chairman Brooks and myself, I would like to address the anti-quota provisions of the Brooks-Fish substitute, which are found in section 111 of the bill. While it was always clear in our view that H.R. 1 would not lead to quotas, since it would simply restore the *Griggs* rule which was in effect for 18 years without causing quotas, our provisions in section 111 provide even further guarantees and make this an *anti*-quota bill.

Specifically, with respect to quotas, section 111 states that nothing in the bill may be construed to "require, encourage, or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin," and that the use of such quotas "shall be deemed to be an unlawful employment practice" under title VII. Therefore, section 111 explicitly bans the use of hiring or promotion quotas.

In addition, in stating that the use of such quotas is deemed to be an unlawful employment practice, that means that the full range of title VII remedies would be explicitly made available to anyone victimized by an illegal quota, including injunctive relief, back pay, and, in the case of intentional use of an illegal quota, damages as well. Voting for the Brooks-Fish substitute is clearly voting against the use of quotas.

We would like to address the definition of quota in section 111(b). That section defines a quota as a "fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications for the job." This section purposely incorporates language used by Justice Sandra Day O'Connor in *Local 28 of Sheet Metal Workers* v *EEOC*, 106 S.Ct. 3019, 3060 (1986), wherein she refers to a quota as a "fixed number or percentage which must be attained or which cannot be exceeded, and would do so regardless of the number of potential applicants who meet necessary qualifications."

Some have erroneously claimed that because the definition contains the phrase "regardless of whether such persons meet necessary qualifications for the job," the legislation would automatically permit use of fixed numbers or percentages of qualified persons. That is not correct.

The phrase "regardless of qualifications" does not have that meaning. Instead, that phrase simply explains that, in accordance with Justice O'Connor's definition, a quota refers to the use of fixed numbers or percentages *whether or not* job applicants are qualified. It means hiring or promoting by the numbers whether or not it would involve qualified or unqualified persons. Under our substitute, incorporating as we do Justice O'Connor's definition, the use of fixed numbers or percentages whether or not job applicants are qualified is a quota and is made illegal.

In our view, this definition clarifies what is wrong with quotas and why they are discriminatory. First, quotas focus an employer's attention exclusively on an individual's

race, color, religion, sex, or national origin, rather than on an individual's skills, abilities, potential, and other factors relevant to job performance. Second, quotas can operate as a self-limiting ceiling on affirmative action efforts. Third, quotas may act to exclude qualified individuals unfairly.

In addition, the assertion that the legislation would permit blanket use of fixed numbers or percentages with respect to qualified persons is wrong for another reason. Section 111 approves of voluntary or court-ordered affirmative action, if it is consistent with the decisions of the Supreme Court or otherwise in accord with employment discrimination law as of the date of enactment of the legislation. Under Supreme Court decisions and title VII law, use of numbers or percentages even of fully qualified persons is permitted only under particular, specific circumstances. This legislation does not expand the use of numbers or percentages beyond what was permissible under the previous affirmative action decisions of the Supreme Court and related employment discrimination law as of the date of enactment of this legislation.

Some questions have been raised about the fact that the "proviso" clause in section 111 is worded differently than in section 13 of H.R. 1. The Brooks-Fish substitute now stated that it should be construed to "approve" affirmative action where consistent with Supreme Court decisions or other law, while H.R. 1, as reported, previously stated that nothing in the bill was to affect the validity of such affirmative action. However, no difference in meaning is intended. The intent of the provision remains the same: to leave things where they were before passage of the Brooks-Fish substitute with respect to the validity of affirmative action.

With respect to the proviso, it is not necessary for Congress to examine all the Supreme Court's decisions on affirmative action specifically before stating that the Act should be construed to approve the lawfulness of affirmative action that is consistent with these decisions. The antiquota language is being inserted to address a number of concerns about demonstrating that Congress does not approve any form of discrimination. At the same time, in taking this step, Congress is making clear that in stating that quotas are prohibited, it is most certainly not affecting lawful affirmative action. That is the reason for the wording of this proviso. The bill simply says that the Supreme Court's decisions on affirmative action will be as valid on the day after we pass this bill, including this bill's ban on quotas, as they were the day before.

Finally, opponents of the bill have asserted that it would cause problems for employers, because the disparate impact provisions would lead them to adopt quotas while the antiquota provisions would make them liable if they adopt them. That assertion is flatly wrong. All employers need to do is what most of them did while Griggs was the law between 1971 and 1989—adopt fair and non-discriminatory job practices. This bill now makes clear that all workers are protected from illegal job bias. Any member of Congress who is against discrimination and against quotas should vote for this bill.

Mr. HYDE. Mr. Chairman. I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to H.R. 1.

Mr. Chairman, it is with regret and a good deal of frustration that I must rise here today in opposition to the Democratic leadership's compromise civil rights bill. I should not have to. This body should be considering a reasonable bill to address discrimination in the workplace. Instead, we are discussing a bill that will ensure full employment for lawyers.

Make no mistake about it, there is a real need to address job discrimination. Everyone in this Chamber wants to establish effective legislation to protect minorities and women from bias. But this bill does not do that.

What this bill does, Mr. Chairman, is force employers to protect themselves from devastating lawsuits by establishing quotas. What other choice will businesses have? Advocates of this bill claim that language strictly prohibits quotas. I see. Now firms will be sued into the ground if they do not come up with quotas and they will be prosecuted if they do.

Either way, the small businessman loses and the lawyers win. And job discrimination is still not addressed.

This bill does not deal with the problems that minorities face in the workplace. And because of that I fear that we will be revisiting this issue in the very near future. Let us not create a situation where employers have to guess how Congress might restructure civil rights law in 5 years.

But there is another significant reason why I cannot vote for this bill. And the most frustrating thing is that it should have been worked out long before this bill came to the floor.

Because this bill does not include an equitable and fair remedy for a small firm that employs many Alaskans, I cannot support this bill.

The company I am speaking of is the Wards Cove Packing Co. which has been to court on eight separate occasions, and on each of those appearances, the courts have found Wards Cove innocent. Eight times. It has spent 20 years and $2 million clearing its name. Wards Cove was even found innocent under the very Griggs standards that the Civil Rights Act seeks to restore.

But now if this bill passes, Wards Cove will have to retry this entire case again. You see, the plaintiffs have filed an eighth appeal to the case solely hoping to keep the issue alive. If this bill passes, it would require that the Wards Cove case start over again using altogether new standards.

Wholesale relitigation of this case would be totally unfair to a company that has consistently been found innocent in court. It would put this firm out of business.

And the most frustrating aspect of this problem is that I should not have to be speaking here in opposition to this bill. Instead, I should be promoting my amendment to this bill that would take care of this problem. But my amendment was not included in the rule. And that's just plain wrong.

It is wrong because my amendment was very simple and very specific. It is wrong because it would allow a final decision in this case but would prevent wholesale relitigation. It is wrong because my amendment enjoyed wide bipartisan support. And it is wrong because without a remedy for Wards Cove I cannot vote for this bill.

This is not a plea to exempt Wards Cove from any civil rights law. Far from it. Wards Cove has been found innocent eight times. It would provide for a final resolution to this drawnout case instead of suddenly forcing a complete overhaul of the case.

If nothing else, let me make one thing perfectly clear. This compromise does not remedy the Wards Cove problem. The plaintiff has filed yet another appeal, and with the case still technically alive it would have to be retried under the new civil rights guidelines.

I originally pushed to have this problem resolved in committee. But it was not. I then pushed to have it corrected in the leadership compromise. But it was not. Finally, I asked that a very straightforward amendment be included in the rule. But it was not.

Even the civil rights groups I speak with don't have a problem with a specific exemption for Wards Cove. But why is it that the Democratic leadership cannot accept this idea? I have yet to hear a good reason.

And now after all this I am asked to vote for this bill. But I can not. This is a quota bill and it shifts the burden of proof, and I cannot support this bill because it could well put a small firm under.

To supporters of this bill I say you really dropped the ball. I guess it merely proves that the only rights this bill will protect are those that encourage endless litigation.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, I spoke at some length earlier about the Brooks-Fish substitute and why I believe it fails to respond to either the quota charge or to the charge that it creates a litigation bonanza that is not designed to provide real relief to the victims of workplace discrimination.

At the risk of repeating myself, I want to reiterate why I sincerely believe the Brooks-Fish substitute is not good civil rights legislation.

The opposition to H.R. 1 and its various manifestations, including Brooks-Fish, focuses on two issues, quotas and damages. This is not to say that there are not a lot of other provisions in the substitute, attorneys' fees, Martin versus Wilks and retroactivity, to name a few that are quite troubling, and then there are also many new issues not even in H.R. 1 as it was originally introduced.

Mr. Chairman, for the past year and a half, we have argued the quota implications of H.R. 4000 and H.R. 1 are caused by the bills' substantive provisions, namely, the rules of proof in disparate-impact cases which are stacked against employers, and the availability of punitive and compensatory damages in intentional discrimination class actions based on statistical proof which will drive employers to covertly hire and promote by the numbers to avoid costly litigation.

Thus, the only way to respond to the quota call is to make real changes to the substantive provisions to ease the pressure on employers to avoid litiga-

tion. The Brooks-Fish substitute fails to do this.

The Brooks-Fish substitute contains yet another novel definition of business necessity that, again, is not the definition used in Griggs. The lack of familiarity with this definition will require courts to grapple with how it applies to employment practices that are being challenged and will leave employers little comfort as they organize their workplace.

Although the Brooks-Fish substitute takes positive steps on the issue of specific identification of practices, plaintiffs will still be able to group employment practices in disparate-impact cases in a variety of circumstances. All of these elements combine to build pressures on employers to balance their workplace numbers. Including language prohibiting quotas does little to make sure that they do not covertly resort to quotas.

Further, the narrow definition of quotas in the Brooks-Fish substitute, combined with the codification of Supreme Court decisions approving affirmative action, have turned the quota ban on its head. The Washington Post summed it up best when it said that the Brooks-Fish definition of quotas is a straw man. I am not fooled by the straw man, and you should not be either.

As I said earlier today, if it looks like a fish in a brook and swims like a fish in a brook, you cannot put a sign on it and call it a duck and expect anyone to believe it.

I alluded to it before, but let me be precise in saying that a cap that limits punitive damages to the amount of compensatory damages or $150,000, whichever is greater, is not a cap at all. The Brooks-Fish substitute still allows for jury trials compensatory damages that are totally unlimited, and punitive damages.

I would ask my colleagues to think seriously about what they are doing and vote against this legislation.

SUMMARY OF ANALYSIS OF CHANGES TO H.R. 1

1. Disparate Impact: Some improvements were made in the provisions governing this complex area, but the fundamental problems continue. The section still creates an entirely new form of disparate impact analysis which unfairly stacks the deck against employers in litigation, creating intense pressures on employers to correct statistical imbalances through workplace preferences. Further, none of these changes have any relevancy to the problems of quotas arising from the intentional discrimination provisions.

2. Mixed Motive Cases/Price-Waterhouse: The slight change from "contributing" to "motivating" does little and, in fact, simply goes back to H.R. 4000 as introduced. An employer remains liable for punitive and compensatory damages even where it demonstrates that it would have made the same decision regardless of the improper bias. The bill the President vetoed would have limited liability to lost attorneys' fees.

3. Statute of Limitations: Change from 2 years to 18 months is marginal improvement. Increase is still threefold over current limitations of 6 months.

4. "Cap" on Punitive Damages: No cap at all as cap is $150,000 or an amount equal to compensatory damages plus lost backpay, whichever is greater. Thus "cap" constantly floats.

5. Clarifying Attorneys' Fees: Originally provided that waiver of attorneys' fees could not be compelled as part of settlements. Now provides that attorneys' fees may be voluntarily waived. This change does little, as "voluntariness" is simply part and parcel of whether waiver of fees is compelled. The issue remains the same.

6. Anti-Quota Language: The new language prohibits quotas only in very narrow circumstances and, further, adopts by reference Supreme Court case law as existing at time of enactment concerning affirmative action, including use of workplace preferences. It does not address the underlying concern that employers will covertly use quotas to avoid litigation under H.R. 1 and, ironically, effectively permits a wide range of preferential treatment. The entire area of the proper role of affirmative action—in all its different forms—under Title VII has now, for the first time, been opened for debate.

7. Transition Rules/Retroactivity: New law will apply to all cases still under review in the courts. Closed cases can be reopened if justice requires. Provision simply goes back to H.R. 4000 as vetoed by the President.

8. Tests/Race-Norming: Entirely new language places extreme restrictions on the use of employment testing. Restrictions on race-norming thus becomes irrelevant as few tests will be given.

9. Extraterritorial Employment: Entirely new provision extends Title VII to U.S. citizens employed by U.S. businesses overseas. Reverses Aramco case.

10. Expert Witness Fees: New provision reverses the recent West Virginia University Hospital case to permit awards of expert witness fees and other litigation expenses under 42 USC 1988, a general attorneys' fees award statute applicable to several civil rights laws.

ANALYSIS OF CHANGES TO H.R. 1

Section 101, 102. Disparate Impact.

Business necessity: New definition (the latest among many) of "business necessity" still does not codify Griggs (which used the definition of "manifest relationship to the employment in question") and still overly restricts—through a sole focus on "effective job performance"—the range of factors an employer may use in deciding which employees to hire or retain. For example, there is no allowance for nonperformance factors such as a reduced need for the employees' services which could require lay off. Similarly, use of the word "effective" implies that employers may not distinguish between potential employees who will perform only up to the minimal level of job performance and those who will exceed minimal standards. Further, testing experts have repeatedly raised objections to the use of the word "significant" as part of the definition. Finally, this new definition has no applicability whatever to practices not involving nonselection criteria, such as employee benefit policies and working conditions, even though these are clearly covered by the bill according to the legislative history.

Grouping of practices: Some improvements have been made here, but plaintiffs will still be allowed to group practices in many kinds of situations, contrary to the weight of case law even before the Wards Cove decision.

Alternative practice: No significant change has been made here. The employer remains per se liable if the plaintiff can identify a practice with a lesser impact, regardless of whether the employer knew or could have known about the practice. An added provision that the difference in impact must be "more than merely negligible" does nothing.

Demonstrable evidence: The substitute eliminates the requirement of demonstrable evidence but appears to bring it back in through other new, otherwise unexplainable, limitations concerning the "type and sufficiency" of evidence needed to prove business necessity added at section 101(o)(2).

A new section (paragraph (5), p. 5) has been added which states that an employer may rely on "relative qualifications" of employees so long as that reliance is "required by business necessity." The provision is circular and does nothing because the reliance must still be justified by business necessity. Hence, the key issue is still the definition.

Summary: The disparate impact sections continue to create an entirely new form of impact analysis, stacking the deck against employers and creating intense pressures to eliminate statistical imbalances through racial and sexual preferences. Further, it bears repeating that none of the few changes made here even attempt to address the quota problems arising from the use of statistical imbalances in class action, intentional discrimination cases under H.R. 1's new punitive and compensatory damage provisions.

Section 103. Mixed Motive Cases/Price-Waterhouse.

The substitute changes "contributing" to "motivating"; hence, an improper bias must now be a motivating factor. This change merely goes back to last Congress's H.R. 4000 as introduced. Further, an employer is still liable for punitive and compensatory damages even if it demonstrates that it would have made the same decision regardless of the bias. Notably, the bill the President vetoed would have limited damages to lost attorneys' fees where an employer made this showing.

Section 105. Statute of Limitations.

The substitute for H.R. 1 would extend the statute of limitations for filing a claim of employment discrimination under Title VII from the existing period of 180 days to 540 days. While the 18-month limitations period is somewhat of an improvement over the 2-year period contained in the reported bill, the fact remains that it is still a threefold increase over current law. There is scant evidence in the legislative record that any increase in the statute of limitations is necessary, and such a dramatic extension is entirely inconsistent with Title VII's goal of prompt resolution of workplace discrimination complaints.

Section 106. "Cap" on Punitive Damages.

"Cap" is solely limited to punitive damages and would be $150,000 or an amount equal to compensatory damages plus lost backpay, whichever was greater. Hence the "cap" floats, depending on the amount awarded for compensatory damages (including pain and suffering) and backpay. Thus, if $200,000 is awarded in compensatory damages and $75,000 is lost backpay, the "cap" on punitives is now $275,000. This is no cap at all.

Section 107. Clarifying Attorneys' Fee Provision.

As reported, H.R. 1 provides that a court may not enter an order settling a Title VII claim unless the parties or their counsel attest that a waiver of attorneys' fees was not compelled as a condition of settlement. The

substitute proposes to add language providing that the aforementioned provision does nothing to limit the right of parties to negotiate a settlement in which attorneys' fees are voluntarily waived. The circularity of the reasoning motivating this additional language is apparent as, even without the new language, the whole issue with respect to whether a waiver of attorneys' fees was compelled is whether or not the waiver was voluntary. Thus, the addition of the new language does nothing to alter the provision's substance. The language in the substitute merely makes explicit what was implicit in the original formulation of the provision. This attorneys' fee provision continues to add yet another layer of judicial inquiry and litigation thwarting Title VII's goal of encouraging settlement of employment discrimination disputes.

Section 111. Anti-Quota Language.

The new language does not address the underlying reasons H.R. 1 will lead to quotas and, in fact, effectively legitimizes a wide range of preferential race- and sex-based treatment.

The substitute contains language providing that "nothing in the amendments made by this Act shall be construed to require, encourage, or permit an employer to adopt hiring or promotion quotas. . ." This language is similar to a provision included in H.R. 1 as reported, with the exception that the substitute adds the word "permit." The substitute also then defines the word "quota" in a very narrow manner and provides that the use of a quota is an unlawful employment practice under Title VII. The anti-quota language in the substitute does not respond to the concern that passage of the bill will lead to unspoken reliance by employers on workplace numbers in hiring and promotion as a means to avoid litigation.

The quota concern generated by H.R. 1 has always been that employers will covertly use race or sex preferences in hiring and promotion to correct statistical imbalances in their workforce in order to avoid costly lawsuits. Opponents of H.R. 1 have never maintained that the bill would legitimize quota hiring or promotion, nor have opponents maintained that quota hiring would currently be permissible. Indeed, a strong case can be made under current Supreme Court precedent that strict use of a hiring or promotion quota is already illegal. The problem with H.R. 1, both as reported and with the substitute language, is that it leaves employers between a rock and a hard place. If their workplace numbers don't look right, employers may be on the hook for disparate impact or intentional discrimination. If employers try to correct workplace numbers through the use of racial or sexual preferences, they're on the hook for reverse discrimination. The anti-quota language does not change the fact that H.R. 1, even in its latest form, creates tremendous pressure on employers to avoid litigation both because 1) the rules of proof are stacked against them in disparate impact cases and 2) their liability for punitive and compensatory damages in class action intentional discrimination cases based on statistical imbalances can be astronomical. In the minds of many employers, the surest way to avoid litigation will be to massage the numbers just enough that attention is not drawn to the makeup of their workforce.

Further, while providing that the use of a "quota" is an unlawful employment practice, the substitute for H.R. 1 very narrowly defines the scope of practices that fall within that prohibition through narrowly defining the term "quota." The restrictive nature of the prohibition effectively permits a wide range of racial and sexual preferences—the necessary implication being that any practice not prohibited is permitted—turning the so-called prohibition on its head.

The substitute defines an illegal quota as "a fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications to perform the job." (Section 111(b)). The employment practices of few employers would fall within this ban, as few would be willing to hire or promote individuals lacking necessary qualifications. Typically, hiring or promoting by the numbers occurs when a race or sex preference results in the selection of a less qualified individual over a more qualified individual. It does not appear that this type of quota hiring or promotion would be prohibited by the quota ban and, in fact, would, therefore, be permitted. As was previously mentioned, quotas in the narrowly defined form contained in the substitute are arguably already illegal, and the definition does not reach the types of hiring and promotion practices that employers will likely resort to as a means to avoid litigation.

The substitute also attempts to codify Supreme Court law with respect to when the use of racial or sexual preferences are permissible under Title VII. This is quite a complex area of the law, and the numerous Supreme Court decisions on this point are far from consistent. It is doubtful whether H.R. 1 is the proper vehicle to codify this complicated body of law en masse when there has been very little, if any, substantive discussion of the utility, the relative merits and appropriateness of the various manifestations of affirmative action policies, including racial and sexual preferences. The substitute attempts to take the easy way out by prohibiting the narrowest form of quotas, that are probably already illegal, and refusing to directly address the realities of the workplace and the manner in which hiring and promoting by the numbers affects the employment opportunities of all workers.

The ironic effect of the new "no quota" language is to sweepingly endorse racial and sexual preferences in many situations. As such, it extends the scope of H.R. 1 into entirely new areas never explored directly or indirectly at hearings or in debate.

Section 113. Retroactivity/Transition Rules.

The new provision will apply the law to all cases still under review in the courts. Thus, fact situations will be rejudged under entirely new legal standards not existing at the time those situations arose. Cases which have been in litigation for years will be thrown back to initial proceedings. Further, entirely closed and finished cases could be reopened "if justice requires." While proponents of H.R. 1 will argue that this standard is simply adopted from existing rules on civil procedure, legislative history on a similar provision in the bill the President vetoed basically instructed the courts to take a more expansive view of this provision than current law would justify. If proponents only wish to reflect existing law, there is no need for this provision. Further, obviously, much litigation will revolve around whether "justice" requires that a case be reopened.

Section 114. Congressional Coverage.

The Senate and "Instrumentalities of Congress" are now covered, but still no private cause of action is permitted. The same double standard remains.

Sections 115, 116. Use of Tests/Race-Norming.

Section 115, entirely new, amends title VII to place very strict limitations on the use of tests. For example, the sole focus on job performance with respect to each job would eliminate the now common use of tests to predict performance in a range of jobs. The concept that a test must "validly and fairly" predict job performance, while sounding inoffensive, also raises a host of issues for litigation. If a test is "valid," what does the additional qualifier of "fair" mean? (These are special rules over and above those concerning disparate impact analysis.) Section 116 then places restrictions on race-norming, but the prohibition on race-norming has now become almost irrelevant as section 115 has effectively severely restricted the use of employment testing. No test; no race-norming.

Section 119. Protection of Extraterritorial Employment.

The substitute contains a new provision which responds to a recent Supreme Court decision (Aramco) that title VII does not apply extraterritorially to regulate the employment practices of U.S. businesses overseas. The provision would extend title VII coverage to United States citizens who are employed abroad by American firms, but would provide an exemption if compliance with title VII would cause the firm to violate a law of the foreign nations in which it is operating. The provision in the substitute is consistent with the position of the administration before the Supreme Court, but once again, a far-reaching change in employment discrimination law is being undertaken with no pretense of substantive consideration in the legislative process. The extension of title VII coverage contained in the substitute would affect an estimated 2,000 U.S. companies which operate 21,000 overseas units in 121 countries. The provision would also extend title VII coverage to foreign corporations which are "controlled" by American employers. The substitute establishes a set of factors for determining corporate control, another issue that will be subject to much litigation. For your information, the Age Discrimination in Employment Act ("ADEA") was amended in 1984 to provide for extraterritorial application. The amendment was widely supported in the House.

Needless to say, hearings on an issue of this importance—extension of an American law to other countries and all the potential problems that may entail—would have been useful.

Section 120. Attorneys' Fees Provision.

This entirely new provision would reverse another recent decision by the Supreme Court (West Virginia University Hospitals) which found that expert witness fees and other litigation expenses were not recoverable under 42 U.S.C. 1988, a general attorneys' fees provision applicable to several civil rights laws.

Without hearings, it is difficult to say what the effect of this provision is.

CIVIL RIGHTS ACT COMPARISON

Section	H.R. 1, as reported	Brooks/Fish substitute	Michel substitute (administration proposal)	Comments (comments on Brooks/Fish substitute (BFS) in CAPS)
Wards Cove (Disparate Impact).	(1) Defines "business necessity" (two-pronged): Selection practices: bear a significant relationship to successful performance of the job. Non-selection practices: have a significant relationship to a significant business objective of the employer.	Defines "business necessity": Bear a significant and manifest relationship to the requirements for effecitve job performance.	Defines "business necessity": Having a manifest relationship to the employment in question or legitimate employment goals are significantly served by, even if they do not require, the challenged practice.	BFS DEFINITION STILL FAILS TO CODIFY GRIGGS, WHICH WAS BROADER. SOLE FOCUS ON "EFFECTIVE JOB PERFORMANCE" EXCLUDES RELIANCE ON OTHER, LEGITIMATE ECONOMIC FACTORS; ALSO CAN'T USE FACTORS TO MEASURE ABILITY TO EXCEL. TESTING EXPERTS HAVE STRONGLY OBJECTED TO WORD "SIGNIFICANT." NO APPLICABILITY TO NONSELECTION PRACTICES. Administration bill developed from Griggs, Beazer, Watson, and Wards Cove.
	Specifies that language is meant to overturn Wards Cove and codify Griggs for the meaning of "business necessity".	Specifies that language is meant to overturn Wards Cove and codify Griggs for both the meaning of "business necessity" and the type and sufficiency of evidence required to prove "business necessity". Defines "requirements for effective job performance" to include factors such as attendance, punctuality and not engaging in misconduct or insubordination.	No provision	BFS NEW "TYPE AND SUFFICIENCY" LANGUAGE UNCLEAR BUT MAY NOT BE DIRECTED AT ACCOMPLISHING SAME PURPOSE OF DROPPED REQUIREMENT FOR "DEMONSTRABLE" EVIDENCE, I.E., FORMAL VALIDATION. (SEE BELOW AT #5.) SLIGHTLY AMELIORATES PROBLEM OF EXCLUSIVE FOCUS ON JOB PERFORMANCE BUT DOES NOT GO FAR ENOUGH.
	(2) Shifts burden of proof to employer to justify practice when disparate impact is established.	Same as H.R. 1 as reported	Also shifts burden of proof to employer when disparate impact is established.	H.R. 1, the new substitute and the Administration bill all reverse Wards Cove on this issue.
	(3) Allow grouping of practices without requiring plaintiff to identify specific practices within the group which caused the impact. Limited exception when court finds plaintiff could identify practices which contributed to impact. Defendant required to justify practices which "contribute" to impact.	Retains grouping of practices rule, but has modified exception somewhat to require plaintiff after discovery to identify practice. Defendant still required to justify practices which "contribute".	Does not allow grouping of practices	Administration bill would preserve long-standing case law. "Grouping" contrary to existing law, even prior to Wards Cove. BFS EXCEPTION IS MINIMAL IMPROVEMENT, TO THE EXTENT IT IS DECIPHERABLE. Further, many practices not covered by recordkeeping requirements. "Contribution" also lower threshold than causation. H.R. 1 and BFS remain very unclear.
	(4) Per se violation of Title VII when an alternative employment practice exists which does not have a disparate impact.	Per se violation of Title VII when an alternative employment practice is available and has more than a negligibly less disparate impact.	Violation when alternative employment practice is comparable in cost and effectiveness to that causing disparate impact and the employer still refuses to adopt it.	H.R. 1 creates new rule on this issue. BFS SHUFFLES PROVISION INTO NEW SECTION BUT LEAVES ESSENTIALLY UNCHANGED; NEW PROVISION STATING DIFFERENCE IN IMPACT MUST BE MORE THAN "MERELY NEGLIGIBLE" DOES NOTHING.
	(5) Requires "demonstrable" evidence	No provision	No provision	BFS DROPS THIS SPECIFIC LANGUAGE BUT MAY RETAIN AFFECT THROUGH THE NEW LANGUAGE DISCUSSED ABOVE.
	(6) Existence of statistical imbalance alone does not prove disparate impact.	Same as H.R. 1 as reported	No provision	Provision is irrelevant, merely codifies existing rule that workforce comparisons must be between relevant labor pools.
	(7) Drug-use rules are unlawful only when adopted for intentionally discriminatory purposes.	Same as H.R. 1 as reported	No provision	Exclusion from impact analysis is necessary under H.R. 1 and the BFS because of the onerous nature of H.R. 1's new requirements.
	No provision	An employer may rely on "relative qualifications or skills" in selection procedures; however, if such reliance results in disparate impact, the reliance must be required by "business necessity".	No provision	"RELIANCE" STILL MUST BE PROVEN BY "BUSINESS NECESSITY" SO PROVISION IS CIRCULAR AND DOES NOTHING. FACT THAT CLARIFICATION IS EVEN NEEDED ON THIS INDICATES THE MANY PROBLEMS WITH H.R. 1.
Price Waterhouse	Overturns Supreme Court decision by Justice Brennan. Establishes a course of action when discriminatory motive was a contributing factor in decision; if employer proves that the same decision would have been made anyway, it is still liable for punitive and compensatory damages.	Same as H.R. 1 as reported, except: Changes "contributing" to "motivating" factor	No provision (but see new damage provisions, below).	BFS SIMPLY GOES BACK TO H.R. 4000 AS INTRODUCED IN 101ST CONGRESS; NO IMPROVEMENT. EMPLOYER REMAINS LIABLE FOR PUNITIVE AND COMPENSATORY DAMAGES EVEN IF IT IS PROVEN THAT THE SAME DECISION WOULD HAVE BEEN MADE REGARDLESS. VETOED BILL WOULD HAVE LIMITED LIABILITY TO ATTORNEYS' FEES. Administration bill would leave case law intact, i.e., no course of action in "mixed motive" cases if the employers can prove he/she would have made the same decision regardless of improper bias. DOJ study shows few employers win these cases.
Martin versus Wilkes	Imposes broad limitation on ability to challenge consent decrees.	Same as H.R. 1 as reported	Codifies Supreme Court decision allowing challenges to consent decrees according to Federal Rules of Civil Procedure (must join a party to the original suit to prevent challenge by that party).	These cases typically involve reverse discrimination issues. Wilkes simply held that victims of such discrimination should be allowed to challenge such decrees to determine if they were properly issued, unless they were parties to the original case. Vetoed bill more limited than H.R. 1 and BFS.
Lorance	Overturns Supreme Court decision	Same as H.R. 1 as reported	Same	H.R. 1 and BFS go further than overturning case, but few issues remain.
Statute of Limitations	Extended from 180 days to 2 years and begins to run when the violation occurred or when it is applied to the plaintiff, whichever is later.	Extended from 180 days to 18 months and begins to run when the system adversely affects the plaintiff.	No provision	Extension will, as with other provisions, create delays in resolving disputes. BFS REDUCTION FROM 2 YEARS TO 18 MONTHS. MINOR CHANGE.
Patterson	Overturns Supreme Court decision. Restores expansive reading of Section 1981 to prohibit discrimination in all aspects of a contract, i.e., covers all aspects of employment.	Same as H.R. 1 as reported	Same provision	No issues, except that proponents of H.R. 1 claim Administrations reversal of Patterson is inconsistent with refusal to amend Title VII to include punitive and compensatory damages. Reversal, however, goes to scope, not type of damages.
Aramco (Overseas coverage)	No provision	Overturns recent Supreme Court decision to extend coverage of Title VII to citizens of the United States who are employed in a foreign country by US businesses, unless compliance would cause the company to violate the foreign nation's laws.	No provision	TOTALLY NEW ISSUE; NEVER SUBJECT TO HEARINGS.
Damages	Allows unlimited punitive and compensatory damages for intentional discrimination (punitive where there is malice or reckless or callous indifference to "Federally protected rights of others"). Jury trials	"Caps" punitive damages for intentional discrimination at $150,000 or an amount equal to compensatory damages plus backpay, whichever is greater.	Retains existing Title VII remedies with the addition of a new remedy for harassment. Employee must use employer's procedures first ... Allows immediate injunctive relief Allows $150,000 remedy, trial before a judge, but if courts find that the 7th Amendment requires juries to hear the issue of liability, the judge will still determine the damages.	Administration's proposal targeted at harassment, where no monetary remedy usually exists under current law. H.R. 1 and BFS would result in protracted litigation, lawyers' bonanza and quotas because of concern for astronomical liability in intentional discrimination class action cases, which, like impact cases, are based on workforce statistical imbalances. BFS "CAP" NO CAP AT ALL, AS IT WILL CONSTANTLY FLOAT DEPENDING ON AMOUNT AWARDED FOR COMPENSATORY DAMAGES AND BACKPAY.

CIVIL RIGHTS ACT COMPARISON—Continued

Section	H.R. 1, as reported	Brooks/Fish substitute	Michel substitute (administration proposal)	Comments (comments on Brooks/Fish substitute (BFS) in CAPS)
Attorney and expert witness fees.	No provision	Reverses new Supreme Court case on Section 1988 regarding expert witness fees and other litigation expenses (West Virginia).	No provision	H.R. 1, in one fell swoop, reverses 4 Supreme Court decisions to effectively expand grounds for recovery of fees. BFS ADDS ANOTHER ONE, WHICH HAS NEVER BEEN SUBJECT TO HEARINGS. NEW WAIVER LANGUAGE DOES LITTLE BECAUSE "VOLUNTARINESS" IS SIMPLY PART OF QUESTION OF WHETHER WAIVER IS "COMPELLED." ATTORNEY ONLY PARTY PROTECTED BY ALL THIS.
	Prohibits "compelled" waiver of attorneys' fees as part of settlement, reversing Jeff D.	Prohibits "compelled" waiver of attorneys' fees as a condition of settlement but allows voluntary waiver as part of a negotiated settlement.	No provision	
	Allows recovery of expert witness fees and other litigation expenses, reversing Crawford Fittings.	Same as H.R. 1 as reported	Allows recovery of expert witness fees under Title VII of up to $300 per day..	
	Allows prevailing party in a consent challenge to collect attorneys' fees from original losing party, new challenger or both, reversing Zipes.	Same as H.R. 1 as reported	No provision	
	Allows recovery of attorneys' fees for time spent after rejection of settlement offer, even though amount ultimately won is less than such offer, reversing Marek.	Same as H.R. 1 as reported	No provision	
Cases against Federal Government.	Extends the Statute of limitations in cases against the Fed'l Gov't from 30 days to 90 days.	Same as H.R. 1 as reported	Same	No issues.
Anti-quota language	States that nothing in this Act shall be construed to encourage or require an employer to adopt quotas, provided that current court-ordered remedies and affirmative action are not affected.	States that nothing in this Act shall be construed to encourage, require, or permit an employer to adopt "quotas." Defines "quota" as a fixed number or percentage to be attained or not exceeded, regardless of ability to meet the qualifications for a job. Also provides that "affirmative action" is lawful if (1) "consistent" with current decisions by Supreme Court, or (2) in the absence of such a decision, otherwise in accordance with discrimination law.	No provision	Pure fig leaf, provision does nothing. BFS ADDITIONS DO NOT ADDRESS CONCERN THAT H.R. 1 WILL CAUSE EMPLOYERS TO COVERTLY ENGAGE IN QUOTA HIRING AND IS, IN FACT, WORSE THAN H.R. 1. THE LIMITED DEFINITION OF "QUOTA" IMPLICITLY APPROVES ALL OTHER TYPES OF PREFERENTIAL TREATMENT. FINALLY, A BLANKET, VAGUE ADOPTION OF ALL SUPREME COURT DECISIONS (SUBJECT TO MANY INTERPRETATIONS) WITHOUT HEARINGS, IS HARDLY APPROPRIATE.
Employment testing	No provision	Prohibits the use of employment tests unless such test "validly and fairly" predicts ability to perform the job "in a manner consistent with" these amendments.	No provision	ENTIRELY NEW PROVISION SEVERELY RESTRICTS THE USE OF EMPLOYMENT TESTING.
Race-Norming	No provision	Prohibits an employer from adjusting test scores on written employment tests based on race, sex, color, religion, national origin.	Prohibits race-norming.	BFS PROHIBITION ALMOST IRRELEVANT, AS PRECEDING PROVISION ON TESTING SEVERELY RESTRICTS USE OF TEST. NO TESTS, NO RACE-NORMING.
Coverage of Congress	Applies these amendments to Congress	Details application of the amendments to the Senate, the House, and the instrumentalities of Congress.	Applies these amendments to Congress (broader language, also encompasses offices such as GAO, OTA, etc.).	BFS RETAINS DOUBLE STANDARD FOR CONGRESS, WITH NO PRIVATE CAUSE OF ACTION.
	No private cause of action	No private cause of action	Provides for private cause of action.	
Alternative dispute resolution.	Encourages use of alternative dispute resolution .	Same as H.R. 1 as reported	Encourages use of alternative dispute resolution, including binding arbitration, where knowing and voluntary.	
Amendment to ADEA	Amends Age Discrimination in Employment Act to allow 2-year statute of limitations and other changes to reflect those made to Title VII.	Same as H.R. 1 as reported	No provision.	
	Adds "right to sue" notice		No provision.	
Rules of construction	New statutory construction rules amend all federal civil rights laws, of which Title VII is but one. Courts must interpret all broadly and not apply any in such a manner that one would limit another, despite overlaps.	Same as H.R. 1 as reported	No provision	Selectively reverses long-standing rules governing interpretation of statutes, particularly where overlapping. Chaos will result as courts struggle with these new rules.
Glass Ceiling Commission	DOL study of artificial barriers to advancement of women and minorities into top management.	Same as H.R. 1 as reported	No provision	Very similar to DOL administrative initiative and Republican bill (H.R. 1149, Molinari). H.R. 1 and BFS, however, notably omit disclaimer of quotas found in H.R. 1149.
Comparable worth/pay equity.	"Pay Equity Technical Assistance" provision instructs DOL to study wage-setting practices to determine whether improper bias plays a role or whether wages set on basis of "work performed and other appropriate factors." Such factors defined, do not include market place demands.	Same as H.R. 1 as reported	No provision	Implies worth of jobs can be objectively evaluated by outside "experts" without regard to laws of supply and demand to determine what factors set wages. Lays ground work for comparable worth claims.
Reports based on sex, race, ethnicity.	Requires EEOC and OFCCP annually to report to Congress on employment opportunities and wages, broken down by race, sex, national origin, and ethnicity, within industries and occupational groups.	Same as H.R. 1 as reported	No provision	Why is all this required? Race- and sex-specific information arguably belies any claims that H.R. 1 and BFS are race and sex neutral.
Severability	Should any part of the Act be invalid, the rest is not affected.	Same as H.R. 1 as reported	Same as H.R. 1 as reported	
Effective dates	Applies amendments retroactively to the dates of the original cases overturned by the legislation.	Applies new law to cases still under review; closed cases may be reopened if "justice" requires.	Purely prospective	BFS IMPROVEMENT IN AN INITIALLY OUTRAGEOUS POSITION. STILL UNFAIR TO APPLY NEW RULE TO PENDING CASES BASED ON PAST ACTIONS AND LEGAL PRINCIPLES. FURTHER, MUCH LITIGATION WILL TURN ON WHEN "JUSTICE" REQUIRES THAT A CASE BE REOPENED (SAME PROVISION AS VETOED BILL; LEGISLATIVE HISTORY TOOK EXPENSIVE VIEW OF WHEN REOPENING APPROPRIATE).

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, we were all elected to come into this room to try to do what is right and to try to do what is best for this country. We should all have a dream of what we think the ideal country would be like.

One of those dreams would be to be strong and brave, and we have just shown that in the Middle East. But one of these dreams must be equality, that no matter the color of your skin, whether you are male or female, your national origin or religious belief, we would all be equal. That is the American dream.

I voted against the last civil rights bill because of my fear that Government would be coming into businesses and telling them who to hire, but I am convinced that this bill reaches toward that American dream. The language is very clear; right here, it is black and white. It says, "Quotas shall be deemed to be an unlawful employment practice."

So I am going to vote for this bill.

I hope and pray that when my son reaches my age that he will find a country where people are, indeed, treated equal regardless of their religious belief, color of their skin, or whether they be male or female.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition to H.R. 1.

Mr. Chairman, I speak today in opposition to H.R. 1, a bill which would not bring about the colorblind society we desire but would actually exacerbate racial divisions in America, while doing nothing to help qualified minority workers.

The Supreme Court decisions which H.R. 1 seeks to overturn were arrived at properly through careful consideration of constitutional and legal questions. H.R. 1, on the other hand, is politically motivated.

Under Title VII of the Civil Rights Act of 1964, damages are limited to backpay, reinstatement and other injunctive relief. H.R. 1 would allow unlimited compensatory damages and punitive damages up to a limit of $150,000. Because H.R. 1 also makes it significantly easier to win a judgment against an employer, it would cause a dramatic increase in the volume of litigation in our already suffocating courts. The threat of such litigation will drive employers to use quotas.

In a letter to Congressman BILL GOODLING, Attorney Zachary Fasman explained why H.R. 1 would lead to quotas:

The proponents of this legislation consistently have argued that the expanded remedies in question will apply only to cases of intentional discrimination. In fact, * * * the bill would allow compensatory and punitive damages in * * * class actions premised upon the disparate treatment theory of discrimination.

The premise under which statistical evidence is used in disparate treatment class actions is very similar to that used in disparate impact cases. Plaintiffs will tend to abandon the disparate impact theory entirely in class cases, in order to take advantage of the significantly expanded remedies made available in such cases by H.R. 1.

This possibility would impose enormous pressure upon employers to hire and promote in a race and sex conscious manner (emphasis added). Unlike disparate impact cases, where an employer can prove that a challenged practice is justified as a business necessity, there is no justification defense in a disparate treatment class action. The availability of compensatory and punitive damages, and jury trials, in such cases would lead a risk-averse employer to ensure that its employment practices cannot be challenged on a disparate treatment theory. *In other words, the risk-averse employer would have strong reasons to avoid any statistical claims that its work force was in some way unbalanced* (emphasis added).

De facto quotas would be the risk-averse employer's answer to the ever-present threat of a disastrous lawsuit. The ban on quotas in H.R. 1 is thus a form of Orwellian doublespeak. The hypocrisy of H.R. 1's ban on quotas is revealed by the fact that while the bill establishes no penalties if the quota ban is violated, substantial money damages can be imposed for being found guilty of discrimination.

But while quotas would be the end result, the fundamental problem with H.R. 1 is its disregard for the rule of law. The rule of law insists that every law conform to fundamental principles including certainty, prospectivity, and generality.

First, laws must be known and certain. H.R. 1 creates uncertainty and confusion. Employers face a state of perpetual jeopardy, subject to costly ill-defined lawsuits that are nearly impossible to defend against unless they hire by the numbers, i.e. by quotas. Then, with a cruel twist of irony, H.R. 1 makes hiring by the numbers illegal.

Second, laws must be prospective—they apply only to future actions. Retroactivity violates the spirit if not the letter of the "no ex post facto" law clause of the Constitution, and this is a serious blow to fundamental notions of fairness. How can an employer act today if today's legal action will be declared illegal tomorrow, and yesterday's acts will be judged by today's rules. Such unstable, arbitrary laws smack of Hitler's Germany and China's Cultural Revolution.

Third, laws must be general. We cannot make artificial distinctions benefiting or injuring a specific race or group of people. H.R. 1 tramples equality before the law in order to create some mystical, utopian equality of statistical results. But law cannot be measured by results. Law must treat all parties equally and let the cards fall where they may.

Mr. Speaker, if we accept the violations of rule of law embodied in H.R. 1, we will be acting as a government of political passion and demagoguery—not as a government of law. And a government of passion is no government at all; it becomes a blunt weapon swung by those who hold power. We cannot allow the law to become such a weapon without ultimately destroying its legitimacy.

Mr. Speaker, I urge a "No" vote on H.R. 1.

□ 1110

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, under the guise of civil rights, the Brooks substitute includes several provisions that supposedly will put women on an equal footing with their male counterparts. I am, of course, referring to the comparable worth language in the new attempt at quote "civil rights" legislation, as embodied in the substitute. Comparable worth was not included in last year's bill passed by the House or in the conference report agreed on by Congress.

It seems to me that because all previous attempts to enact comparable worth legislation have been rebuffed, this language is an unwelcome addition to an already horrendous bill. In fact, because of the lack of support, no hearings were even held on these new provisions by the committee of jurisdiction. Furthermore, the courts have rejected the concept of comparable worth time and time again.

The controversial language being proposed specifically in section 202 injects a nontraditional element into established civil rights law. Never has civil rights law addressed the issue of comparable worth. The Brooks substitute calls for a new program under the Department of Labor to establish pay equity across all sectors of industry. Economists argue that attempts to impose wage controls throughout American business through comparable worth would be costly and undermine efficient allocation of resources.

This extraneous provision is just another example of the proponents trying to make the new quota bill more palatable to women. With or without this section, the quota bill, better known as the Brooks substitute, is bad legislation.

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

Mr. Chairman, I was cut off earlier. I wanted to commend my esteemed colleague, the gentleman from Texas [Mr. SARPALIUS] for his statement. I wanted to say that the gentleman has been most effective in this process of developing a workable substitute, a response in current terms that he and others have raised to the reported bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], the distinguished chairman of the Committee on Education and Labor, who has made a major contribution to the resolution of this issue.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the bipartisan substitute to our bill, recognizing that compromises were needed to reach concerns that had been expressed to us. I believe that the gentleman from New York [Mr. FISH] and the gentleman from Texas [Mr. BROOKS] have put together an amendment that accomplishes that purpose.

BUSINESS NECESSITY

The Civil Rights Act of 1991 reaffirms an employer's right to establish its requirements for a job and rely upon applicants' relative qualifications or skills.

America's success in the global economic competition of the 1990's surely will depend upon the extent to which we reduce barriers and provide equal employment opportunity.

As many know, the U.S. Department of Labor's Workforce 2000 has estimated that in the next 10 years up to 85 percent of net new entrants in the workplace will be women and minorities.

There are two specific sections of the Civil Rights Act of 1991 among others which I believe enable employers to strike the appropriate balance between selecting persons who are likely to be the most productive employees and providing equality of opportunity.

Section 111(a)(1) provides that nothing in the bill shall be construed "to limit an employer in establishing its job requirements," and section 102 amends title VII to provide that an employer "may rely upon relative qualifications or skills as determined by relative performance or degree of success on a selection, fact or criteria, or procedure. * * *" Read together, these sections reaffirm the employer's right: First, to establish the educational or experience prerequisites necessary to successfully perform a job; and second, to judge one qualified applicant's skill level against another qualified applicant's skill level. That is how it should be.

During the past decade numerous employers have increased the educational and experience prerequisites for a job in order to upgrade their work forces and meet competitive challenges. Requiring employers to justify discriminatory employment practices as "significantly and manifestly related to the requirements of effective job performance" under the Civil Rights Act of 1991 will not prevent employers from adopting policies to upgrade their work forces. For example, courts applying the Griggs "business necessity" standard have consistently upheld college education requirements for police officers. Postsecondary education requirements have been upheld in other public employee contexts, including correction officers, public health workers, social service supervisors, airline flight officers, and university professors.

The use of the National Teachers Examinations for State certification of teachers also has been upheld under the Griggs standard of "business necessity."

Thus, because the Civil Rights Act of 1991 expressly provides that the standard of business necessity in the bill is intended to codify Griggs, the act essentially reaffirms these earlier decisions and presents no obstacle for employers who wish to upgrade their work forces through reasonable educational or competency testing rules.

EMPLOYER POLICIES TO UPGRADE THE WORK FORCE: THE EFFECT OF THE CIVIL RIGHTS ACT OF 1991

The Civil Rights Act of 1991 would restore the business necessity standards adopted by a unanimous Supreme Court in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and overturn the Court's later weakening of disparate impact law in *Wards Cove* v. *Atonio*, 490 U.S. 649 (1989). The Griggs standard worked well for nearly twenty years. Under Griggs, employers who chose to use selection practices with a significant disparate impact on women or minorities had to defend the practices by showing business necessity. Courts applying Griggs upheld those requirements which actually measured job qualifications, regardless of their disparate impact. Some opponents of the Civil Rights Act have suggested that the Act would interfere with employer efforts to "upgrade" the workforce, such as college education requirements for police officers and minimum competency testing of teachers. These claims are simply false. The business necessity definition adopted by the Civil Rights Act is no more burdensome for employers than the standard established by the Supreme Court in Griggs, and reasonable educational and related requirements have been approved by the courts under Griggs.

For example, courts applying the Griggs business necessity standard have consistently upheld college education requirements for police officers.[1] In *Davis* v. *Dallas*, 777 F.2d 205 (5th Cir. 1985), cert. denied, 476 U.S. 1116 (1986), the fifth circuit found that the city's requirement that police officers have completed 45 semester hours of college credit with at least a C average was justified by business necessity under Griggs. Based on the job's risks and responsibilities, and the difficulty in identifying and quantifying the skills necessary to be a police officer, the court held that the city did not need to present empirical evidence to establish business necessity. Id. at 217. Instead, the court relied on a President's Commission report recommending that police departments raise their educational standards, id. at 218, in addition to other national reports and expert testimony, id. at 219, and found the college education requirement justified.

Two district courts have also upheld college education requirements for similar positions under Griggs. In *Jackson* v. *Curators of the Univ. of Missouri*, 456 F. Supp. 879 (E.D. Mo. 1978), the court found that the requirement that campus patrolmen have two years of college education was a business necessity, given that the job sometimes involved hazardous duties performed without supervision or assistance. The court based its finding on the testimony of the Police Chief. Similarly, in *Morrow* v. *Dillard*, 412 F. Supp. 494 (S.D. Miss. 1976), modified on other grounds, 580 F.2d 1284 (5th Cir. 1978), the court upheld the requirement that state narcotics agents have completed two years of college, or the equivalent in experience. The court appeared to base its reasoning on the nature of the job responsibilities. See id. at 506 ("Due to the delicate and highly specialized nature of the Bureau's responsibilities, this Court does not hesitate to uphold the education and training requirement for agents, as it has for highway patrolmen.")

Post-secondary education requirements have been validated in other public employee contexts as well. See *Rice* v. *St. Louis*, 607 F.2d 791 (8th Cir. 1979) (upholding college degree requirement for public health workers because job requires "maturity, 'unshockability,' persistence, and tact); *Thompson* v. *Mississippi State Personnel Bd.*, 674 F. Supp. 198 (N.D. Miss. 1987) (approving college education requirement for state social services supervisors because of the professional nature of the job and the public interest involved); *Scott* v. *University of Del*, 455 F. Supp. 1102 (D. Del. 1978) (confirming the validity of doctorate degree requirement for University professors), modified on other grounds, 601 F.2d 76 (3rd Cir.), cert. denied, 444 U.S. 931 (1979).

The type of evidence required by courts to show business necessity for educational requirements under Griggs varies depending on the type of job applied for. Where the job requires a high degree of skill and the consequences for hiring unqualified workers are great, courts have uniformly applied a more lenient standard.[2] The level of proof that courts have required to justify educational requirements for such jobs has typically been relatively lax. See *Aquilera* v. *Cook County Police and Corrections Merit Bd.*, 760 F.2d 844 (7th Cir.), cert. denied, 474 U.S. 907 (1985) (finding high school diploma requirement a business necessity for corrections officers based on past court experience with police officers and nature of corrections positions, despite the absence of any sworn evidence of job-relatedness); *Thompson* v. *Mississippi State Personnel Bd.*, 674 F. Supp. 198 (holding empirical evidence not required to validate post-secondary educational requirements for professional jobs where the position implicates the public interest). With such lenient evidentiary standards, there is no reason to believe that employers would be deterred from adopting relevant educational requirements for professional positions or jobs important to the public interest under Griggs or the Civil Rights Act.

The use of the National Teacher Examinations (NTE) for state certification of teachers has similarly been upheld under the business necessity test established by Griggs. See *U.S.* v. *South Carolina*, 445 F. Supp. 1094 (D.S.C. 1977), aff'd mem., 434 U.S. 1026 (1978). South Carolina required local school boards to hire only certified teachers, and the NTE was found to have a significant disparate impact based on race. The court nevertheless found that the state's use of the NTE survived the business necessity test under Griggs because the test scores "reflect individual achievement with respect to specific subject matter content, which is directly relevant to (although not sufficient in itself to assure) competence to teach." Id. at 1116.

Cases decided under Griggs and before Wards Cove provide the best available evidence of how the Civil Rights Act of 1991 would operate in the courts. As the above pre-Wards Cove cases indicate, the Act will present no obstacles for employers who wish to upgrade their workforces through reasonable educational or minimum competency testing rules.

Mr. Chairman, I now yield to the gentleman from Michigan [Mr. HENRY] who has requested a colloquy.

Mr. HENRY. Mr. Chairman, for purposes of clarification with the gentleman from Michigan and with regard to section 107, subsection (3) of the committee report of the Committee on Education and Labor says in explaining the provisions of the bill that the committee intends for the original defendant-employer to ordinarily bear the costs of the original plaintiff's fees in defending against subsequent challenges and interventions. I would like to clarify with the chairman of the committee that subsection (3) of section 107 does not in fact imply or grant any presumption as to whether the original defendant, the intervener, or the original plaintiff should bear these costs.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, the intention of section 107, subsection (3) is to authorize a court to grant fees, but does not create any presumption

[1] Courts have also uniformly upheld high school diploma requirements for police officers. See *Castro* v. *Beecher*, 459 F.2d 725 (1st Cir. 1972); *United States* v. *Buffalo*, 457 F. Supp. 612 (W.D.N.Y. 1978), modified on other grounds, 633 F.2d 643 (2d Cir. 1980); *League of United Latin Am. Citizens* v. *Santa Ana*, 410 F. Supp. 873 (C.D. Cal. 1976); *Arnold* v. *Ballard*, 390 F. Supp. 723 (N.D. Ohio 1975), aff'd, 12 BNA FEP Cas. 1613 (6th Cir. 1976). In upholding the job-relatedness of such requirements under Griggs, courts have relied heavily on Presidential studies recommending a high level of education for police officers. See, e.g., Castro, 459 F.2d at 735; League of United Latin Am. Citizens, 410 F. Supp. at 901; *U.S.* v. *City of Buffalo*, 457 F. Supp. at 629.

[2] See, e.g., *Spurlock* v. *United Airlines, Inc.*, 475 F.2d 216 (10th Cir. 1972) (upholding college degree requirement for airline flight officers).

either as to the granting of the fees or as to which of the parties, the intervener or the original defendant, should pay if they are granted.

Mr. HENRY. Mr. Chairman, to the gentleman from Texas [Mr. BROOKS], similarly the bill reported by the Judiciary Committee includes identical language. However, the committee report, in discussing this provision, says that the language of the bill does not overturn the Zipes decision with regard to the possibility of assessing the prevailing plaintiff's fees against the intervenor. I would like to clarify with the chairman of the Judiciary Committee that this statement is not accurate, that the language of the bill is intended to overturn the Supreme Court's decision in Zipes with regard to both the intervenor and the original defendant, as described above.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, that is correct.

Subsection (3) of section 197 is intended to overturn the Zipes decision with regard to the award of fees against an intervening party, and the committee report, insofar as it is inconsistent with the intention, is incorrect.

Mr. HENRY. Mr. Chairman, I have discussed a more likely colloquy with further information.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I appreciate the gentleman yielding this time to me.

Mr. Chairman, at this point I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise today in support of the Brooks-Fish substitute for H.R. 1, the Civil Rights Act of 1991, and I commend the distinguished chairman, the gentleman from Texas [Mr. BROOKS], and the distinguished ranking minority member, the gentleman from New York [Mr. FISH] for their efforts in formulating antibias legislation that addresses the serious concerns of both opponents and proponents of this bill.

Mr. Chairman, last year I rose in support of a similar measure, which unfortunately was vetoed by the President, and was not successfully overridden by the Congress.

The controversial issue on this proposal last year was quotas, and again today the opponents of this bill accuse this legislation of forcing quotas on our Nation's employers. Mr. Chairman, the Brooks-Fish substitute has been carefully crafted to make clear that quotas are not permitted and are illegal. The quota excuse is just that, an excuse for Members of Congress to avoid passing a comprehensive, effective law to curb discrimination.

Unfortunately racism, color, sex, religion, and national origin are among the prejudices that exist to some extent in our society today. Most of us would gladly lend our names to any law that would effectively erase the unfair, ignorant attitudes or prejudiced people in our Nation; but this body cannot legislate morality.

There is, however, a responsibility that lies within our purview, this body can legislate a remedy to the recent reverses to the Civil Rights Act that have been handed down by the Supreme Court.

While we cannot legislate morality, we can provide effective judicial recourse to victims of unlawful discrimination.

Mr. Chairman, we all seek to enhance a prejudice-free America, but until such a time as every citizen in our Nation looks upon women, persons of color, or of any religion as an equal, we must continue to advocate the passage of laws that curtail the destructive, destabilizing byproducts of bigotry.

By enacting this legislation, we will be providing the people of our Nation a great justice. Accordingly, I urge my colleagues to support the Brooks-Fish substitute.

Mr. FISH. Mr. Chairman, I thank my colleague, the gentleman from New York [Mr. GILMAN].

I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Brooks-Fish substitute. Since passage of the historic Civil Rights Act of 1964, our Nation has been making steady progress toward the eradication of discrimination. However, certain recent Supreme Court decisions have dramatically tilted the balance in civil rights lawsuits against the victims of discrimination. Those Court decisions have narrowed the application of important civil rights laws, making it more difficult for victims of discrimination to seek fair judicial remedies.

The Brooks-Fish substitute offers us the best chance we have of enacting a civil rights bill on which a majority can agree. The substitute restores and strengthens our civil rights laws. It is balanced and addresses many concerns of the business community. Hiring by quotas would be explicitly outlawed. The legislation would restore the 1971 Griggs Supreme Court decision which protects working Americans against unfair hiring practices. It would affect only those employers who engage in intentional discrimination, not those who base their hiring decisions on performance-related qualifications.

However, while the substitute is the best we can achieve here today, I am disturbed that, in this legislation, the ability of women to seek redress for sexual discrimination, in title VII claims, is limited by a cap on punitive damages. I feel strongly that every victim of intentional discrimination should be treated fairly and equitably. There ought to be equal treatment for all those seeking redress for discriminatory practices—whether the victim is a man, a woman, an ethnic or religious minority, or a disabled individual.

Mr. Chairman, the battle for equal rights is not yet won, especially for women. Despite great strides, Americans must still continue to fight every day against gender and race-based bias. We are still striving to realize the dream of achieving a society where an individual knows that he or she will be judged on character or abilities rather than by skin color, gender, or religious belief. We, in Congress, have a responsibility to provide individuals with the legal tools that will assure them an equal opportunity to successfully compete in our society and to achieve the American dream for themselves and their children. The Brooks-Fish substitute is a significant step in that direction and I urge my colleagues to support it.

Mr. FISH. Mr. Chairman, I thank my friend and colleague, the gentlewoman from Maryland, very much.

Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I am somewhat reluctant to speak on the issue of civil rights. It is highly charged—lots of emotion, and few minds will be changed—at least at this late date.

However, since I did vote against the first civil rights bill last year, and now support the Brooks-Fish amendment, I ask your indulgence in permitting me to spell out one or two issues which I think need to be clarified.

First, I am not a lawyer, but when a piece of congressional legislation says that nothing in it shall require, encourage, or permit hiring or promotion quotas, I must believe that.

When the bill further says that quotas are an illegal employment practice, I must believe that. And when a group of my business friends say that quotas as spelled out are not a big issue, I believe them. You can assign any interpretation you want, make the words mean something else, but business men and women must deal in facts. They can't work with scores of interpretations, and these are the facts. That's point No. 1.

Point No. 2 concerns the so-called damage issue. I feel this has become something of a red herring. It is interesting to see the people who brushed aside all the horror stories on the future of Mexican trade as mere fantasies now creating fantasies of their own—the what if syndrome—conjuring up deep plots by women and the disabled to attack the very life blood of American business, draining our corporations dry through prolonged law suits.

Now let me share with you the facts. The facts are that without caps, mind

you, for the last 10 plus years, since 1980 there have been reported only 70 minority suits involving payment of damages. This means that 1/200,000th percent of our population have been involved. There were three payments over $200,000; the average being $40,000. That's a total of less than $3 million.

If you add this number of racial minorities to the total of 60 million working women and 40 million disabled people, this amounts to a five-fold increase. So 5 times $3 million equals $15 million plus the $3 million that is already out there—it all adds up to $18 million—or less than $2 million a year. To put this all into perspective, in the ongoing asbestos suit, an issue of about the same dimension, the costs to corporations so far have been over $350 million.

So the facts, Mr. Chairman, at least tell me that the stories of gloom and doom are far exaggerated. The facts say also that the Brooks-Fish amendment is not a quota bill; history tells us that it will produce a limited exposure to damages; employers will have the right to set requirements for a job when they relate to that job, and the amendment most importantly reaches out to women and the disabled, two groups who up to this time have been unprotected against discrimination.

This bill is not evil. It is positive, it clarifies. You cannot go back to a world that no longer exists. Today we live with safety, financial, environmental, trade requirements—all issues we didn't have to live with when I entered business. This should stand proudly beside them as we look over the hill into the 21st century.

□ 1120

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I take this time to yield to the gentleman from California [Mr. MINETA] for a colloquy which he has requested.

Mr. MINETA. I thank the gentleman [from Texas] for yielding. Mr. Chairman, I would appreciate it if the Committee on Education and Labor would explain the pay equity provisions in the Brooks-Fish substitute, provisions which were originally reported from the committee.

Mr. FORD of Michigan. The issue of pay equity has a long history of congressional debate and support. Legislation dealing with the issue passed with overwhelming support in the 98th, 99th, and 100th Congresses. The language in section 202 simply establishes a source of information for business voluntarily seeking it: A clearinghouse where individuals, companies, and State and local governments could obtain information on public and private sector initiatives to identify and eliminate wage discrimination based on race, sex, or national origins.

I want to emphasize there is nothing in the legislation that would establish a bureaucracy to determine wages for the private sector.

The Pay Equity Technical Assistance Act was cosponsored by 103 Members of the 101st Congress and 39 Members have cosponsored the legislation thus far in the 102d Congress. And, contrary to what the gentlewoman from Nevada had to say, our committee did in fact hear from witnesses on this specific provision when it was being considered by the Committee on Education and Labor, and none of the witnesses who testified against the form of the bill when we changed its name to the civil rights and women's equity in the workplace bill had one word. Even when I asked them specifically to speak on this, no one wanted to criticize this aspect of the bill.

The few words we have heard here are the first complaint we have heard from anyone, from any source.

Mr. MINETA. Mr. Chairman, I thank the chairman of the committee.

Mr. FAWELL. Mr. Chairman, will the gentleman yield? Will the gentleman yield?

Mr. FORD of Michigan. I do not control the time.

The CHAIRMAN. The time is controlled by the gentleman from Texas [Mr. BROOKS].

Does the gentleman from Texas yield further?

Mr. BROOKS. No, Mr. Chairman.

The CHAIRMAN. The gentleman does not yield. The Chair recognizes again the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself 15 seconds, following which I would like to yield 1 minute to the gentleman from California, but preceding that may I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. I thank the gentleman for yielding time, and I rise in opposition to the Brooks-Fish substitute.

Mr. Chairman, I rise in opposition to the civil rights, or as it should be called, the Civil Wrongs Act of 1991.

This was a bad bill last year when the President vetoed it; it was a worse bill when it started out this year. And it has been made even worse with all the jiggling and the juggling that has been going on in the last few weeks as the democrat leadership has been trying to come up with a gimmick that will make this bill palatable to a few more people in this body.

Despite all the tinkering, it is still a quota bill. Despite all the tinkering, it is bad legislation. Despite all the tinkering it should be rejected.

America was built on the principle that skill, ability, intelligence, and drive would determine the value of a person in the marketplace. This bill says just the opposite—that the color of your skin or that your sex is more important than your ability when it comes to getting and keeping a job.

That is wrong. That is immoral. And that is unamerican. And that is why I am voting against it.

If this bill were enacted, business—particularly small businesses—would be virtually forced to resort to quotas for hiring and promotion just to protect themselves from a devastating torrent of costly lawsuits. They won't have much choice in the matter. It will be a choice between survival and being sued silly at every turn.

The American people don't want that. The American people find the thought of quotas repugnant. And when that message started to sink in with the Democrats who are pushing this bill for their own political reasons, they decided they had to do something to strengthen their position. They decided to use deception.

The result is that this bill today is a double-edged sword. It prohibits the use of quotas and then goes on to force businesses to use quotas. If this bill is enacted, business will be damned if they do, and double damned if they don't use quotas.

It should be defeated, and its sponsors should be ashamed of themselves.

It is fairly clear by now that there has been no groundswell of support for this bill anywhere in the United States. It is becoming clear that there is not going to be any.

If your district is like mine, you know what I mean. There just is no support for this measure. Over the past 2 years, I have only received some 30 letters or calls in support of it. That's not a sign of overwhelming interest in the issue.

According to my questionnaire, the people in my district overwhelmingly oppose quota legislation by an 8-to-1 margin. There is just no support for this bill.

It deserves rejection. It deserves a veto. And the veto deserves to be sustained.

Mr. HYDE. Mr. Chairman, I just want to say to my friends Mr. HOUGHTON and Mr. SARPALIUS, it is wonderful to quote the part of the bill that says quotas are outlawed, but turn a few pages over and read what they mean by quotas. He who defines the issue has it half-won.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, Pat Buchanan has a unique way of expressing himself on the current scene, the political scene here in Congress.

He said this morning in the Washington Times:

> In the '40s, '50s and early 60's, the term civil rights brought to mind the picture of a small black girl being led through a crowd of abusive whites to a public school. Of black youths sitting at a lunch counter having ketchup dumped on their heads as they tried to buy a sandwich. Of Jackie Robinson being given a chance to prove his ability. Of Rosa Parks refusing to give up her seat on a bus. The movement had about it magnanimity, dignity, nobility.
>
> Today, civil rights has come to mean something different.
>
> It has come to mean an "affirmative action" program at Georgetown Law School, where blacks are admitted with average test

scores far below the lowest score of any white students.

It has come to mean white cops being denied a lifelong dream of becoming a sergeant or detective, because some court has ordered the next 10 open slots be set aside for blacks and Hispanics.

It has come to mean busing white children across town to meet some judge's notion of an acceptable racial balance.

It has come to mean young men born in El Salvador or Mexico getting preferential treatment at the state college over Polish and Italian kids whose fathers fought in Vietnam.

It has come to mean brazen boodling by politicians who suddenly turn up owning radio and TV stations worth millions—for an investment of a few thousand bucks.

A quarter century ago, we were able to see the faces of the victims of discrimination; now we see the faces of the victims of reverse discrimination.

In essence, the philosophical undergirding of this provision has been lost. I ask for a "no" on this quota bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in support of the bipartisan Brooks-Fish civil rights bill. I hope that all Americans and all small businesses in this country understand that the 1964 Civil Rights Act does not apply to businesses with 15 or fewer employees.

Nothing in this legislation would change that.

This legislation does not extend or expand monetary damages available in race discrimination cases. It merely provides existing remedies available in race cases to discrimination cases based on sex, religion, and disability.

On the quota issue—and let me make it clear that I am opposed to quotas and I believe that nearly everyone in this body is opposed to quotas. The language in this bill, I think needs to be specifically quoted.

It provides that:

Nothing in the amendments made by this act shall be construed to require, encourage or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin. And the use of such quotas shall be deemed to be an unlawful employment practice.

Now, my colleagues, I do not understand how in the world the President of the United States can read this language and continue to call this a quota bill.

Mr. Chairman, when we finish here today, I hope we will pass this legislation and reaffirm our commitment to the basic principle that we are one Nation under God with equal justice and opportunity for all our citizens.

Mr. HYDE. Mr. Chairman, I yield 15 seconds to the gentleman from Kansas [Mr. SLATTERY] if he would yield to me. Mr Chairman, would the gentleman yield to me?

Mr. SLATTERY. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to know if the gentleman has read the definition of a quota in H.R. 1 and if he does not think that——

Mr. SLATTERY. I would be happy to respond to the gentleman. I will assure the gentleman I have read the definition of quota, and as far as I am concerned the definition of quota contained in the legislation is precisely what anybody reading the English language would assume it meant.

Mr. HYDE. I would only say to the gentleman the Washington Post and the New York Times, no friends of ours, disagree with the gentleman.

Mr. SLATTERY. Well, I do not know whether that is true or not, I will take the gentleman's word. But I don't care what the New York Times or the Washington Post thinks it is.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today as one who voted for the LaFalce-Michel substitute, the civil rights bill in the last session, but voted for final passage of a civil rights bill in the last session with the fervent hope that we could put petty politics aside and reach a compromise with the administration that all of us could get behind. We did not do that, and we have not come up with an acceptable compromise.

I think the Philadelphia Inquirer summed it up best when on Monday of this week, in an editorial, they stated:

This is no longer a debate over a piece of legislation. It has become a contest for political advantage.

Further evidence of that was last night with the vote on the Towns-Schroeder substitute, which passed this House on a voice vote. It was not our side that called for a vote, it was the majority side that called for a vote because they knew it would lose and they wanted it to lose.

Mr. Chairman, let us put the politics aside, let us stop playing games. I will vote "no" on the Democratic substitute, I will vote "no" on final passage. I urge my colleagues to do the same.

Let us finally get a civil rights bill with which we can all agree.

Mr. Chairman, I rise today in reluctant opposition to the Civil Rights Act of 1991. I recognize that America today is not the America to which we all aspire. Despite our best efforts, equality for all Americans continues to elude our grasp. Several recent Supreme Court decisions have exacerbated this already strained situation. Unfortunately, racial harmony in America seems more out of reach than it did 25 years ago.

Much of this racism, unfortunately, is out of our hands. Congress cannot legislate an end to bigotry, much as we might hope. But there are steps which we can take to address some of the legal barriers facing minorities in our Nation. For that reason, I strongly support President Bush's proposal and would like to see it enacted into law. The President should be commended for his commitment to civil rights and his tireless efforts on behalf of all Americans.

As drafted today, Mr. Chairman, H.R. 1 has a number of problems. It will place unacceptable burdens on employers. It will place an unreasonable standard for businesses to prove that practices are motivated by a business necessity and the proscriptions against quotas are hollow. Passage of this legislation will be a bonanza for ambulance-chasing lawyers and a disaster for main street businesses.

Ed Koch, former mayor of New York City and former member of this body, a strong advocate for civil rights, recently shared his reasons for opposing H.R. 1. "You might ask, how can it be that I, your former colleague who voted for every civil rights bill when in Congress and as a young lawyer in 1964 went to Mississippi to defend black and white civil rights workers who were registering voters, could take such a position? The answer is simple. H.R. 1 is not a civil rights bill. It is a bill which will encourage quotas based on race, ethnicity, religion, and gender." And quotas hardly move this Nation in the right direction. Koch observed that "the easy thing to do is to give groups preference, but this means that innocent white people are going to suffer. I do not accept that."

Mr. Chairman, although I am voting against H.R. 1, I desperately want Congress to pass a fair civil rights bill. We all know, however, that this debate has less to do with fairness and equality as it does with partisan gamesmanship. As the Philadelphia Inquirer noted in an editorial yesterday morning, "This is no longer a debate over a piece of legislation. It has become a contest for political advantage." The Democrats erased any doubts about that issue last night. After declaring that the Towns-Schroeder substitute had won by voice vote, amendment sponsors called for a recorded vote. Surely, Mr. Speaker, they knew they were going to lose. One can only assume that liberal Democrats did not want to pass Towns-Schroeder, but wanted to use it as a political statement. It is not the Members of this Chamber, or the national parties which suffer from this game. Let us put aside our political affiliations and work together to assist those whose voices have become muted by the Supreme Court.

I will watch the conference committee negotiations carefully. If appropriate changes are made to reflect the concerns of the administration and the business community, then I will be among the bill's loudest supporters. But if the President finds the package presented to him unacceptable and vetoes the bill, then I will vote to sustain his decision.

Mr. Chairman, all of us want a fair civil rights bill. I regret having to vote against H.R. 1, because I sincerely want a compromise which meets the concerns of all involved. But I am not blind to the problems which it would create and urge the conferees to carefully address these issues.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, many people criticize this bill as a quota bill and base their criticism on the business necessity provisions of the bill. The bill does expressly reverse the "business necessity" provisions of the Wards Cove case; however, as I understand it, the bill does not undo the nearly 20 years of cases interpreting the issue of business necessity.

Mr. Chairman, is this correct?

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

Mr. LAUGHLIN. I yield to the chairman.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, that is correct.

Mr. LAUGHLIN. So, if the extensive body of case law interpreting business necessity prior to Wards Cove didn't require or result in quotas, this bill will not change that. Is my understanding correct?

Mr. BROOKS. The gentleman's understanding is correct.

Mr. LAUGHLIN. I thank the chairman.

□ 1130

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I would like to propose to the committee chairman a series of questions relating to the business necessity doctrine and allegations made by some that this bill continues to be a so-called quota bill. I believe that the amendments we are offering to this legislation serve to satisfy many of those who may be concerned that this bill requires an employer to hire or promote by quota.

My first question, Mr. Chairman, relates to the standard of proof in disparate impact cases. My references are to section numbers of title VII as amended by the bill.

I understand that section 703(k)(1)(A), as it is now contained in the Brooks-Fish substitute, is designed to make clear that a plaintiff challenging an employment practice or group of practices has the burden of proof of establishing that the disparate impact with regard to a specific kind of employment decision, such as hiring, results from the challenged practice or group of practices and that a nexus or cause and effect must be shown between the employment practice and the disparate impact as courts normally require.

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

Mr. GEREN of Texas. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman from Texas [Mr. GEREN] is correct, and there is nothing unusual here.

Mr. GEREN of Texas. I understand that the addition of section 703(k)(4) to the bill is intended to put to rest concerns that a disparate impact violation might be proven simply by introducing generalized population statistics from the Census or similar sources. That section is designed to make clear that cases like *Hazelwood School District* v. *U.S.*, 433 U.S. 299 (1977) and *Teamsters* v. *U.S.*, 431 U.S. 324 (1977), along with others, continue to set the legal standards for meaningful statistical proof under title VII. Am I correct in this view?

Mr. BROOKS. Yes, you are.

Mr. GEREN of Texas. Can an employer rely entirely on job related criteria, such as relevant education, experience, and past record of performance to prove business necessity?

Mr. BROOKS. That is the intent. So long as the criteria bear a significant and manifest relationship to job performance, then the employer can rely on those criteria in proving business necessity.

Mr. GEREN of Texas. Mr. Chairman, a unanimous U.S. Supreme Court in *Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248 (1981), a case involving sex discrimination, said in reversing the Fifth Circuit:

> The views of the Court of Appeals can be read, we think, as requiring the employer to hire the minority or female applicant whenever that person's objective qualifications were equal to those of a white male applicant. But Title VII does not obligate an employer to accord this preference.

Mr. Chairman, if this bill becomes law, would it overrule this Supreme Court view of title VII?

Mr. BROOKS. No, it would not.

Mr. GEREN of Texas. In proving that a disparate impact results from a groups of employment practices, it is the intention of this legislation to make clear that the plaintiff has the burden of proof when a group of practices are challenged to demonstrate which specific practice or practices within the group results in the disparate impact. In making that demonstration the plaintiff is required to satisfy the Court that it has made a diligent effort to identify the specific practices that result in the disparate impact and that only after satisfying the Court that it was not reasonably possible from available records or other information for the complaining party to separate the impact of each practice, does the burden shift to the respondent under section 703(k)(1)(C). Is that the way the burdens work under the bill?

Mr. BROOKS. That is the way it is supposed to work.

Mr. GEREN of Texas. Mr. Chairman, I am concerned that the language in section 101(2) referring to the Supreme Court's decision in *Griggs* v. *Duke Power*, 401, U.S. 424 (1971) and to its Wards Cove decision, not be interpreted to overrule U.S. Supreme Court decisions interpreting Griggs that were decided prior to Wards Cove, such as *Albemarle Paper* v. *Moody*, 422 U.S. 405 (1975), *Dothard* v. *Rawlinson*, 433 U.S. 321 (1977), and *NY Transit* v. *Beazer*, 440 U.S. 568 (1979), as well as those earlier decisions upon which the Circuit Courts of Appeal were united on the interpretation of the term "business necessity." Is the intent of this section to overrule that portion of Wards Cove concerned with business necessity?

Mr. BROOKS. Yes, that is the intention.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

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

Mr. GUNDERSON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we have heard a great deal this afternoon from our learned brethren on the other side of the aisle quoting the provisions in H.R. 1 that outlaw quotas. I would ask the gentleman if he has looked at page 16, lines 12 to 17, which define a quota and has been interpreted—I read it this way: I have been a lawyer since 1950, and there are a lot of us around here and a lot on the outside, and they say it is only a quota if a fixed number or a fixed percentage of persons are actually hired and an employer hires these persons regardless of their qualifications.

Mr. Chairman, I ask the gentleman, "Is that your interpretation of that?"

Mr. GUNDERSON. Mr. Chairman, there is no question that is my interpretation.

Mr. HYDE. That is a great definition. I thank the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, I appreciate the remarks of the gentleman from Illinois [Mr. HYDE] because no one wants a civil rights bill more than I do.

However, Mr. Chairman, I think we ought to be honest. This is not a civil rights bill. This substitute is a lawyer's rights bill, and let us be honest about the interest group we are serving here today, my colleagues. It is not the minority groups of America. It is the trial lawyers of America.

Mr. Chairman, it is no accident that the Trial Lawyers Association has donated $106,000 to the Democrats on the Committee on Education and Labor in the last campaign and $900 to the Republicans.

This bill does not mandate quotas, but this substitute results in quotas. It results in quotas because no business in America can do anything but establish quotas as their only solitary protection under this legislation. In the absence of that, disparate impact is found, the case goes to trial, it goes to a jury trial, and, as my colleagues know, if our goal was remedies for the victims, I would say to them, "I'm with you." But this bill, this sub-

stitute, does not deal with remedies for the victims. It deals with remedies for the lawyers.

I call my colleagues' attention to section 107. No waiver of all or substantially all of an attorney's fees shall be compelled as a condition of a settlement of a claim under this title.

My colleagues, we do want civil rights legislation. Unfortunately this substitute is not it.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I rise in support of the Brooks-Fish substitute.

I hail from a part of the country where politicians once made careers based upon one issue—race. The appeal then was overt, explicit, undisguised.

Today, the appeal to race is still being made. This time, it is under the cover of the sophisticated, inflammatory, incendiary concepts like quotas and race norming.

Who amongst us is for quotas? Not a Member on either side.

No one has argued for quotas and no one will. Yet, we are called upon to defend against an argument we have not made.

But, without stopping to ask why, the Brooks-Fish substitute dutifully undertakes to squelch the quota charge. It uses very direct language to do so, explicitly outlawing quotas, and if that were not enough, then creating a right to sue by those victimized by quotas.

Now this language is under attack by those who say the definition of a quota that this subsitute uses in condemning quotas is too narrow. It, they say, outlaws only quotas requiring that meritless, unqualified minorities, and women be hired.

But, is this not what the President says he wants? Hiring based on merit?

Does he now contend that a court could not, upon a finding of discriminatory hiring against qualified black teachers by a school board, for example, require the hiring of two qualified black teachers for each qualified white teacher hired until the effects of the past discrimination are removed.

No. He cannot want to outlaw this practice now permitted by courts, for this would be remedial hiring based on merit.

Now, with all the stretching that Brooks-Fish does to meet the President's feigned quota argument, the President still declares, "it is a quota bill no matter now its authors dress it up. You can't put a sign on a pig," he says, "and say it is a horse."

Doubtless, this contorted analogy will not go down in history alongside the great utterances of American Presidents, but it may go down as one revealing of quite an embarrassing thought—our President does not know the difference between dressing a pig and amending a bill.

For the record, Mr. President, a pig has immutable characteristics, which cannot be changed, no matter how hard one tries. But drafting anti-quota language to a bill is achievable and can be agreed upon if we are willing to try hard enough. Brooks-Fish achieves this.

The task before us, Mr. Chairman, is not changing a pig to a horse, it is changing the tenor of this debate and with it the tolerance of a nation toward securing equal employment rights for all.

I urge my colleagues to vote for the Brooks-Fish substitute.

Mr. HYDE. Mr. Chairman, may I inquire of my distinguished colleague, the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary: Does the gentleman plan to yield any time to the gentleman from Texas [Mr. STENHOLM]?

Mr. BROOKS. Mr. Chairman, I would say to the gentleman from Illinois [Mr. HYDE], my beloved friend, "Have no fear about your beloved friend, Mr. STENHOLM, I have already assured him that I would yield him all the time he requested, which was 3 minutes. I told him he could have it. I told him I would be delighted to give it to him. I would yield it to him, and I am pleased to do that at the earliest opportunity. So, have no fear about that."

Mr HYDE. Mr. Chairman, I say to the gentleman from Texas, "I can't tell you how gratified I am, having yielded 5 minutes to my distinguished friend from New York. If you would care to yield to Mr. STENHOLM now, then I would yield him a little additional time, and we can sort of have a Stenholm fiesta."

Mr. BROOKS. A little later.

Mr. HYDE. Oh, a little later.

Mr. BROOKS. We will get the mariachi band.

Mr. HYDE. Mr. Chairman, I say to the gentleman from Texas, "I want to see you in one of those big Mexican hats."

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

□ 1140

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me. I know that his time is valuable here.

I want to make reference to the comparble worth debate that occurred a short time ago. I note that H.R. 1 deletes language from last year's vetoed bill stating that the legislation was not "intended to overrule existing cases involving comparable worth."

But in addition, I would point out that because we do not have a two-pronged definition of "business necessity," we are sticking with "significant relationship to effective job performance" as being the definition of "business necessity," and, therefore, the only defense which an employer can use then, when we get to the nonhiring criteria, not involving hiring or promotion, the only defense that an employer might have, for instance, to those employment practices which are not in the hiring category like wage plans would be that the particular employment practice or the wage plan is significantly related to job performance. And, of course, it is not significantly related to job performance; it is related to market forces, it is related to collective bargaining agreements and things of that sort. So in effect the employer has no defense whatsoever whenever a wage plan has a disparate impact, and, of course, a wage plan always has a disparate impact, and then the employer has no defense whatsoever.

There is one other point that I would like to make. So many people have talked about Griggs, what Griggs actually does say, and, of course, Griggs sets forth what the real defense of an employer ought to be to disparate impact. Disparate impact is something that unintentionally occurs because of an employment practice, and here is the language from Justice Brennan, who certainly is no conservative. This is what he says.

> Griggs and its progeny have established a three-part analysis of disparate impact claims. To establish a prima facie case of discrimination, a plaintiff must show that the facially neutral employment practice had a significantly discriminatory impact. If that showing is made, the employer must then demonstrate that "any given requirement has a manifest relationship to the employment in question."

Now, that is the employer's defense, and the name of the game is if you tighten that up enough and you have it relate to job performances, what the employer knows is that he is not going to win that case and that, of course, means that if he knows he is not going to win that case, you have quotas. That is what we have been trying to bring across to the other side.

It is not that we are against civil rights or anything of that sort. I have enjoyed the speeches the other Members have been giving, I too, believe in civil rights, but what we are trying to say is that there is some sincerity on the part of the President and by a lot of us when we point out that you have so wangled and trashed that definition that Justice Brennan set forth as to what Griggs really said, that you do not have what Griggs said in regard to your bill, and as a result the employer cannot win. That is what we have been trying to say.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise for the purpose of asking a question of the distinguished chairman of the committee in regard to the section of the bill that defines an illegal quota. The gentleman from Texas [Mr. BROOKS] has already indicated in colloquy with the gentleman from Missouri [Mr. GEPHARDT] that he did not believe that language defining an illegal quota applied only to unqualified workers, that it also applied to qualified workers.

I would like the chairman of the committee perhaps to answer this very straightforward question. Will the chairman support a language change to this definition of illegal quotas so that the language change conforms the language of the bill to the statement made by the chairman that illegal quotas would apply both to qualified and unqualified workers?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I would be happy to do that.

Mr. TAUZIN. Mr. Chairman, I thank the chairman of the committee for his commitment.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Chairman, if I might make a parliamentary inquiry, the chairman of the Committee on the Judiciary has just committed himself to amending the definition of quota. He said that he is going to do that later. Does he want to do that now by unanimous consent?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has not stated a parliamentary inquiry.

Mr. HYDE. All right, Mr. Chairman. I will ask that privately, then.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, the so-called civil rights bill we are voting on today is not a civil rights bill, it is a quota bill, plain and simple. Yet supporters of this bill have done everything in their power to hide the quota requirements contained in the legislation. They have tried to hide the quota provisions through a slick public relations campaign and shrill personal attacks against the president. But like the Stealth fighter, the quota bill can hide for only so long before it is detected. That is why the civil rights community and their allies in Congress have created a stealth quota bill. They are hoping to fly this legal monster by the American public before it is detected for what it really is, a job destroying quota bill.

The circular logic contained in this legislation will do more than force quotas, it will clog our already overburdened legal system with thousands of lawsuits. The quota bill allows individuals to sue companies if they use quotas. However, companies must comply with the quota bill. To prove they are in compliance, supporters of the stealth quota bill have created an entirely new form of analysis designed to prove business necessity. This new and improved analysis still stacks the deck against all employers, because the burden of proof is entirely upon them. If an employer cannot prove that their personnel practices "bear a significant and manifest relationship to the requirements for effective job performance," he will be subject to the so-called damages cap of $150,000 or an amount equal to compensatory damages and backpay, whichever is greater.

Mr. Chairman, this bill before us today is wrong. It is wrong for America. We need to be competitive if we are going to compete in the worldwide economy we are in. We need labor and business to work together, and we need to provide equal opportunity for all. This bill does none of those things and will do nothing more than continue to destroy our ability to compete in the worldwide economy.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 1, the Civil Rights Act of 1991. It is a fair and just bill which will overcome the roadblocks to civil rights progress that were created by the Supreme Court decisions of the past few years. But the Supreme Court hasn't been the only obstacle to the progress of this legislation.

The President's political strategy has always been one of divisiveness; his quota argument has always been a smokescreen.

He called this bill a quota bill when it wasn't, and it isn't. He sabotaged the negotiations between business and civil rights groups. He dismissed the anti-quota language in the bill and called it cosmetic.

But a critical factor has stayed constant throughout the crafting of this bill. Democrats are fighting all forms of discrimination.

Anyone, including the President, who says otherwise, deserves to be second-guessed about their true motives and intentions.

To the President and members of his party who want to exploit the fears in our society about the prospects of reverse discrimination, Democrats have an answer:

"If you feel you are a victim of reverse discrimination because of a racial quota, here is a bill that empowers you to do something about it."

Republicans who join the President and vote against a bill that empowers women and minorities to take on powerful corporations and provides both victims of discrimination and reverse discrimination with a means to combat it, may encounter consequences that they don't envision here today. They do so at their own peril.

Politics aside, the debate we are having today is about whose side you are on—Democrats are standing with workers and the rights of businesses to hire without discrimination and without quotas. George Bush is standing on the side of those who oppose the rights of those workers to take action when they are discriminated against.

Republicans continue to practice the politics of racial divisiveness—pitting segments of our culture against each other, instead of looking for the common ground that we all can stand on.

The President and his party are looking to play the race card whenever it turns up in their hand. This bill, however, takes the quota issue, the race card, out of that hand in 1992.

Democrats bring to the House floor a bill that makes hiring quotas illegal, drives reverse discrimination out of the workplace, and thereby removes a dangerous weapon from the Republican campaign arsenal—race-baiting in political campaigns.

Clearly, the Republican strategy has been to promote racial divisiveness at every opportunity. On the one hand, they attack this civil rights legislation as a quota bill, when it is not.

And on the other hand, the Republican Party is aggressively arguing that minorities must be guaranteed a specific number of seats in redistricting.

After opposing the correction of minority undercount in the census, they then fight to pack minorities into districts guaranteed to defeat Democrats through the use of political quotas.

If you doubt me, I refer you to the critique of the Republican Congressional Campaign Committee by the Heritage Foundation's legal scholar, Bruce Fein.

The Republican strategy to "reach out" to minorities in the redistricting process is characteristic of a Party that will cynically manipulate opportunities and issues in an attempt to twist them to their advantage.

First, they oppose efforts to correct the undercount of minorities in the census, then argue for the creation of "packed" minority districts where it will help them and then ignore them where it won't. By packing districts with minorities, they are essentially legislating quotas in representative terms.

The conservative Mr. Fein wrote that "the prevailing redistricting strategy of the Republican National Committee is politically suicidal, legally inept and racially and ethnically divisive." He says the Republican National Committee strategy is at odds with Mr. Bush's adamant opposition to racial quotas.

He called the Republican strategy "bad law, bad Republican Party politics, and bad for racial and ethnic harmony."

Their plan on the surface may seem to political pros to be both obvious and

ingenious, but what the Republicans have left out of their plan is the very thing they have left out of this debate on civil rights, and that is principles.

There is no principled stand. Just more evidence of hypocrisy in the pursuit of partisan political victory.

But, it is time now to stop focusing on these exploitative, divisive tactics and instead to recognize the reality of H.R. 1.

What this civil rights legislation does do is reaffirm our commitment to ensuring equal opportunity in the work place and continue our tradition of guaranteeing equality for all.

This bill restores our legal protections against intentional discrimination in the work place and extends to women, the disabled and religious minorities the same rights that already apply to people of color.

We have an obligation to provide legal protection for all to ensure that none are treated as second class citizens.

Our Nation's longstanding commitment to equality demands that any discrimination based on race, gender, religion or national origin will not be tolerated.

Only the strong protections offered in this bill will give victims of employment discrimination an avenue of redress and access to equal justice.

Let us reaffirm our national commitment to civil rights. I urge my colleagues to support this bipartisan effort toward equality for all Americans.

□ 1150

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I sincerely had hoped to reach this point in the debate rising in support of the Civil Rights Act of 1991. I want to vote for a true civil rights bill, and I believe that the overwhelming majority of this body, and the President, want to enact a civil rights bill as well.

Regrettably, the civil rights bill before this body is not the right bill. I had hoped that a compromise could be reached that balanced the goals emphasized by the civil rights community with the concerns focused on by the business community.

Mr. Chairman, I have spent a great deal of time listening to Representatives from all sides of this issue. I had several concerns about the bill reported from committee, and expressed these concerns to the sponsors of the bill and to the civil rights community. A good faith effort was made by many to address the concerns that I and others have, and some of the troublesome parts and sections of the bill were improved.

Unfortunately, many of the problems that have been identified with this legislation remain unaddressed, little things, like the words "manifest" and "significant;" little things, that will, in my opinion, become big things in the world of litigation.

Many of the provisions in the bill that I have difficulties with are not calamitous when considered individually, and could be debated in depth individually. However, when taken together, these provisions will have a chilling effect on legitimate employment practices of businesses and all of their employees across America.

Under the Brooks-Fish bill, employers would face an unreasonable burden when defending themselves against charges of discrimination, and, in effect, would be penalized for being guilty until, with great difficulty and cost, they could prove themselves innocent.

Mr. Chairman, I am also concerned about exposing small businesses to unlimited compensatory damages, such as those for pain and suffering, while simultaneously increasing the pool of possible litigation. Instead of restitution and conciliation, H.R. 1 will encourage further litigation and aversion in our society.

Mr. Chairman, I am inserting for the RECORD a more detailed explanation of the reasons for my opposition to H.R. 1.

A CONSERVATIVE DEMOCRAT'S REMAINING CONCERNS ABOUT H.R. 1

1. ISSUE: QUOTAS

Concern: Despite the appearance of having "fixed" the quota problem, quotas remain at the core of this civil rights bill.

Explanation: The anti-quota language included in the Committee substitute does not respond to the concern that employers are left only with "hiring and promoting by the numbers" if they are to avoid costly litigation. Without such "defensive hiring" employers would face a nearly impossible court defense with exorbitant legal fees. Furthermore, they frequently would be forced to hire the minimally qualified person rather than the well- or over-qualified individual.

In addition, the substitute's language intended to give the appearance of prohibiting quotas ends up placing employers in double jeopardy. As already mentioned, employers are liable if their hiring decisions do not closely reflect "the numbers," but they're also liable in cases, for example, brought by individuals claiming reverse discrimination, if they do hire by the numbers to avoid costly lawsuits.

2. ISSUE: DAMAGES CAPS

Concern: The caps are not real caps, but rather will act as floors. In addition, having caps for some groups of people but not for others is patently unfair.

Explanation: The misleading $150,000 cap is solely limited to punitive damages, and in fact, that cap can be removed by an award which is an amount equal to compensatory damages (including pain and suffering) plus equitable relief (e.g. back pay), if that sum is greater than the $150,000. In addition, the bill still allows unlimited compensatory damages. Compensatory damages would be allowed in class action intentional discrimination suits, which are often based on statistical imbalances between an employer's workforce and the relevant labor pool.

3. ISSUE: BUSINESS NECESSITY

Concern: The "business necessity" definition is unclear, would require extensive court interpretation, and would restrict the factors businesses may use in hiring and promoting.

Explanation: The substitute creates a new standard of "business necessity" that a business must meet to defend an employment practice whose result is a "disparate impact"—meaning the percentage of the employer's work force comprising women, minorities, or a given religious group, does not almost identically match that group's percentage in the available labor pool.

This new language defines business necessity as having a "significant and manifest relationship to the requirements for effective job performance." The courts, through much litigation, would then need to decide exactly what that definition means in practical terms. While the substitute's language purports to codify the court's holding in the Griggs case, that is not what is done, despite the fact that the "Grigg's standard" is clearly referred to in subsequent cases as ". . . manifestly related to the employment in question." In fact, in the dissent of the Wards Cove case, Justice Stevens used this definition to describe the Griggs rule that Wards Cove was overturning.

In addition, the new language of "effective job performance" restricts factors—such as honesty, attitude, promotability, ability to get along with others, recruitment costs, and other legitimate business considerations—which may affect an employer's decision on whether to hire, promote or retain an employee. The new language combines subjective and legally unprecedented terms which, combined with the linkage to job performance, results in a nearly impossible standard for employers to meet.

4. ISSUE: RELATIVE QUALIFICATIONS

Concern: This language is advertised as easing the "business necessity" requirement but in actuality improves nothing.

Explanation: The substitute adds a new section, in response to criticism of H.R. 1's limiting the definition of business necessity to practices based on "effective" (i.e., minimal) job performance. But the Committee substitute states that an employer may rely on "relative qualifications" in hiring and promoting only as long as that preference does not result in a "disparate impact" which, in turn, could only be justified by business necessity. The logic of the provision is entirely circular.

5. ISSUE: "PARTICULARITY" WITHIN THE DISPARATE IMPACT CLAIM

Concern: The amount of paperwork and legal strategy a business would have to have on hand to defend against every employment practice would be overwhelming, especially to small businesses.

Explanation: The substitute's language still puts an employer in the position of having to defend each practice within a group of employment practices as non-discriminatory, and is contrary to case law even before the Wards Cove decision. The language allows a complainant to list a group of challenged practices, without specifying which of the practices causes a "disparate impact."

6. ISSUE: MIXED MOTIVES

Concern: The kind of relief available to plaintiffs in mixed motive cases would be new and inappropriate.

Explanation: The substitute's new language changes the grounds upon which an individual may bring suit against a company for discriminatory intent from that intent

being a "contributing" factor to a "motivating" factor. This change is cosmetic and will not materially change the courts' findings. An employer would be liable even if the employer had legitimate, non-discriminatory reasons for taking a challenged action and the result would have been the same.

Furthermore, under the substitute's language, employers who successfully defend themselves in mixed motive cases would still be subject to punitive and compensatory damages.

7. ISSUE: ATTORNEYS' FEES

Concern: Language espoused to remove the "attorney heaven" incentives of the bill is actually circular and maintains trial lawyers as the greatest beneficiaries of this bill.

Explanation: H.R. 1 as reported provides that a court may not settle a Title VII claim unless the parties attest that a waiver of attorneys' fees was not compelled as a condition of settlement. The whole issue as to whether a waiver of attorneys' fees was compelled obviously depends on whether or not the waiver was voluntary. The language in the substitute merely makes explicit what was implicit in the original formulation of the provision, still thwarting Title VII's goal of encouraging settlement of employment discrimination disputes.

8. ISSUE: TIMING—STATUTE OF LIMITATIONS & RETROACTIVITY

Concern: The statute of limitations is greatly expanded and retroactivity is allowed under the substitute. Both time elements place businesses at greater risk and provide attorneys still greater incentives.

Explanation: The current statute of limitations for discrimination cases is 180 days; the substitute would expand it to 540 days—a threefold increase.

Additionally with regard to retroactivity, only those cases considered "finally adjudicated" would be exempt from being reopened, and even those cases in which an issue was settled by the Supreme Court would be reopened if "justice" requires it. The result is that virtually no cases currently under consideration will be excluded from coverage. Businesses which have kept records in a way that complies with laws in existence today will suddenly find themselves unprepared to face the new retroactivity language.

9. ISSUE: RACE NORMING/TESTING

Concern: Objective measures of a potential employee's appropriateness for a given job would be severely restricted.

Explanation: This entirely new language places very strict limitations on the use of tests in hiring. The concept that a test must "validly and fairly" predict job performance for the job in question sounds desirable, but in actuality leaves many questions unanswered. For example, since the language specifies "for the job in question," does that mean that a general mechanical aptitude test could not be used to hire a machinist? Testing is a specific statistical science. Language should not be added to the bill before qualified experts have the opportunity to testify in hearings and full debate can occur.

10. ISSUE: COMPARABLE WORTH

Concern: This new language on comparable worth introduces an entirely new issue into civil rights law without hearings to discuss its appropriateness.

Explanation: All previous attempts to enact comparable worth legislation were limited to federal pay, and even they were rejected by Congress. This new language, which applies to all work places, not just the federal government, was added to the bill without hearings or other debate. While some may argue that this language simply calls for a "study," we all know that today's technical assistance is tomorrow's court evidence and the next day's mandated pay schedule. Establishing a new program under the Department of Labor to develop "pay equity" across all sectors of industry does not belong in this bill, for certain, and has not even been able to move on its own merits.

11. ISSUE: CHALLENGING CONSENT DECREES

Concern: Individuals who were not parties to consent decrees would be unable to contest reverse discrimination that resulted from these decrees.

Explanation: In the case of *Martin* v. *Wilks*, the Supreme Court held that an individual should be allowed to challenge the validity of a consent decree under which he or she had suffered discrimination unless that individual had been a party to the original case leading to the decree. Consent decrees involve affirmative action programs and are often challenged for causing reverse discrimination. H.R. 1 would forbid an employee who is discriminated against because of a consent decree from challenging that consent decree, even if the employee did not know about the court action or have a chance to be heard when the consent decree was issued.

12. ISSUE: EXTRATERRITORIAL COVERAGE

Concern: Should the Civil Rights Act cover American employers and employees who are overseas? This was not in the original bill, but was added in the Brooks substitute.

Explanation: This provision is simply another example that, whatever the merits, we should not legislate before we have had a chance to explore an issue through hearings and debate. It is time to stop legislating by surprise.

Mr. Chairman, I do not think it serves the legislative process well when any of us question the motives of those who disagree with us. I do not question the sincerity and wisdom of the authors and supporters of H.R. 1 in attempting to address the very real problem of discrimination in America. In turn, I believe that the Members of this body, and the business community, who have expressed opposition to this bill, and some on the other side of the question who will be voting for this who still have differences of opinion in this legislation, but those who have expressed opposition to this bill, are not racists, but have legitimate concerns about the effect this bill would have on businesses, and, even more importantly, their employees.

Mr. Chairman, often overlooked in the heated rhetoric that has been going on in this Chamber over the last couple of days is the fact that employees will be affected by the concerns that I and others are raising about the effect of this legislation if it should become law.

I believe that a compromise can, could, and should be reached, which protects the rights of all citizens, black or white, woman or man, employee or employer, and hope that his body will have an opportunity to vote on such compromise sometime in the future.

Mr. Chairman, civil rights bills have never been easy, but they have passed because they were right, right in principle, right in substance, right in legislative drafting.

In my opinion, this bill is not right. Perhaps it is wrong for all of the right reasons. Nonetheless, I urge Members to vote no on this bill, so that in the future we might have the opportunity to vote yes on the right bill; that we as a body and as a nation might find it in our hearts and in our minds and in our legislative agenda in this body to find the answer to those questions that divide us so bitterly today.

Mr. Chairman, I know as I have listened to Members on both sides of this question that in our hearts the overwhelming majority of us want to find that answer. Perhaps the eight Senators on the other side of this building that we stand in today can find the combination that some of us on this side failed to find, finding that proper wording that will give us the goal that each of us seeks.

Mr. HYDE. Mr. Chairman, I am honored to yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, the civil rights debate in Congress is not about the President. The President is a good and decent man. And his record on civil rights is above reproach. When he was one of our colleagues, he cast an unpopular but courageous vote for the Civil Rights Act of 1964, though much of his home State of Texas opposed it.

This debate should be about jobs and opportunity for all Americans, regardless of race or sex. The hard cold fact is that discrimination on the basis of race and sex exists in our country. We absolutely do need a strong civil rights bill that prevents job discrimination and opens up opportunities for women and minorities.

We must focus on how to assure that victims of discrimination have timely, equitable justice. I do not define "timely justice" as an 8-year legal battle in which a victim's lawyer takes home more money than the victim as could clearly happen under this bill. Nor do I define "equitable justice" as a system that freezes out most victims of discrimination because of a prohibitively expensive and lengthy court process.

Further, I do not believe it is a good idea during tough economic times to pass legislation that will stack the deck against small employers. It is only human nature to expect that small employers will avoid situations in which they cannot possibly defend themselves, forcing them to look at numbers, not people.

The bills before us are, in reality, not very different from each other. There are problems that prevent both of them from being the piece of civil rights legislation we need. So today, I am voting against the Brooks-Field substitute. A

good piece of legislation is within our reach; the problems in this bill are solvable, but only if the parties work together instead of tearing each other apart on an issue which the American people hold dear—that discrimination on the basis of race or sex has no place in our society.

I hope my colleagues will step back and take a moment to look behind the labels and name calling, to wade through all the lofty rhetoric, and remember that we have a responsibility to pass the best possible legislation that will assure jobs and opportunities for all Americans. We are almost there. But the best solution will come when we lay down the verbal spears, cease the partisan posturing and work together to craft responsible policy that, in the real world, prevents discrimination and promotes jobs and opportunities for all. For that is what the American people elected us to do.

Mr. HYDE. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. FISH].

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from New York.

□ 1200

Mr. FISH. Mr. Chairman, I am pleased to speak in support of the Brooks-Fish substitute, the compromise version of this legislation. The earlier discussions of the Towns-Schroeder substitute and the Michel substitute clarify that Brooks-Fish occupies the middle ground around which consensus hopefully will develop. The hours of debate point out the substitute presently before this body incorporates substantial accommodations to the business community—accommodations that go way beyond our attempts last year to address employer concerns.

During general debate, I pointed to explicit antiquota language stating that the use of quotas is unlawful. Employers do not protect themselves by relying on quotas but rather subject themselves to potential liability for intentional discrimination.

We must not overlook the fact that nothing in this bill gives employers a reason to hire by the numbers. During general debate, I quoted language permitting employer reliance on "relative qualifications or skills." At this point, I want to discuss some basic procedures in disparate impact cases under the Brooks-Fish substitute—steps that clearly provide no incentives for reliance on quotas.

The complaining party in a disparate impact case carriers the heavy burden of linking adverse impact on women of members of minority groups to a specific practice or practices unless the employer's own conduct essentially forecloses the possibility of establishing such linkage. Here the Brooks-Fish formulation goes so far as to require a judicial finding that the complaining party "after diligent effort cannot identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact." Surely it would be unfair to penalize the victims of alleged discrimination for not establishing specific linkage in such narrowly defined circumstances beyond their control—where an employer effectively prevents them from obtaining needed information about employment practices.

Employment practices resulting in disparate impact, of course, may not be unlawful. Business necessity serves as a potential defense. We incorporate the following simple, straightforward standard of business necessity: "[T]he practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance". The substitute's broad definition of "requirements for effective job performance" further protects employers by permitting consideration of a wide range of work-related factors. The Brooks-Fish substitute clearly facilitates proof of business necessity.

The proposed damages remedy in title VII of the Civil Rights Act is limited to cases of intentional discrimination. The fact that damages will not even be available in disparate impact cases—cases of unintentional discriminatory effort—again negates any suggestion that employers will need to rely on quotas to avoid damage awards. In considering the appropriatenesss of damages as a remedy, we need to bear in mind that damages already are available for racial discrimination under other legislation. There is nothing unique about damages in the context of other forms of intentional, invidious discrimination—such as sex discrimination—nothing, I repeat, that justifies surmising that employers now will resort to quotas in disparate impact cases involving unintentional discrimination.

Mr. Chairman, civil rights laws define our relation one to another in a multicultural society. They promote tranquility by guaranteeing all equal opportunity and equal justice regardless of race, religion, or ethnic background. And we have succeeded, Mr. Chairman, achieving a unified society.

In addressing redress for discriminatory employment practices, we implement. the "equal protection of the law "clause of our Constitution. Surely discriminating employment practices without redress is a denial of equal protection.

In making the practice illegal quotas join countless other unfair employment practices on the books.

The Brooks-Fish substitute both safeguards employment rights. And protects the needs of American business.

Mr. HYDE. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the distinguished minority whip.

Mr. GINGRICH. Mr. Chairman, I thank my colleague for yielding me this time.

Let me close for our side with a plea to every Member to look to the future. We disagree about H.R. 1, but this bill does not define or limit America's future. We have an obligation to every American, young or old, black, white, yellow, brown or red, male or female, every American to protect their civil rights.

My guess is that in a very few minutes, this bill will not have gotten enough votes to override a veto. My plea to the Democratic leadership at that point would be to work together to fashion a bill that can be signed. I think this country desperately needs a bipartisan effort focused on civil rights, and it should be possible to write a bill that does not threaten small businesses. It should be possible to write a bill that does not threaten unending litigation. It should be possible to write a bill that does not have any question about quotas.

I just want to say for our side, we think it is extraordinarily important to get beyond the heat of the last 2 days, to get beyond the hard language of the last 2 days, to join together against racism, to join together in favor of integration, to join together in favor of the civil rights of every person. If it turns out that the other side does not have the votes to override a veto, I would plead with my colleagues to sit down jointly with us and let us write a civil rights bill the President will sign and let us have a bipartisan joint signing ceremony in which every American gets the message that there is no room in America, there is no room in America, there is no willingness in America to tolerate racism of any kind under any form.

Mr. SHAYS. Mr. Chairman, I rise in support of the Brooks-Fish amendment.

Mr. Chairman, I rise as a legislator from an urban district and as a Republican in support of the Brooks-Fish substitute for H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991.

I support this substitute bill just as I believe I would have supported the Civil Rights Act of 1964, had I been a member of this Chamber at that time.

Regrettably, we wouldn't need to be considering this legislation were it not for the fact that the Supreme Court in several cases in 1989 seriously weakened the employment protection provisions of the landmark 1964 act.

The reality is we need the Brooks-Fish civil rights bill to undo the damage done by the Supreme Court.

The Brooks-Fish substitute is not a quota bill any more than the Michel substitute was a

quota bill, any more than the 1964 act was a quota bill.

Referring to this substitute as a quota bill is evidently a way to kill the bill and/or justify a no vote but, in my judgment, it is not a fair accusation.

I know many members whom I respect and admire, as well as the President whom I also respect and deeply admire, disagree on this issue. Despite our differences each of us must be true to our constituents and to ourselves.

This civil rights legislation is needed. It is a good and fair proposal and it deserves our support. It certainly has mine.

Mr. ZIMMER. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, the battle over this civil rights bill has been a long and increasingly bitter one.

While there is nearly universal agreement that legislation is needed to reverse several restrictive Supreme Court decisions, attempts to draft an equitable civil rights bill have led to an ugly political debate over the divisive issues of discrimination and fairness.

That debate needs to be put to rest. We should focus instead on reconciling the differences between the President's bill and the Democrats' bill and on correcting the recognized deficiencies in the current law.

Regardless of authorship, any civil rights bill should enable victims of actual discrimination to prevail in court and allow innocent employers to defend their business practices successfully.

Admittedly, this is easier said than done. Yet, if properly crafted, this civil rights legislation can create a fair employment system without forcing employers to implement quotas. I have followed the public debate about quotas and I have carefully read the Brooks-Fish substitute. If I thought that this legislation was a quota bill, I would oppose it. Quotas are anathema to true civil rights. In my considered opinion as a business attorney, the Brooks-Fish substitute is not a quota bill.

Unfortunately, the Brooks-Fish bill still has substantial shortcomings. I am particularly concerned that its punitive damages provisions could impose undue hardship upon small businesses. I strongly prefer the punitive damages provisions of the Michel substitute. I also prefer the Michel substitute's emphasis on conciliation rather than litigation. For these reasons, I voted for the Michel substitute.

However, now that the Michel substitute has failed, I will vote for the Brooks-Fish substitute because it is a significant improvement over the current law. For cases of disparate impact, it requires the plaintiff to identify the unfair practice or practices, returns the burden of proof to employer and defines business necessity in a way that provides any employer with the practical ability to justify his business practices. The new version also addresses race norming and appropriately limits challenges to consent decrees.

While there are flaws in both bills and I am completely satisfied with neither, together they provide the necessary framework for re-establishing balanced civil rights protections. I am voting for the Brooks-Fish substitute today to keep the ball in play with the hope that the bill can be improved as it moves through the Senate.

Mr. BROOKS. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman, as the debate on our antidiscrimination bill draws to a close, I hope all of us might draw a deep breath so that we might remind ourselves how far we've come.

From boats and chains, to rural homelands, to a painful urban exile outside of America's vibrant life. From unspeakable acts of violence, to segregation, to separation and then impressive marches to new laws, new vistas and new opportunities.

We've spilled blood over these issues, JOHN LEWIS, someone we know and admire, and countless others whose names we'll never know, spilled their blood. And through these sacrifices, we've tried to close a national wound and to bind all of our people much closer together as any society would want itself to be drawn.

It's been hard, it couldn't have been easy, but it's worked. In every community we represent, African-Americans, Hispanics, women, religious minorities, and the disabled—people who heard the promise of American life but never quite got the promise fulfilled—have begun to enter America's mainstream.

Passing this bill is important, but it's not sufficient. We have to reignite the Nation's economy, and we have to challenge our sense of personal responsibility. We cannot let the national dialog on race relations in this country subside even after we put the conference report on the President's desk. Because this debate has exposed—honestly and obviously—that we have failed to talk with each other about these issues far too long.

But our periodic failures in candor cannot be an excuse for inaction today.

Now is the time for courage, for belief, for standing for and doing what is right. It is time for unity, and for healing, and for getting this job done.

In the American classic, "Our Town," the narrator looks out over a Civil War graveyard, and pays his personal testimony to the young men who gave their lives for national unity.

> They had a notion that the Union ought to be kept together, though they had never seen more than fifty miles of it themselves. All they knew was the name, friends, the United States of America.
>
> The United States of America.
>
> And they went and died about it.

In our day in our time, we must not ever allow the clock to be turned back on race relations in this country.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to this amendment.

I believe all of the civil rights bills before us today continue to promote the use of quotas and cause reverse discrimination. Reverse discrimination has crushed the aspirations of so many of my constituents. For these reasons, I oppose all of these bills. The Democrats, Republicans, liberals, conservatives, and moderates, who are speaking in the House of Representatives today, all say this bill would eliminate quotas. I cannot believe this because I know my constituents have been hurt by the 1964 Civil Rights Act. This act, according to its No. 1 proponent, Senator Hubert H. Humphrey, was not intended to be a quota bill or lead to reverse discrimination. Senator Humphrey, an honest man, would have vigorously opposed his own legislation if he believed that quotas would have in any way resulted from his bill.

Well, it has led to quotas, and it has also led this Nation to a public policy that condones reverse discrimination against my constituents and many other hard working Americans. Since I was first elected to public office in 1975, I have seen a great deal of suffering, pain, disappointment, and dejection due to reverse discrimination. I have seen it in the lives of my constituents whose names end in vowels, -ski, -wicz and other central and Eastern European names. I have seen them deprived of jobs, deprived of promotions, and deprived of entrance to prestigious universities. They have not only been outrageously and negatively impacted by quotas and reverse discrimination, but they have had no influence or power to pass laws permitting slavery, segregation, or discrimination. Instead, these people by their own initiative, imagination, and industry overcame the prejudice which exists in this country. I have seen my constituents, who have worked hard and studied hard, be in a position to achieve their dream and had it taken away by quota and reverse discrimination.

I am for every American—black, white, red, yellow, brown, male or female—having equal opportunity, and I believe that government has a duty to create such an environment for all its citizens. However, government has failed to create such an environment, and it is time we realize that by giving unfair advantage to one group, we will always discriminate against another.

Yes, African Americans have endured slavery and segregation. They along with other minorities and women have and continue to fight discrimination and prejudice. Unfortunately, all of these bills before us today fail to effectively address these negative aspects of American society; and, it is unfair, unjust and un-American to correct past injustices at the expense of my constituents. It must stop.

I believe if we would work together to develop a program that gives all Americans equal opportunity, we could achieve this goal. We must start by creating programs giving all Americans equal access to a quality education. Our emphasis should shift to promoting programs which rebuild and equip America to be competitive throughout the world. By providing decent housing, keeping families together, and fighting drugs and crime, we can more effectively combat discrimination and prejudice. This should be the American solution for ensuring equal opportunity.

It is obvious the social experiment that began with the Civil Rights Act of 1964 has caused quotas and reverse discrimination and has been an abysmal failure. Please stop the reverse discrimination against my constituents, for they have already paid too high a price.

Vote no, and let us work for an America that gives equal cpportunity to all.

Mr. BROOKS. Mr. Chairman, I don't want anyone to think that the Brooks-Fish substitute is a perfect bill. I have been here far too long to believe that, and I fully expect that after a few years—or even a few months—people will be standing in line to suggest changes. But, that doesn't trouble me one bit; it's part of the legislative process.

And so, while I am never going to claim that our work here today is going to solve all the world's problems, it is my hope that we can at least make this a little better world to live in. And, if we err, we certainly ought to err on the side of compassion in helping those who want to do better in this world of ours.

Ms. SLAUGHTER of New York. Mr. Chairman, the tragedy of this debate is that we are dividing Americans on who gets to work and we should be spending our time creating jobs.

Mr. BERMAN. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

I admit that my reasons for supporting this legislation cannot be expressed in a 30-second sound bite. But obstacles to justice that take the form of legal technicalities can cause intolerable harm just as surely as billy clubs, hoses, and dogs can.

We passed landmark civil rights legislation at a time when those horrid televised images were vivid. But now when the equal opportunites promised by that legislation are snuffed out, it happens not in the streets, at lunch counters, or at the schoolhouse door. It happens instead in hushed courtrooms where well-heeled counsel insist that they cannot explain why year after year their clients show lamentable records in minority hiring, and that since their clients do not intend to discriminate, minorities must bear the burden of proving that particular practices prevent their employment or promotion.

But I have enormous regard for the ability of my colleagues in this body—attorneys and nonattorneys alike—and I believe that all of us can understand that the rights guaranteed by our civil rights laws mean little without the remedies the Supreme Court has stripped from those laws.

And I know that every civil rights attorney in this country worth his or her salt has turned away meritorious cases—cases in which grievous wrong has occurred—because proving and winning those cases has been made immeasurably more difficult in light of the Supreme Court's rulings and the increasingly sophisticated and insidious practices of employers who are not committed to equal employment opportunities.

Make no mistake: The result is not just a problem for racial or religious minorities, for disabled persons, and for women. When Americans are discriminated against in their pursuit of employment opportunities, all of us pay the price.

The United States loses its international competitive edge when we consign millions of minority youths to—at best—a future of minimum-wage jobs at which they know full well they cannot support themselves and their families.

The President of the United States fosters the attitude that minorities in this country are lazily looking for handouts, while the rest of us have worked hard to get where we are today. Yet I know that many, many minority workers day in and day out face unlawful obstacles to getting hired, getting promoted, getting treated on the job with basic decency, that would daunt the sturdiest of us. Failure to enact this legislation this year would sent a message to minority workers that they will receive no help from the Government of the United States in their efforts to overcome obstacles on the job.

I want to also say a word about the particular burdens women face in the workplace. The administration, by barring women from recovering compensatory or punitive damages in title VII cases, is in essence saying that they must continue to suffer intentional discrimination in silence, because we will not take it seriously.

Misconduct that offends us we make punishable by monetary damages under our system of civil justice. It is little wonder that at the same time the President rejects this principle in the context of the legislation before us today, he has also failed to insist that his personal physician apologize to the female White House reporter whom he sexually assaulted. The White House sees that incident as harmless horseplay, leaving women, yet again, without recourse. I, for one, believe that it is long past time that we take discrimination against women seriously, and act to prohibit and redress it.

For all these reasons, I strongly support the Brooks-Fish substitute. I prefer the Schroeder-Towns substitute, but I also am a realist. Enactment of a meaningful civil rights bill this year is essential, and the legislation reflecting the yeoman efforts of my chairman, Mr. BROOKS, and Mr. FISH, and Mr. EDWARDS of California is the means to accomplish that goal.

Mr. CARDIN. Mr. Chairman, I rise today in strong support of the Brooks-Fish substitute. Over the past few weeks, this bipartisan compromise has addressed many of the concerns about the original committee bill.

The right of people to be free from discrimination is fundamental. This Nation was founded on the principle that all men are created equal.

Over the past quarter century, we have seen significant progress on the civil rights front. The breaking down of past walls of injustice has been one of America's proudest accomplishments.

This civil rights legislation involves the always difficult task of establishing a balance between the legitimate claims of minorities seeking equal opportunity and the interests of individual members of the majority who have not committed acts of discrimination.

This bill seeks to reverse the Court's decisions that have skewed the policy balance too heavily against the legitimate interests of those who have in the past been denied an equal opportunity in America. Let us look at what this bill specifically accomplishes.

The Supreme Court in the Patterson versus McLean Credit case said that racial discrimination is prohibited only in the formation of private contracts. This legislation would clarify that discrimination is prohibited in all aspects of private contracts, including employment contracts.

This legislation would require the employer to prove that an employment practice that has a disparate impact on women and minorities "bear a significant and manifest relationship to the requirements for effective job performance." It also requires the employee to challenge the specific employment practices that have resulted in the disparate impact.

The Supreme Court in its decision on the Price Waterhouse versus Hopkins case implied that discrimination was permissible as long as it was not the primary motivating factor. The civil rights bill specifies that it is illegal for intentional discrimination to be any factor in the employment process.

The Brooks-Fish substitute adds a provision that prohibits employers from adjusting test scores on a written employment test on the basis of an individual test-taker's race, color, religion, sex, or national origin.

This civil rights legislation also clarifies that the statute of limitations begins either when a discriminatory employment practice is implemented or when it has an adverse effect on the plaintiff, whichever occurs later.

The bill establishes a procedure to limit the ability of individuals who are not a party to an employment discrimination case from later challenging a consent decree that resolved the dispute.

In the final analysis, this legislation is designed to restore this Nation's commitment to judging individuals on the basis of their skills and qualifications. This civil rights bill will restore our commitment to eliminating discrimination on the basis of race, religion, sex, handicap, or national origin.

Mr. Chairman, we must pass a civil rights bill today. We cannot let this country reverse itself on civil rights matters. As a Congress, we must lead this Nation toward a day when all Americans are treated equal. Sadly, we have not reached that point yet, but this bill will enable us to move forward toward our goal.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Brooks-Fish substitute because I believe the Court simply made a huge mistake in rolling out a red carpet to prejudice. Our Government's role is not to create a freedom to be racist and sexist.

To begin with, courts have recognized that discrimination occurs not only in hiring, but also in promoting, layoffs, and other aspects of employment. In Patterson v. McLean Credit Union, the Court turned the clock back by saying that only hiring was relevant. The Brooks-Fish substitute would reinstate these modern-day protections.

Second, in the Wards Cove case, the Court overturned its decision in the earlier Griggs case by shifting the burden of proof from the employer to the employee on the critical question of whether the discrimination was justified. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decision. The Brooks-Fish substitute would restore the Griggs outcome.

Third, Ward Cove also lowered the Griggs standard of business necessity for justifying discrimination. This definition is the key to preventing justification of actions as a business

necessity when the primary motivation is discrimination. The Brooks-Fish substitute would reinstate Griggs here, too.

Fourth, in Lorance versus AT&T, the Court stated that the statute of limitations begins to run when a discriminatory practice is inititated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and is affected by it. That should be the time when the statute of limitations begins to run, and Brooks-Fish adopts that policy.

Fifth, in Price Waterhouse versus Hopkins, the Court allows international discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists cannot distinguish between the number one and number two thoughts in the mind of an administrator. How do we really know discrimination was a primary factor? The Brooks-Fish substitute makes it clear that intentional discrimination is never acceptable.

Also, Martin versus Wilkes would be overturned by the two proposals. This case allowed a negotiated settlement from a discrimination charge to be challenged again, later. This means that a victim who finally wins could have everything taken away later. Brooks-Fish would reverse this case.

Now, there are provisions of the Brooks-Fish substitute that I find unacceptable. For example, it would prohibit use of quotas by employers; it would prohibit use of race norming; and, most importantly, it would cap punitive damages for the victims of intentional sex, religion, or disability discrimination in employment at $150,000, or the amount of compensatory damages, whichever is greater.

These are very serious provisions that have been placed in the substitute in an effort to work with President Bush; and while I strenuously disagree with them, I shall vote for Brooks-Fish because I believe this Congress must exercise its constitutional responsibility to overturn unfair and discriminatory rulings by our Nation's highest Court.

Mr. Chairman, those critics who say that Brooks-Fish substitute goes too far are dead wrong.

One of the thorny issues that has emerged in the past few days is the issue of caps on punitive damages for sexual discrimination. The notion that there should be such a limit shows a fear of the American people. Why do I say this? Because damages are decided by juries. And juries are Americans. This is not a trial lawyers' provision; it is a provision in line with our system of jurisprudence which says that if a person is injured, he or she has a right to be made whole.

For all of these reasons, I support Brooks-Fish and urge my colleagues to vote for this substitute.

Mr. ORTIZ. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise today as chairman of the congressional Hispanic caucus in strong support of the Civil Rights and Women's Equity in Employment Act of 1991.

The Civil Rights Act of 1991 will restore the integrity of Federal equal employment laws that have been severely weakened by a number of recent Supreme Court decisions.

While the caucus feels that it would have been preferable to have H.R. 1 as reported, we understand and appreciate the concerns raised by the business community and the need for legislation that will receive strong bipartisan support.

As such, the caucus joins the Education and Labor and Judiciary Committees in support of Brooks-Fish bipartisan compromise as the best bill that can be achieved under the current circumstances.

Our Nation has come a long way as a society in recognizing and addressing the incidence of prejudice and racism, and we should be proud of the steps we have made.

Unfortunately, despite our efforts, the occurrence of discrimination in the workplace is still all too prevalent.

Our actions here today, on this floor, will represent our best effort to address this vital concern.

The Federal Government has the societal obligation to ensure that victims of employment discrimination are assured fair and effective remedies regardless of their national origin, race, sex, religion, or physicial ability.

Unfortunately, recent decisions by the Supreme Court, instead of furthering this goal, have worked only to its detriment.

The Court's decisions have cut back significantly on the rights of job discrimination victims and threaten to annul the gains we have made in the last quarter century.

The Brooks-Fish compromise represents our best effort to ensure that our Nation continues to move forward in the arena of civil rights, not backward.

The Brooks-Fish substitute is not a quota bill as the President would have the Nation believe.

It will not place onerous and overburdensome restrictions and regulations on businesses, allow excessive damage awards, or lead to unneeded litigation.

It will fulfill this Congress' and this Nation's overriding responsibility to ensure that each and every one of its citizens is treated fairly and equitably in the workplace.

Vote for the Brooks-Fish bipartisan compromise.

Vote for our future.

Mr. FOGLIETTA. Mr. Chairman, I call upon the President of the United States to support our returning troops who fought so valiantly in the Persian Gulf and sign the civil rights bill which I support very strongly.

Mr. SMITH of Florida. Mr. Chairman, I rise in strong support of H.R. 1 and the substitute to bring together the fabric of society and put the Constitution back in the day-to-day lives of all American people.

Mr. JONES of Georgia. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute. I urge that we put principles above petty politics, and I urge its passage.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of this legislation because it is essential to the goal of eliminating discrimination in the workplace for working women.

Mr. Chairman, I rise in support of H.R. 1. The Civil Rights and Women's Equity in Employment Act is a top priority for women at both the national and local level. Its enactment is essential to the goal of a discrimination free workplace for working women.

This landmark legislation will go a long way toward restoring the law to its earlier intent and interpretation. For many years civil rights laws have opened doors in employment for women. We must ensure that we continue to make progress toward equity in the workplace so that every American woman can reach her full potential.

The Civil Rights Act of 1991 strengthens women's position in the workplace and will have long-lasting and beneficial effects not only on individual women and their families but also on the U.S. economy.

In the competitive new world of the 1990's, when America's destiny depends on bringing out the best in all our people, it is more important than ever to continue America's progress toward wiping out discrimination.

Business, labor, colleges, and universities, the professions, religious institutions—all understand that America must move forward, not backward in the march against prejudice.

The Civil Rights Act of 1991 will restore and strengthen the statutory protections of the civil rights of all women, and send a clear message that the Congress does not intend to reverse our national commitment to equal justice for all.

Opponents to H.R. 1 are mischaracterizing the act as a quota bill. Nothing could be further from the truth. It will instead restore the appropriate balance which long-governed the law of employment discrimination and make an enormous contribution to working women and their families across this country.

The Civil Rights Act of 1991 is not only one of the most important women's issues before the 101st Congress, it is probably one of the most important women's workplace issues that the Congress will consider in the entire upcoming decade.

Any attempt to undermine the Civil Rights Act's efforts to restore a woman's fundamental right to equal employment opportunity is an attempt to perpetuate employment discrimination against women.

This bill makes a clear statement that a woman's right to equal opportunity will not be compromised; 54 million working women are counting on its passage. I urge my colleagues to join with me in supporting H.R. 1.

Mr. ABERCROMBIE. Mr. Chairman, multiracial, multicultural, multiethnic Hawaii will be voting for H.R. 1.

Mr. Chairman, I rise today in support of H.R. 1, the Civil Rights and Women's Equity in Employment Act.

I would like to take a moment today to remind my colleagues in the House exactly what is at stake here. We are trying to restore effective protection against employment discrimination on the basis of race, national origin, sex, and religion. It seems rather simple Mr. Chairman, we are only talking about protecting fairness and opportunity.

The intent of the Civil Rights Act of 1964 was to eliminate discrimination. Unfortunately, the reality is that discrimination against women and minorities still exists, and is in fact widespread.

The problem is, Mr. Chairman, that in the last few years the Supreme Court has weakened civil rights legislation which is essential for protecting Americans against job discrimination, and now the President has labeled this the quota bill.

Even though over the last 30 years we have enjoyed unprecedented progress in the area of civil rights, we are still plagued with discrimination's evil curse.

The fact remains, that civil rights laws are meaningless protections if they do not ensure guarantees of legal recourse. Title VII of the 1964 Civil Rights Act prohibits discrimination in the workplace, but unfortunately it does not provide for fair restitution even in cases of intentional discrimination. It is only fair that title VII be expanded to guarantee that victims of intentional discrimination have the right to sue for some kind of reparation.

Finally, Mr. Chairman, the tragic misconception about this bill is that the administration has attempted to poison the well by branding this as a quota bill. This is not a quota bill. This is an antidiscrimination bill.

Indeed, H.R. 1 includes language that states that employers are not required or encouraged to adopt hiring quotas; and numerical imbalances alone cannot be reason for a violation.

The Civil Rights and Women's Equity in Employment Act simply clarifies that the burden of proof in hiring cases is clearly on the employer. It cannot be said that this will make it more difficult for employers to defend their hiring standards because it only restores the previous standard which was used for over 18 years.

What we have here is another sordid case of manipulating an issue for political purposes. Indeed, it is sad how the administration has done its best to hide the intent of this bill under the false notion of quotas.

Mr. Chairman, I urge my colleagues to remember the real issue at hand. This is not a quota bill. It is an antidiscrimination bill.

This bill is about fairness and opportunity for people as they attempt to find employment and improve their lives.

I urge my colleagues to support H.R. 1, because it gives people a fighting chance.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

Mr. Chairman, I rise in support of the bipartisan substitute to H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991. The substitute is responsive to the quota and damages concerns raised by the business community. Most of the changes reflect the understandings reached between representatives of the Business Roundtable and the Leadership Conference on Civil Rights. However, there are three issues not part of those discussions which are included in this compromise. They are the cap on punitive damages, the ban on quotas, and the prohibition on discriminatory use of tests.

The substitute reflects the combined efforts of the two committees to which the bill was referred—Judiciary and Education and Labor. In addition, the substitute adds two new sections to reverse Supreme Court decisions announced after committee consideration of this year's bill—decisions which affect the underlying statutes amended by H.R. 1.

Title I, reported by both the Judiciary and Education and Labor Committees, amends the Civil Rights Acts of 1866 and 1964 to restore and strengthen their prohibition against employment discrimination. The Supreme Court dramatically narrowed these laws in a series of decisions in 1989.

The Wards Cove decision placed a nearly impossible burden of proof on plaintiffs in cases involving nonintentional discrimination. H.R. 1 requires employers to justify practices that have a discriminatory effect by going back to the standards enunciated by the Supreme Court in the Griggs decision.

The Brooks-Fish substitute clarifies what employers must show in justifying those practices and provides the flexibility essential to choosing qualified workers. It does so by making several changes to sections 101 and 102—the definition and disparate impact sections:

The term "required by business necessity"—used in section 102—is defined to mean a "practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance." Business representatives have asserted "manifest" is the best codification of the Griggs standard we are trying to recapture. "Significant" is also found in Griggs and the two terms together fully codify the standards described by the Court in that decision.

The term "requirements for effective job performance" includes factors, such as punctuality and attendance, which go beyond performance of the actual work task.

Section 102 is amended so that: First, there is a single standard applied to all employment practices in disparate impact claims—H.R 1 had one standard for selection practices and another standard for nonselection practices; second, when a group of employment practices is challenged, instead of lumping them together, the plaintiff must identify each discriminatory practice unless the court finds the plaintiff, after diligent effort, was unable to do so from the employer's records or other information of the employer reasonably available through discovery or otherwise; third, when a group of employment practices are challenged, the employer need only defend against those practices which contribute in a meaningful way to the disparity; and fourth, it reaffirms that anemployer may rely on relative qualifications or skills in making employment decisions.

All of these changes are designed to provide flexibility to employers in hiring qualified workers, while restroing the original standards of the Griggs decision.

The Price Waterhouse decision allowed employers to engage in intentional discrimination as long as they also could point to some nondiscriminatory reason to justify their decision. H.R. 1 bans intentional discirmination in all cases.

The compromise allows plaintiffs in mixed motive cases to challenge discriminatory practices that were a motivating factor in the employment decision. H.R. 1 uses the term "contributing" factor.

The Martin versus Wilks case allowed individuals to reopen consent decrees, even where they had an opportunity to participate in the original litigation. H.R. 1 assures that settlements can be reopened only if justified. This provision is unchanged by the Brooks-Fish substitute.

The Lorance case created artificial time barriers for filing discrimination suits. H.R. 1 establishes fair time lmits to file lawsuits.

The compromise changes the 6 months statute of limitations, currently in title VII and the ADEA, to 18 months, down from the 2-year period in H.R. 1.

The Patterson case allowed racial harassment on the job, saying that the 1866 Civil Rights Act prohibited discrimination only in the initial hiring decision. H.R. 1 prohibits racial discrimination at all stages of a contract.

The compromise amends the attorney's fees section by noting that negotiation of a voluntary waiver of attorney's fees is allowed and by removing the self-enforcing provisions of H.R. 1.

H.R. 1 allowed all cases, including closed cases, to be reopened. The compromise applies the new law to pending cases only.

The compromise contains important antiquota language which defines quotas, prohiits their use, and reaffirms congressional approval of Supreme Court cases validating the lawfulness of voluntary or court-orderd affirmative action plans.

The compromise imposes a $150,000 cap on punitive damages, or an amount equal to compensatory damages, whichever is higher. As in H.R. 1, these damages are limtied to intentional discrimination claims.

The bill contains three new sections. Two of those sections respond to recent Supreme Court rulings. The third section responds to concerns first raised at the Judiciary Committee markup of H.R. 1:

Section 117 of the bill provides protection against employment discrimination to American citizens working for American companies overseas—reversing Aramco, decided March 26, 1991.

Section 118 extends the title VII attorney's fees provisions of H.R. 1 to the Civil Rights Attorney's Fees Act (42 U.S.C. 1988)—reversing West Virginia University Hospitals, decided March 19, 1991.

Section 115 prohibits the use of tests which do not "validly and fairly" predict the ability of test taker to perform the job without regard to race, color, religion, sex, or national origin. Section 116 prohibits the adjustment of test scores or use of different cut-off scores for written employment tests on the basis of race, color, religion, sex, or national origin.

Title II encourages the provisions added to H.R. 1 by the Education and Labor Committee:

Section 201 establishes a 4-year class ceiling commission to conduct a study and to make findings and recommendations on the elimination of artificial barriers to the advancement of women and minorities to executive and management positions in business.

Section 202 directs the Secretary of Labor to develop a pay-equity program. The program will disseminate information, promote research, and provide technical assistance to employers seeking to eliminate wage disparities.

Section 204 authorizes EEOC to establish outreach and public information programs for individuals, such as Hispanics and Asians,

who historically have been victims of employment discrimination, but who have been underserved by EEOC's enforcement apparatus.

Last year the President did not have a comprehensive proposal until after both Houses considered the bill. He has weighed in now and the Republicans will offer his proposal as a substitute. There have been news accounts and op-ed pieces suggesting there is not a significant difference between H.R. 1 and the President's bill. That simply is not true.

The Michel Republican substitute reverses only one of the devastating 1989 Supreme Court decisions, the Patterson case. It does not overrule Martin versus Wilks, thus, allowing endless relitigation of settled cases. It fails to overturn Price Waterhouse, which means employers can commit intentional discrimination so long as they can justify their job action with some other nondiscriminatory motive.

The Michel substitute mitigates the harsh results of Lorance only for seniority systems, not all employment practices. Furthermore, The Republican proposal only partially reverses Wards Cove—it properly returns the burden of proof to the employer to justify discriminatory practices as a business necessity, but then codifies the lower business necessity standard announced by the Court's Wards Cove majority.

Finally, the remedies section is most perplexing. Unlike race claims brought under the Civil Rights Act of 1866, the Republican alternative would not permit compensatory or punitive damages. Instead, it would authorize courts to grant an additional equitable remedy of up to $150,000, but only if the court determines that such a remedy "is needed to deter" the respondent from discriminating, and only if it is "otherwise justified by the equities, consistent with the purpose of this Title, and in the public interest." These remedies would only be available for harassment claims. In fact, the Republican alternative would legalize untimely harrassment claims—victims of other intentional discrimination would be limited to the existing "make whole" relief currently available under title VII. There are other restrictions too, which, when added together, provide second-rate remedies for persons with sex, religious, and disability claims.

In conclusion, we have heard much in last year's debate and this year's as well about the "quota" issue. Much of this debate has been inflammatory and divisive. I urge opponents not to resort to this harmful rhetoric. But to those who still want to tag this a quota bill we say in the words of Eliza Doolittle, "Show me."

In addition, Mr. Chairman, I would like to address the testing issue at some length, as it is a new issue for this body, one that was not raised until the very end of the committee process.

The substitute does two things in response to this issue:

The substitute bill flatly prohibits the practice of adjusting scores of, or using different cut-off scores for, written employment tests on the basis of the race, color, religion, sex, or national origin of an individual test taker. There are no exceptions to this prohibition. It includes all entities covered under title VII: Employers, labor organizations, employment agencies—which include State employment services—and joint labor management committees controlling apprenticeship or other training or retraining—including on-the-job programs. Moreover, it applies broadly to the selection or referral of applicants or candidates for employment or promotion.

As a result, where written tests are used in connection with employee selection, an applicant for employment or a promotion will be judged on the test score he or she receives without alteration.

At the same time, the substitute reinforces the requirement which has been in the law since 1964 that tests must not themselves discriminate. Indeed, the practice which has come to be known as race norming arose because certain tests predict job performance differently based on the race or gender of the test taker.

The general aptitude test battery [GATB] which has sparked the debate over race norming presents precisely this problem. In an exhaustive analysis, the National Academy of Sciences determined that the GATB provides different information depending on the race of the test taker, to the decided disadvantage of minority test takers. It weeds out black good workers at a much higher rate than white good workers while white poor workers pass the test at a disproportionately high rate. Indeed, other studies have shown that the GATB often selects white poor workers at approximately the same rate that it selects black good workers.

The controversial score adjustments were designed to adjust for this important problem with the test, not to give black job applicants an unfair advantage. While we are making these score adjustments unlawful, it would be unconscionable to permit the continued use of such a racially skewed test.

The substitute incorporates the standard which exists in the Uniform Guidelines for Employee Selection Procedures for evaluating whether employment tests unlawfully discriminate. Because the guidelines may be changed at any time, and may not even be subject to the protections of the Administrative Procedure Act, it is essential that these standards be included in title VII itself. Indeed, there have been recent press reports that the administration is currently considering proposals to weaken the standards which have governed employment tests since 1967.

It is important, at the outset, to be perfectly clear that the mere fact that blacks or women may score lower on a given test has never—and does not now—make that test unlawful. Instead, the question which must be asked is whether the test validly and fairly predicts the ability of test takers to perform the job with respect to which the test is used without regard to the race, color, religion, sex, or national origin. Only then may a test properly be used to allocate valuable employment benefits.

Validity refers to the correspondence between test performance and performance on the job at issue. According to the Standards for Educational and Psychological Testing, published by the American Education Research Association, the American Psychological Association, and the National Council on Measurement in Education, validity is "[t]he degree to which a certain inference from a test is appropriate or meaningful." It should go without saying that a test which does not provide useful inferences regarding performance on the particular job for which it is being used has no place in selecting employees. The amendment incorporates the requirements in the uniform guidelines and the interpretive case law regarding establishing test validity.

It is possible, however, for a test to be valid but not to be fair. Fairness refers to the requirement that the test must work in the same fashion for all test takers, predicting equally the performance of equally capable candidates without regard to their race, national origin, religion, or gender or disability.

An example of a test which may be valid but not fair is the Scholastic Aptitude Test [SAT]. Although the SAT is an education test, it is illustrative of the problems inherent in many employment tests. The test which is used widely in connection with college admissions, scholarship selection, and other purposes, is justified as a predictor of first-year college grades. However, it predicts such performance differently for males and females. If no adjustment is made either in the score or in the predictive analysis, the same score will overpredict a male's performance and underpredict a female's performance.

Based on this differential prediction by gender, the College Board explicitly recommends that college use "separate prediction equations for each sex, rather than a single equation based on the total group." "The Common Yardstick: A Case for the SAT," The College Board, 1989 at 17. This phenomenon also formed the basis for the court's decision in *Sharif* v. *Department of Education*, 709 F. Supp. 345 (S.D.N.Y. 1989), that the SAT could not be used as the sole criterion for allocating State-sponsored scholarships in New York State.

It is also possible for a test to be valid for one race or gender but not valid for another. Less than a month ago, the Federal Court in Houston, Texas, handed down its decision on the settlement of a case involving challenges to eight promotional examinations used by the Houston Fire Department. The court found that among white test takers there were sometimes satistically significant correlations between test score and job performance, but found that there was:

> * * * no statistically significant correlation between test score and job performance for blacks taking any of the eight challenged Chauffeur and Junior Captain examinations. The number of blacks taking the Chauffeur examinations was sufficiently high—66 in 1983, 71 in 1984, 63 1988, and 115 in 1990—that the failure to find a statistically significant relationship between the test and job performance cannot be dismissed as an artifact of small sample size.—*Houston Chapter of the International Association of Black Professional Firefighters* v. *City of Houston*, C.A. No. H-86-3553 (S.D. Tex., May 6, 1991, findings 75 and 77, slip opinion at 36-37).

There is nothing confusing, technical, or new about the term "fairly." It is drawn from the Supreme Court's 1975 decision in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 435 (1975), requiring test users to investigate the possiblity that the test in question might not work as well, or in the same manner, for women or minorities as it does for men or for whites. It is drawn from the study performed by the National Academy of Sciences on the

Labor Department's General Aptitude Test Battery, finding that whites performed much better on the test than they did on the job, and that blacks performed much better on the job than they did on the test. It is drawn from bipartisan standards in effect over the last 21 years: the "test fairness" requirements of the Nixon administration's 1970 EEOC Guidelines on Employee Selection Procedures, 35 Fed. Req. 12333 (1970), the Ford administration's 1976 Federal Executive Agency Guidelines on Employee Selection Procedures, 41 Fed. Reg. 51734 (1976), and the 1978 Uniform Guidelines on Employee Selection Procedures, 43 Fed. Reg. 38290 (1978). It is also drawn from common sense.

It does not take an expert to understand that a test is fair if it helps employers predict which persons will be effective for the job in question, and if it makes these predictions just as well for women as for men, and just as well for minorities as for whites. This is what any employer seeking to hire or promote employees based on merit would demand from a test: To be assured that persons with the same test scores will have the same likelihood of being effective employees.

No employer who wants to hire on merit would want to use a test like the GATB because the test makes so many mistakes that it excluded capable black workers and fails to exclude white workers who cannot perform the job well. Similarly, no employer concerned with merit would want to use an exclusionary test which predicts effective job performance for men or for whites, but which fails to do so for women or for blacks.

It is difficult to understand why those who oppose this provision think there is something worth defending in tests which are invalid and unfair. No employer is helped by a test which is invalid and no employer is helped by a test which is unfair. Every reasonable employer wants to be able to consider every candidate who can do the job effectively and every reasonable employer wants to have confidence that the same test score predicts the same quality of job performance for all persons who are equally qualified to perform the job.

This provision would put directly into the statute requirements which are now only based in the guidelines and, as such, are subject to administrative revision. It will help make sure that hard-working women and minorities are not unthinkingly excluded from jobs they can perform well. It will also help save employers from being sold a bill of goods by the makers and marketers of shoddy tests which needlessly harm the employer's real interests and needlessly blight the hopes and dreams of fully qualified women and minorities.

With the prohibition of any score adjustments in employment tests based on the race, color, national origin, gender, or religion of a test taker and the strengthening of the prohibitions against using discriminatory tests, the substitute takes a major step forward to assure that employment decisions based on test scores will truly be based on merit. This is the way it should be.

□ 1210

Mr. AUCOIN. Mr. Chairman, I rise in strong support of the Brooks substitute.

Mr. Chairman, I rise today as a cosponsor of H.R. 1, the Civil Rights and Women's Equity in Employment Act, in full support of its passage. Today we find ourselves debating once again a historic measure that we should have seen signed into law last year.

I ask my colleagues, what is our fundamental purpose here in Congress? Is it not to preserve and protect the rights guaranteed to Americans by our Constitution and legislate accordingly. So how can we allow the strength of the Civil Rights Act of 1964 to be slowly eroded away by an indifferent Supreme Court? Today it is our moral imperative to restore by statute the full spirit of civil rights and equality to our laws.

We have been through this debate before. In 1964, we provided stronger protection for rights guaranteed by the Constitution, protections against race discrimination. Many of us here in this Chamber know that that discrimination has not vanished. We have made progress. But, look around, and you see regression. Today we have an opportunity to prevent employees from being discriminated against on grounds of gender, ethnic or religious origin, and handicap. By passing this legislation, we can put fighting words behind the Americans With Disabilities Act that the President signed into law last summer. We can show our troops who fought to preserve world order in the Persian Gulf that we are fighting for social order here at home.

Let us finish today what we set out to do last year. Let us not put civil rights on hold any longer. I urge my colleagues to vote yes on Towns-Schroeder and yes on final passage.

Mr. KOPETSKI. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute and final passage of H.R. 1.

Ms. NORTON. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute, as one who had the great privilege to enforce this act when it was at its zenith and has seen it transform the United States of America.

Mr. Chairman, this began as an exercise to save the basic job discrimination statute from the Supreme Court. It is ending as an effort to save the statute from the Republican minority and from the President of the United States. A conservative court, presumably deferential to the legislative branch, departed from its own principles, usurped legislative intent, and rewrote title VII. Some Republicans and business groups, such as the Chamber of Commerce, always opposed to the statute, have struck while the statute was down.

Even the Court did not do what has been attempted here. It did not disturb affirmative action. To the contrary, a conservative Supreme Court spent the 1980's rejecting Reagan administration attacks on affirmative action.

Mr. Chairman, despite the fact that affirmative action has benefited white women more than blacks, the administration and its agents have left the impression with the American public that racial quotas have been at the heart of the statute. Employers have not used quotas because they know that quotas will only buy more lawsuits, this time from others who have been excluded. If employers have tracked their progress in selecting qualified people, using flexible goals, they have been far more successful with the wives and daughters of white America. This is understandable. One-third of blacks are poor, and many of them are unskilled and therefore are not always prepared for the jobs to which most affirmative action often is directed today. Most white women have had better life chances, come from the same backgrounds as white men and thus, but for discrimination, would occupy many of the same jobs. Thus, all the major women's rights groups have lobbied this body as hard to save affirmative action as they have to keep limits off of damages.

This exercise has sometimes strayed far from the mark; but it will be remembered for high moments as well. Women, people of color, and many others have stood together here. Black men have rejected the proposition that white women should be treated unequally and white women have denied the link between race and quotas. American Jews, the major victims of quotas in America, have strongly urged that Brooks-Fish be passed and have persuasively argued that the bill will not lead to quotas. Many who have no personal stake in this bill also have stood with us.

Mr. Chairman, it was my great privilege to administer the act we seek to amend today. I have seen it transform opportunities and change the American workplace to one in which we can take increasing pride. Title VII has been a bipartisan achievement of the American people that has vindicated our faith in peaceful change through law. Please affirm that faith today by restoring this great statute to full strength.

Mr. COSTELLO. Mr. Chairman, I rise in strong support of the substitute.

Mr. Chairman, I rise today to join a large majority of my colleagues in supporting the bipartisan Brooks-Fish substitute to the civil rights bill.

This bill is not at all a quota bill. What this legislation does is make discrimination illegal, to provide basic rights for employees so that when they interview for a job they will not be discriminated against.

Quotas are something that I do not at all favor, and in fact one of the reasons why I support this substitute is because it specifically forbids quotas by writing that intent into law. The language in the bill reads, "quotas shall be deemed to be an unlawful employment practice under title VII."

This legislation attempts to make the workplace more fair for all employees. In fact, lawsuits can be filed for reverse discrimination by white workers who feel that an employment system is the product of quotas.

It is appalling that the Bush administration is seeking to make the 1991 civil rights bill and the entire civil rights issue the Willie Horton of the 1992 Presidential election. This legislation is about equal opportunity for all workers, and not handouts, quotas, or unfair advantages. I urge my colleagues to support the Brooks-Fish substitute.

Mr. COX of Illinois. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

Mr. Chairman. I rise in support today of the Brooks-Fish substitute amendment to the 1991 Civil Rights Act.

The Brooks-Fish substitute is a bipartisan bill which restores the rights of women and minorities reversed by five key Supreme Court cases in 1989. At the same time, this substitute meets the concerns of the business community and does so very effectively.

This substitute addresses everything the President has stated as being wrong with the original bill, H.R. 1. However, the President continues to promise to veto this bill as amended in the Brooks-Fish substitute. The President and some Members of the House continue to falsely claim this bill is a quota bill, ignoring the contents of the bill entirely.

This substitute contains provisions needed to protect both the employer and the employee. It contains a cap on punitive damages at $150,000 under title VII claims, or the amount of compensatory damage claims, whichever is higher. The substitute prohibits race norming by use of adjusted test scores. It provides a burden of proof requirement on the employer that gives the employer more flexibility in defending hiring practices, and provides for a general prevention of retroactive disturbance of court orders.

Most important, I must state again this substitute contains a provision which specifically claims that quotas are prohibited. If an individual believes they are a victim of an unfair quota system they can in turn file suit just like anyone else under the Civil Rights Act. How the administration and some of the Members of this Chamber can still call this bill a quota bill is simply unbelievable.

I think it is clear the administration is using this as an issue of political gain at the expense of the people of this country. If the President truly wanted to sign a civil rights bill, this substitute would be exactly what he has asked for. It addresses all of the concerns of employers and employees, and it prohibits the use of quotas. Yet the administration still does not support this bill. For an administration, which claims to be supportive of civil rights legislation, such actions have proven quite the contrary.

I have met with both small and large businessmen to discuss the civil rights bill. I described to each my unwillingness to support a quota bill, and that is why I support this substitute. It is not a quota bill. Today, I have seen some Members wearing buttons on their lapels which say "Quotas" with a red bar over it. I was curious as to where they got them because I should have been wearing one too. I have been a small businessman all of my life; to think I would support any legislation that would create quotas of any shape or form is utterly ridiculous.

Let's ignore the political rhetoric and support the Brooks-Fish substitute and pass a civil rights bill we can all support.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute. I urge its adoption.

Mr. Chairman, I rise today in strong support of the Civil Rights Act of 1991 and in particular the Brooks-Fish substitute. I would like to thank and commend the chairman of the Judiciary and Education and Labor Committees, Chairmen BROOKS and FORD, DON EDWARDS, chairman of the Judiciary Subcommittee on Civil Rights, the ranking member of the Judiciary Committee, HAMILTON FISH, and all who have worked tirelessly to bring a workable bipartisan compromise to the floor of the House.

I am greatly disturbed that we are back again to do what we know is fair and just and we once again are being threatened with a Presidential veto. We know that this bill can pass the House. We know that this bill can pass the Senate. It has been done. Those of us who understand the need to overturn the recent Supreme Court decisions which in effect say that it is OK to discriminate against individuals on the basis of race, sex, or religion or disability, understand that many Americans are no longer afforded protection under the law against discrimination. The Supreme Court managed in 1 year to unravel what took decades to build and which has been in place for 25 years. What we are asking for today is that those fundamental protections which guarantee that every American has an equitable opportunity to compete for jobs or a promotion be restored.

Mr. Chairman, last year we passed and the President signed the Americans With Disabilities Act, the most sweeping antidiscrimination legislation since the 1964 civil rights bill. The business and the disability community got together and with the President's blessing worked out a bill that prohibits discrimination against persons with disabilities. This same President who claims he wants to sign a civil rights bill has quashed all efforts to come to a reasonable compromise on the bill and has sabotaged the efforts of the business and civil rights communities to work together to resolve their differences. I see the Civil Rights Act as an extension of the Americans With Disabilities Act eliminating discrimination not only for the disabled but for minorities, women, and religious groups.

Mr. Chairman, the President and others have raised the red herring of quotas and race norming. The Brooks-Fish substitute seeks to restore equal opportunity for all Americans as was previously in place before the Supreme Court dismantled an individual's ability to claim damages involving racial and ethnic harassment, shifted the burden of proof, and allowed employers to consider factors such as racial, religious, gender, or ethnic stereotypes.

In the years 1971 to 1989 under the law prior to the 1989 Supreme Court cases, there was not a hue and cry that quotas or race norming were undermining equal opportunity. I conclude therefore that this is a political issue that the administration and others are using in a cynical effort to continue the so-called Southern strategy employed in all regions of the country to exacerbate rather than resolve the racial conflicts which for so long have been a cancer on the body politic of America. This effort is fundamentally immoral.

We have spent the past 25 years trying to overcome discrimination in employment and it is incumbent upon us not to retreat from our effort to ensure a society of opportunity for all our people based upon ability and effort rather than prejudice and discrimination.

Over the last 2 years, we have tried to work with the administration to come to a fair and reasonable compromise on this bill with the Brooks/Fish substitute. Although the civil rights act is not now nor was it ever a quota bill, nonetheless the Brooks/Fish substitute seeks to address these concerns by explicitly prohibiting the use of quotas by employers, by stating that the use of quotas is an unlawful employment practice. The substitute also addresses the concern over race norming by prohibiting the race norming of employment test scores.

Every effort has been made to reach a consensus on doing what everybody agrees needs to be done. That consensus is to restore the opportunity that was undermined by the Supreme Court. That is why the President has expressed his support for that objective. However, his actions and those of his staff have ignored the stated objective for obviously political, partisan reasons. We will overwhelmingly reject that cynicism today and act to reiterate this Nation's commitment to equal opportunity for all our citizens.

Mr. DE LUGO. Mr. Chairman, on behalf of the people of the U.S. Virgin Islands, I rise in strong support of this legislation and urge its passage.

Mr. RITTER. Mr. Chairman, the Democratic version of the so-called civil rights bill is still a quota bill. The only way an employer is going to avoid getting sued is to hire "by the numbers" and statistics, not by merit. You can put a "caviar" label on a tin of sardines, but when you open it up, it still reeks of sardines.

The Democrats' bill forces employers to hire less-qualified applicants to avoid being sued. The whole idea of it is unfair. It hurts the workers of America and it's murder for small business—as if small business does not have enough problems.

By basing employment on race, gender, or whatever else other than merit, the Democrats' bill results in reverse discrimination.

President Bush doesn't want a Balkanized, fragmented America. He has taken on some real mud thrown by the Democrats on civil rights. But he's trying to do the right thing, the fair thing for all Americans.

Here's something—by not allowing employment decisions to be based on merit, the Democrats' bill, H.R. 1, is anticompetitive for U.S. workers, U.S. companies, and U.S. jobs. It amounts to a jobs bill for offshore employees. Yes, it is a real export promotion bill. The export of American jobs!

We can't continue to put more and more pressure on American employers. They need to be nurtured, not presumed guilty until proven innocent, as H.R. 1 does, as so much of our legislation and regulation does. Ever-increasing payroll taxes, reduced investment incentives, stifling regulations, and litigation, litigation, litigation. They are killing American businesses—making us uncompetitive. Jobs are lost when litigation's sword of Damocles threatens the very existence of American businesses.

H.R. 1 is a litigation nightmare. It is a litigation nightmare and it is unfair.

The President's bill is fair to all Americans. The only people who win with the Democrats' bill are the trial lawyers. America and American workers lose.

Mr. COYNE. Mr. Chairman, the House is considering a major civil rights bill that has been the subject of lengthy debate and compromise. Unfortunately, this important legisla-

tion is being judged by many not on its merits, but on its usefulness as a political campaign tool.

I believe the vast majority of Members and the American people agree that men and women should be protected from discrimination in the workplace. It is unfortunate that political rhetoric about "quotas" has succeeded in obscuring our view of this goal.

While the administration's bill is silent on this issue, the compromise language of H.R. 1 explicitly states that quotas are illegal. Not only are prohibitions against quotas codified for the first time, but the bill provides opportunities for a worker who is injured by an illegal quota practice to seek monetary damages. Still, some refuse to acknowledge that any effective action has been taken to address this issue.

It seems that some elected officials have become bewitched by the allure of using the quota issue on the campaign trail. They are willing to close their eyes to the meaningful steps taken by the bill's sponsors to clear away any suggestion of quotas from this legislation.

This year, members of the Business Roundtable and civil rights leaders were making progress on addressing many areas of concern about the effect of new civil rights legislation. As business leaders began to negotiate a resolution to these issues the administration was able to encourage business leaders to end their talks with the civil rights community.

When the administration is showing its "kinder, gentler face" it is willing to admit that the court went too far in creating hurdles for workers to overcome in proving job discrimination. Sadly, the same administration that discovered Willie Horton has discovered the battle cry of "quotas."

In 1989, the Supreme Court issued six separate rulings that effectively narrowed the rights of individuals to protection from workplace discrimination or harassment on the basis of sex or race. The Bush administration agreed with congressional leaders that the Court has gone too far, and has proposed its own legislation to restore much of these antibias protections. Unfortunately, the administration's proposals fail to provide women and minorities with the full protection of the law which they deserve as U.S. citizens.

Last year, the House and Senate succeeded in crafting a reasonable compromise civil rights package that would restore protection from job discrimination for U.S. workers. This bill, which passed the House by a vote of 273 to 154, stated explicitly that nothing in the bill would require employers to use hiring quotas. I voted for this bill. When President Bush became the first President since Andrew Johnson to veto a civil rights bill, I voted to override that veto. Unfortunately, the administration was able to successfully sustain its veto in the Senate.

The House Judiciary Committee has now once again reported a civil rights bill that effectively responds to the still present fact of discrimination in the workplace. H.R. 1 achieves this goal, and for the first time, establishes a statutory prohibition against quotas. I am proud to be a sponsor of this legislation.

H.R. 1 also provides victims of sex, religious, and ethnic discrimination with certain opportunities for legal redress which are now available only to victims of racial discrimination. In a long overdue response to the injury suffered by women and other victims of job discrimination, H.R. 1 would provide these victims of intentional discrimination the right to recover compensatory and, in egregious cases, punitive damages. Both workers and employers would be able to demand a jury trial. H.R. 1 is a fair and responsible compromise bill that places our Nation once again back on course in protecting the rights of all Americans.

The Congress must pass this legislation and be prepared to override the President's veto, which, if past practice is followed, will occur.

Ms. SLAUGHTER of New York. Mr. Chairman, the opponents of this bill have demonstrated that they are more concerned with creating civil unrest than civil rights. They have attempted to pit different groups of working Americans against one another at a volatile time when millions of our citizens are either out of work or worried about losing their jobs.

By using their politics of fear, opponents have sought to threaten the American public by falsely claiming that passage of a civil rights bill will determine who gets the opportunity to work in America.

The truth is, Americans have been losing their jobs in alarming numbers; 1½ million jobs have been lost since last July. Our current high unemployment rate is due to a Republican recession, not civil rights.

Opponents are using this civil rights bill as a smokescreen for an administration that has failed to meet the needs of working people. Once again, it is easier to use words to divide and deceive the American public than implement an economic policy to employ them.

Mr. Chairman, this divisive debate today reminds me of a similar debate on the Civil Rights Restoration Act in 1988. That bill—which eventually became law—prohibits discrimination by any part of an organization that receives Federal funding. Before final passage, however, opponents said many of the same things we are hearing today—namely that passage of this bill would "be the end of the world."

Let me cite for you what some opponents said on the House floor about the 1988 bill. One member, for example, proclaimed:

> If this bill becomes law, without doubt there will be an open floodgate of lawsuits, making it extremely difficult for small businesses to stay in business.

In fact, the Justice Department tells me that only 12 rulings have been made in 3 years. The floodgates did not open then, and they won't now. And can anyone name a business that failed as a result of the veto override in 1988?

Let me cite other dire predictions of 3 years ago. Another Representative predicted:

> This bill is going to result in the claim being made that a church in America must hire a professing homosexual who has the virus for AIDS because the claim will be made under the Arline decision that such a person fits within the definition of a handicapped person * * *

Citizens, prompted by organized letter campaigns, wrote to Members of Congress with misplaced fear about the results of the bill. One letter said:

> This bill is the greatest threat ever to religious freedom and traditional family values.

Another letter said:

> Homosexuals, drug addicts, alcoholics, and transvestites are "handicapped persons" by their own choice * * * But should schools be forced to hire them just because their chosen lifestyle has made them undesirable? * * * Should they have the same privileges as upright, law-abiding citizens?

Still another included:

> The next things they'll be saying is theft, rapists, murderers, etc., are an accepted life style and we wish to protect them, too.

Most of this rhetoric was ginned up by groups less interested in affecting public policy than in adding to their coffers by scaring citizens in order to make them contribute to their group.

In fact, I was pleased to note that 21 firms just withdrew from membership in the so-called Fair Employment Coalition because they could no longer abide the rhetoric put forward by the Coalition against the Civil Rights Act of 1991.

So today I urge my colleagues not to be swayed by all the misleading negative rhetoric. Look at history. Three years after passage of the Civil Rights Restoration Act, none of the dire predictions from opponents have come true.

It didn't happen then, and it's not going to happen now when we pass the Civil Rights Act of 1991.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in support of the Brooks-Fish, bipartisan Civil Rights Act of 1991. Opportunity in employment has been a key facet of American society since the civil rights movement first began. We are in a position today to reaffirm our commitment to equal opportunity and restore the status quo that existed before the six recent Supreme Court decisions.

For minorities and women, discrimination persists in America, and only through the application of fair laws will this problem be consistently addressed. Many people feel that the Brooks-Fish civil rights bill will lead to quotas. As a legislator committed to ensuring that Americans are hired due to merit, and not race, religion or gender, I will not vote for a bill which results in quotas.

I will vote, however, for a civil rights bill which stands on its own merits, due to the veracity of the reasoning behind its provisions and for the fair applicability of its provisions to the American public. I think the Brooks-Fish substitute does that.

I am concerned, however, that race, gender, disability, and religious motives for discrimination not be separated into categories or relative discrimination. Discrimination for whatever reason should be treated equally under the law; subject to the same judicial remedies and awards.

Creating a two-tiered approach to discrimination by placing a cap on punitive damages for women and the handicapped is undesirable. However, I do understand the need to craft a bipartisan civil rights bill that takes into consideration the concerns of the business

community and other groups which are worried that the Schroeder-Towns substitute could be misinterpreted as requiring hiring quotas.

Reluctantly, after weighing the pros and cons of the Towns-Schroeder proposal versus the Brooks-Fish bipartisan substitute, I have concluded that the bipartisan substitute has the best mix of protection against sex and race discrimination with the proper prohibition against hiring quotas. This, it appears, is the only way to pass a civil rights bill in today's Congress.

I am pleased that the Brooks-Fish substitute extends punitive damages beyond just victims of racial bias to include victims of sexual discrimination as well. The maliciousness of intentional discrimination must be countered with punitive damages for all individuals subjected to it by an employer, whether the bias targets minorities, women, the disabled or those with differing religious convictions.

The language is clear: If an employer "engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others," then punitive damages may be awarded. This does not mean that suddenly every employer accused of discrimination suffers massive lawsuits and fines. It does mean that employers shown to be determinedly and cruelly discriminatory will pay a significant financial penalty.

I am pleased that this civil rights legislation addresses the changes in America's workplace.

Women have become an ever-larger component of this Nation's workforce. The inclusion of women in the workplace should be matched by extending protections against sex discrimination. The Brooks-Fish substitute achieves this for the first time. Clearly, we have farther to go to truly achieve the proper protections against discrimination for minorities and women and this bill recognizes this.

I commend Chairman BROOKS and Representative FISH for their relentless drive to allay the concerns of those who are justly worried about quotas. The language of their legislation could not be more clear: With this bill there will be no quotas.

This substitute uses Supreme Court Justice Sandra Day O'Connor's definition of quotas, and explicitly outlaws them. It uses the business roundtables definition of "business necessity". This bipartisan compromise addresses all of the legitimate concerns raised by the business community and the administration.

The Brooks-Fish substitute even goes so far as to explicitly prohibit the use of quotas. If an individual of any race or sex believes that they were not hired or promoted due to a quota-hiring policy of an employer, then they may themselves sue on grounds of a reverse discrimination suite. This provision permanently lays to rest the spurious notion that advocates of this Civil Rights Act are in favor of quotas.

As a final word about quotas: For 18 years quotas were not used by the business community while the precise provisions of this law were in place prior to the Supreme Court decisions since 1986 which disrupted the status quo. Quotas will also not be used in the future after the Brooks-Fish substitute is passed.

Mr. MARKEY. Mr. Chairman, the mood of debate over the past weeks regarding the Civil Rights and Women's Equity in Employment Act of 1991, H.R. 1, has been an unpleasant one. The debate over this legislation has not centered around equal and fair rights for all working Americans. It has not focused on the dream of creating a society in which one's physical appearance or gender has no bearing on the measure of a person's abilities. This debate has been dragged into the quagmire of partisan politics and racial divisiveness. We must make an effort to maintain perspective on the issue at hand.

During the year 1989 the Supreme Court of the United States of America succeeded in altering adversely not only the employment opportunities, but the general employment environment for millions of Americans. These Americans were affected because they happened to be racial, ethnic, or religious minorities, disabled persons or women. A series of five decisions that year made defending against discrimination by an employer essentially a losing endeavor. In various ways, from placing the burdens of proof in discrimination cases on the employee to actually legalizing certain instances of intentional discrimination, these five decisions ensured that persons seeking justice against discriminatory action would be met by hostile legal interpretations in the courts.

The Civil Rights and Women's Equity in Employment Act of 1991, H.R. 1, seeks to redress the injury caused by these Supreme Court decisions. This legislation would overturn those five decisions and make any intentional discrimination in the employment process illegal. It would restore the burden of proof to the employer to show that business necessity required a practice that would have a disparate impact on an employee, and it would extend the statute of limitations for filing discrimination cases. This legislation would also allow for compensatory and punitive damages for the first time for women, religious minorities, and the disabled.

Today we are faced with a compromise measure, the Brooks-Fish substitute amendment, worked out in a bipartisan fashion designed to restore the rights of job discrimination victims while attempting to calm the unwarranted fears of the business community. I was in full support of the Towns-Schroeder substitute amendment to H.R. 1. The Towns-Schroeder substitute would not have included a ceiling on damages for women, the disabled, and religious minorities. Now we are asked to vote on the Brooks-Fish substitute when it includes such a ceiling. Despite my opposition to such a ceiling, I, nonetheless, must now support the Brooks-Fish substitute as the strongest version remaining that can correct the weakening effects of recent court decisions.

The Civil Rights and Women's Equity in Employment Act is legislation that will set meaningful equitable standards in employee hiring and treatment. This bill is not a threat to business or nonminorities in America. It is an attempt to create a level playing field for all Americans striving to exercise their inalienable rights to life, liberty and the pursuit of happiness through productive employment. I ask my colleagues to do the right thing, support this Civil Rights legislation.

Mr. MATSUI. Mr. Chairman, democrats are constantly being accused of trying to redistribute wealth—but the Civil Rights Act gets at the need to redistribute economic opportunity by eliminating job discrimination. As our Nation gears up to meet foreign trade competition from Mexico, Europe, and the Pacific rim, employers must clear away discrimination hiring and promotion practices that hinder companies from reaching their total potential in productivity and market competitiveness.

The legislation ensures that individuals are allowed the opportunities to employ their skills to their highest potential. Virtually everyone agrees that people should be hired for reasons based on "business necessity." Let ability be the criteria standard, not skin color, not gender, nor religious faith.

Throughout history, stereotypes and unfounded prejudice has hindered certain minority groups from attaining managerial and positions of executive decisionmaking. Displacing minorities from these higher positions has driven them to exercise their business savvy, customer relations, and creative ingenuity in small businesses. Current business trends demonstrate that they have ability. A disproportionately high share of minorities have started their own businesses. According to the Small Business Administration, Hispanic-owned business start-ups soared from 1982 to 1985 at six times the rate of growth for all businesses. Some 97 percent of United States small business entrepreneurs are engaged in service industries. We cannot hope to compete effectively in world trade so long as some our best and brightest talent are relegated to service industry jobs.

I want to emphasize that this debate is not just about civil rights. Employment discrimination has real economic impact. And it's tying one hand behind the back while we're fighting to reduce our trade deficit. Glass ceilings and employment discrimination don't just hurt women and minorities: They are also hurting our economy.

Mr. WEISS. Mr. Chairman, I rise in support of the Brooks-Fish substitute, although, I voted for the Towns-Schroeder substitute and believe that it, and the committee's original bill (H.R. 1), would better protect victims of discrimination. Given political realities and the need for a veto-proof measure, however, the Brooks-Fish compromise represents a practical alternative.

The Brooks-Fish substitute accomplishes the basic goals of civil rights legislation. It restores worker protections seriously weakened by five key 1989 Supreme Court decisions that narrowed the reach and remedies of employment discrimination laws. For example, the Brooks-Fish substitute overturns the Price Waterhouse decision, which implies that it may be permissible for employers to intentionally discriminate based on race, color, religion, sex, or national origin, as long as the discrimination was not the primary motivating factor in the action taken.

The Brooks-Fish substitute also overturns the Martin versus Wilks decision which permits endless, repetitive litigation challenging title VII consent decrees and thus discouraging settlement of title VII disputes by such decrees.

The Brooks-Fish substitute overturns the Supreme Court decision of EEOC versus

Aramco, handed down on March 26, 1991. It stipulates that the employment discrimination protections of title VII apply to Americans working overseas for American-owned or controlled companies.

The Brooks-Fish substitute overturns Supreme Court cases limiting awards of attorneys' fees in title VII cases, in order not to deny the dwindling group of attorneys willing to take title VII cases fair compensation.

The Brooks-Fish substitute overturns two key aspects of the Wards Cove versus Atonio decision. First, it restores the burden of proof to the employer to prove that an employment practice that has a disparate impact on women or minorities is required by business necessity. Restoring the burden of proof on the employer is both logical and consistent with general legal principles. Because the employer controls the employment process, it makes sense to hold them responsible for demonstrating the practice's business necessity.

The Brooks-Fish substitute also overturns Wards Cove by restoring the standard of business necessity that was established in Griggs versus Duke Power Co. While I favor the Griggs standard of business necessity over the nearly unprovable standard of Wards Cove, I much prefer the higher standard provided in the Towns-Schroeder substitute.

Notably Brooks-Fish substitute grants victims of discrimination based on gender, religion, and disability the right to collect punitive and compensatory damages, a right racial minorities already enjoy. However, it unfairly caps the amount that women, religious minorities and individuals with disabilities can collect.

The sponsors of the Brooks-Fish substitute have always argued that the reason for adding contemporary and punitive damages to Title VII was to ensure that victims of intentional job discrimination on the basis of gender, religion, and disability would be entitled to the same remedies that victims of intentional job discrimination on the basis of race already have under section 1981. Yet, by adding a cap on punitive damages to title VII, the Brooks-Fish substitute enshrines unequal remedies into the law because the cap will only be applied to women, religious minorities, and the disabled, whereas racial minorities face no cap under section 1981. The Brooks-Fish substitute, therefore, permanently condemns women, religious minorities, and the disabled to second class status. I much prefer the damages provision included in H.R. 1 and the Towns-Schroeder substitute, which both ensure equal treatment for all victims of intentional job discrimination.

While I favor the original Committee bill and the Towns-Schroeder substitute over the Brooks-Fish substitute, the Brooks-Fish substitute is an important civil rights bill that I will support. It will restore the pre-1989 reach and remedies of employment discrimination laws without establishing a quota system. Even though quotas are already prohibited by law, the measure explicitly prohibits the use of quotas by employers, stipulating that the use of quotas is an unlawful employment practice.

Nevertheless, the Bush Administration continues to mislabel this substitute a quota bill. This demonstrates its willingness to sacrifice civil rights legislation and the victims of discrimination for the sake of partisan advantages. The Administration's attempts to derail real civil rights legislation are inflaming racial tension and polarizing our society along lines of gender and skin color. Such tactics, though shameful, are not surprising when one recalls Republican racial strategies, such as Richard Nixon's in 1972, and epitomized by George Bush's Willie Horton ads in 1988.

I urge my colleagues to cast a decisive and principled vote for equality by supporting the Brooks-Fish substitute to the Civil Rights and Women's Equity in Employment Act. It is a compromise bill that deserves broad partisan support.

Ms. OAKAR. Mr. Chairman, the Equal Pay Act requiring equal pay for equal work, was signed into law in 1963. The following year saw passage of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, sex, or physical disabilities. Yet, the reality of the situation is that more than 25 years after passage of these landmarks pieces of legislation, inequities in the work place still exist. Individuals are still facing discrimination because of their gender, their race, or their national origin. Women constitute over 45 percent of the work force, yet they only make 63 cents for every dollar that men make. A woman with a college degree working full-time can expect to earn the same amount as a man with no more than an eighth grade education. I feel that it is time, once again, for the Federal Government to take the leadership role to secure economic justice.

I come before this House today to ask that the Civil Rights and Women's Equity in Employment Act of 1991 be strongly passed, allowing this country to regain some of the rights and protections that we thought we had originally won in 1963 and 1964.

I take special pride in this legislation because it includes a provision that deals with pay equity, an issue that I have championed since first coming to Congress. Pay equity has had a long history of support from the Congress, and the inclusion of H.R. 386, the Pay Equity Technical Assistance Act, in The Civil Rights and Women's Equity in Employment Act of 1991 further reflects the importance of this issue to Congress.

The goal of the pay equity provision is to make resources and assistance available to those employers who have decided to take steps to address wage inequities in their work places. This would be accomplished by calling on the Secretary of Labor to develop and establish a clearinghouse for the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities. This clearinghouse would operate under the auspices of the Women's Bureau which was established in 1923.

Currently, the Women's Bureau operates a "work and family clearinghouse" which was used as a model for H.R. 386. This work and family clearinghouse has an operating budget of $260,795 for fiscal year 1991, and it is expected that the pay equity clearinghouse would have a comparable operating cost.

Timely implementation of the clearinghouse would assist employers with the long-range planning that will be necessary to meet the challenges presented by changes in the workforce in the next decade. New demands on employers will be made by the shift of the economy to services, the expected labor shortage, international economic competition and workers balancing the requirements of job and family. More than ever, employers will need to concentrate on policies that will stabilize their work force.

By identifying, then eliminating wage inequities based on sex, race or national origin, employers can lessen recruitment and retention problems, such as the present crisis hospitals and health care facilities are experiencing due to the nursing shortage. Since women, people of color and/or immigrants will comprise 68 percent of all new entrants into the labor force between now and the year 2000, examining discriminatory wage-setting practices in the present makes good business sense. Many employers in the private and public sectors have expressed interest in achieving pay equity in the workplace, and I think that the Federal Government should encourage those initiatives.

The Civil Rights and Women's Equity in Employment Act of 1991 puts the country back on the right track. It moves us that much closer to ensuring that every man, woman, and child in America can freely pursue happiness because they are guaranteed the liberty our constitution demands for them.

Mr. SKAGGS. Mr. Chairman, America needs to regain the ground lost in civil rights as a result of recent Supreme Court decisions. The Brooks-Fish substitute amendment to the 1991 Civil Rights Act is the best way for us to do that.

A series of 1989 and 1990 Supreme Court decisions severely narrowed the scope and effectiveness of title VII of the Civil Rights Act of 1964 and section 1981 of the U.S. Code, the two main laws barring job discrimination. And at a time when our society is becoming ever more diverse, and its workplaces are reflecting that diversity, we can not afford to step backwards.

The civil rights movement, with the extraordinary courage and selflessness of its participants, changed this Nation, and changed it for the better. The struggle for equality for women has similarly changed the Nation and benefited our society. We are closer to realizing and recognizing the talents and strengths of that half of our population.

Americans have long expressed their respect for diverse religious views. But words alone do not guarantee respectful treatment. Our civil rights laws provided the legal assurance that religious groups not suffer prejudice. And last year, Americans who we call disabled, but who might more properly be called differently abled, gained their rightful status among those legally entitled to a place in the mainstream.

Title VII and section 1981 were building blocks in the long and often painful struggle to construct a more equal and more democratic society, with economic opportunities available to more of our citizens. These laws, and the Supreme Court decisions that enforced them, moved the country forward toward its goals of equality and mutual respect.

These laws are not perfect. They have not ended discrimination. Their implementation often has not been easy. But have they been right for America? You bet.

Mr. Chairman, we need to put the country back on the track of progress from which the High Court derailed us in 1989 and 1990. Passage of the Brooks-Fish substitute amendment will do so—it will put us back on course in our ongoing pursuit of equal opportunity.

I've been baffled by the President's insistence that this measure is a prescription for quotas. This substitute codifies the standards of the Griggs case, a Supreme Court decision under which this country lived and prospered from 1971 to 1989, an 18-year period of time in which, so far as I know, George Bush never once complained that the Nation's businesses were encumbered by hiring quotas.

The efforts made by the Judiciary Committee and the Democratic leadership have further alleviated the concerns of the President and others about quotas—by adding provisions on employer prerogatives, further defining business necessity to accommodate business concerns, requiring plaintiffs to identify specific employment practices in discrimination suits, and categorically outlawing quotas as an employment practice. These provisions more than meet rational doubts.

What more does the President want? Or is it that he really does not want a civil rights bill, that he's more interested in an issue to divide Americans and benefit his party's political agenda? Why did the President's chief of staff intervene to kill the efforts of civil rights leaders and the Business Roundtable to reach a compromise?

The administration makes an appeal to fear by talking about quotas. We talk about fairness and equality of opportunity and the promise for every American to share in the American dream.

This debate, and the lobbying that's attended it, has been diverted and distracted too much by an inaccurate, almost fictional, view of the scope and handling of discrimination cases in America prior to 1989. You would think, from the arguments offered up against this bill, that there were thousands of specious cases being brought and enormous money judgments being won by legions of unscrupulous civil rights lawyers. The facts are otherwise. These cases were hard to win, even before the recent court decisions. When won, the judgments have been modest.

It's a serious distortion to paint a picture of America that suggests that victims of racial, sexual or other discrimination are in the driver's seat of our legal or economic institutions. There's still a real struggle out there for equal opportunity. And all we're talking about is the removal of arbitrary, unwarranted impediments in the way of those who have the will and the abilities to participate and to succeed.

The issue of caps on damages available to victims of discrimination persists. Last year, I voted for a cap on punitive damages available in cases of discrimination based on sex, religion, or disability. Like many Members, I did so in pragmatic consideration of the views of the administration; I hoped the President would sign the bill. Similarly, the inclusion of a cap in Brooks-Fish is one more instance of the effort made by supporters of this bill to enact a law, not acquire a campaign issue. I look forward to the day when such pragmatic necessities yield to the better principle that equal remedies be available for all victims of discrimination.

Mr. Chairman, yesterday I joined a number of my colleagues in going to the Chinese Embassy to commemorate the second anniversary of the massacre in Tiananmen Square. We did so out of the belief that those who are free are trustees for those who are not, and are obliged to speak for them. As we spoke out for human dignity in China, we must also speak out for human dignity here at home.

Rights are not simply words stated in sacred documents like our Constitution. Rights are fragile expressions of what's best in human nature, and they have to be preserved by constant vigilance against our less noble instincts. We do that by passing and enforcing laws that express our unfolding vision of a decent and caring society. Let us move forward to ensure that those precious liberties first guaranteed as the cause of white men truly belong to all who call themselves Americans.

Mr. BUSTAMANTE. Mr. Chairman, this week we have the opportunity to move ahead in providing greater equality for all residents of the United States, no matter what their race, color, religion, sex, or national origin. Our country was triumphant in coming together as one in support of our military efforts in the Persian Gulf area, yet it seems to me an extreme irony that our country still struggles to come together to guarantee civil rights for all.

The Civil Rights Act of 1964 was a great step toward equality for all, but Supreme Court decisions of the 1980's were deplorable setbacks. By no means has the Civil Rights Act of 1964 advanced civil rights as expected, especially for our country's minorities. The interpretation by the Supreme Court of the rights presumably secured by the spirited efforts of so many courageous leaders illustrates the need to strengthen minority rights in the United States.

I believe we have the opportunity to overturn some Supreme Court decisions by supporting the Brooks-Fish substitute for H.R. 1. I support the Towns-Schroeder substitute as well; however, I would like to point out the Brooks-Fish substitute provides the strongest legal support preventing discrimination. Though job discrimination has no place in society to begin with, there must be practical and encouraging support for those who suffer from unfair employment practices. Unfortunately, recent civil rights rulings by the Supreme Court have unduly complicated the matter, by narrowing the scope of legislation designed to prevent workplace discrimination. Without the necessary support to override certain Supreme Court decisions the chances for minorities to have full equality will again be unnecessarily interrupted.

Mr. DE LUGO. Mr. Chairman, the debate on this civil rights legislation, from the Halls of Congress to homes across America, from conferences to committees, from the White House to corporate offices, has engendered the most significant political and social controversy of 1991. In Congress, we have seen an original bill, the original amended, the amended bill substituted three times, and now we debate the final version which, in all likelihood, will be vetoed by the President.

We have sought compromise but have seen efforts between labor and business leaders scuttled by the administration. We have altered this legislation to satisfy the majority of our Members, only to hear continuing threats of a Presidential veto. We have gone far indeed to achieve consensus on legislation whose goal is to insure harmony, equality, and fair play for all Americans.

Today, we debate on a bill that seeks to allow every American the right to work, to be chosen fairly for that work, and to work under conditions that are equal for all. We have quibbled over quotas, quarreled over testing, and squabbled over semantics, some designed outright to frighten rather than inform, to divide rather than unite.

The leadership of this House has worked sincerely and diligently to frame legislation to overturn 1989 Supreme Court decisions that severely reduce remedies for civil rights violations. This legislation explicitly prohibits that frightening word, quotas. This bill bans unfair employment testing. This legislation outlaws adjusting test results based on race, color, religion or national origin. This bill establishes but caps punitive damages. And this legislation meets business concerns about business necessity standards.

Mr. Chairman, I make a final appeal to this House to pass this important legislation which restores the balance in the business place, returns the ability of minorities in America to obtain equality if it is denied them, and renews faith that in our Nation, all men—and women—are created equal under the law.

As the Representative of the people of the United States Virgin Islands, a territory where racial harmony is one of the hallmarks of our cultural heritage, I urge my colleagues to vote in favor of this civil rights legislation, and to vote so firmly that any threat of a veto will be resoundingly denied.

Mr. DELAY. Mr Chairman, I rise in opposition to the quota bill. I am concerned that when we seek to outlaw the use of quotas, the definition of "quota" is unclear.

In a recent memorandum, the Heritage Foundation's resident expert on regulatory and business affairs, William Laffer, noted this problem. He wrote:

> The latest version of H.R. 1 ostensibly would prohibit the use of quotas. Its definition of a "quota" is so narrow, however, and it has so many loopholes, that the provision would be useless. While employers would supposedly be prohibited from setting aside a fixed number or percentage of positions for people of a particular race, color, religion, sex or national origin, they would be free to engage in other forms of preferential treatment.

As an example, Mr. Laffer says employees could be forced to give job applicants extra credit on employment tests for being black or Hispanic or could adopt a policy of always choosing a minority whenever two applicants are otherwise equally qualified.

Mr. Laffer states further that:

> An employer would be forced to use quotas as long as everyone hired met the minimum necessary qualifications to perform the job. And, while it might not be illegal for an employer to fire a department head for failing to meet a hiring quota, the employer could make department heads' bonuses, raises, and promotions contingent on achieving quota targets.

The problem remains that businesses face expensive lawsuits unless they hire employees under a quota system and ignore employment based on merit. America cannot become a color-blind nation until we end giving preferential treatment based upon color and not merit. This provision alone is enough to force me to oppose this bill.

However, there is another sinister provision in the bill which seeks to undermine our free market economy—comparable worth.

At the last minute, without any hearings, without any public debate, the Democrats inserted a provision in the quota bill to try and implement comparable worth.

Under comparable worth, we abandon our free market economic system and let bureaucrats decide wages and salaries for everyone.

The economies of Communist countries throughout the world lay in ruins. This is because bureaucrats, with a strong bias toward government interference in the marketplace, have little understanding of how free markets operate.

Government bureaucrats would mandate wages and salaries for all jobs based upon their subjective value of the job. Supply and demand would be removed from this wage setting scheme.

First, employers will be forced to hire according to statistical requirements. Then employers will be forced to pay according to a bureaucrat's belief. This bill will remove both merit and market from our economy.

I strongly urge all Members to oppose this bill.

Mr. KLECZKA. Mr. Chairman, today I rise in support of the Towns-Schroeder and Brooks-Fish substitutes to H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991, which has my backing as a cosponsor.

Much of the controversy over this measure arose from false charges that it is a quota bill. However, hiring by the numbers would not result from H.R. 1 or the two substitutes receiving my support.

The disparate impact provision in H.R. 1 that has been the target of quota charges merely restores the 1971 Griggs decision—a unanimous decision by the Burger Supreme Court. The landmark Griggs opinion held that employment practices which appear neutral, but in fact exclude qualified women and minorities disproportionately, are prohibited by title VII of the 1964 Civil Rights Act unless an employer can prove the practice is required by business necessity. Only practices significantly related to successful job performance may be used to exclude qualified individuals, according to the business necessity exception.

The Towns-Schroeder substitute retains the disparate impact language of H.R. 1. It is a matter of public record that after nearly two decades of experience under the Griggs law, prior to the 1989 Wards Cove ruling, no pattern of quotas was generated.

To improve chances for the bill's passage the Brooks-Fish substitute takes an additional step by making job quotas unlawful. To further placate opponents, the definition of quota used in the Brooks-Fish substitute was taken from a 1986 opinion written by Justice Sandra Day O'Connor—*Local 28 of Sheet Metal Workers* v. *EEOC*, 106 S.Ct. 3019—a Reagan appointee. The definition states a quota "would impose a fixed number or percentage which must be attained or which cannot be exceeded" and would do so "regardless of the number of potential applicants who meet necessary qualifications." The O'Connor definition spells out in plain English, for layman and lawyer alike, what a quota is. The Brooks-Fish substitute also just as clearly bans it.

As for title VII, the employment discrimination section of the 1964 Civil Rights Act, H.R. 1 would expand it so that for the first time certain minorities and women would receive the same treatment as victims of racial discrimination. This is the other major issue in dispute. Eliminating the unfair, two-tiered system of damages for intentional discrimination is long overdue, and has my full support.

Unlike title VII, section 1981 (an 1866 law) permits unlimited money damages for intentional racial bias. The Towns-Schroeder substitute also applies the section 1981 policy to practices banned by title VII. Malicious bias is no less harmful for people of color than it is for women, the disabled, ethnic or religious minorities. Given the pervasiveness even today of bias in the workplace, all intentional job exclusion should be addressed.

Unfortunately, the Brooks-Fish substitute imposes a $150,000 cap on title VII punitive damages, preserving a two-tiered system of compensation for victims of workplace bias. This portion of the measure is inequitable, but apparently necessary for passage of H.R. 1.

This Chamber must give civil rights restoration priority over the politics polluting this debate. Through our actions today, we can prove our commitment to job rights for all Americans by voting for what is right—and not what is expedient. I encourage my colleagues to vote for passage of the Towns-Schroeder and Brooks-Fish substitutes, and final passage of H.R. 1.

Mr. TAUZIN. Mr. Speaker, today as we consider H.R. 1, the Civil Rights and Women's Equity in Employment Act, the debate still turns primarily on the issue of employment quotas. This debate over quotas has been amplified by an attempt in the substitute authored by Chairman BROOKS of the House Judiciary Committee to define the term quota in order to clarify the practice which would be made illegal by the substitute. Unfortunately, the attempt at clarity has only further clouded the issue for many, including this Member.

The definition of quotas contained in the substitute is written in such a way as to imply, by one interpretation, the legality of employment quotas for qualified employees as opposed to those who might not be qualified. The reason for such an interpretation lies in the phrase which stipulates that an employer may rely on qualifications in making employment decisions—the phrase implies that as long as a prospective employee meets the minimum standards for job performance he is an acceptable job candidate and should be hired by the numbers. It indicates that the only employment quotas made illegal by the definition are those which would force the hiring and promotion of unqualified workers.

Chairman BROOKS in a colloquy with Majority Leader GEPHARDT has asserted on the floor that his own interpretation of the quotas definition contained in the substitute is that all quotas, those applicable to qualified as well as unqualified employees, would be made illegal by the language used in that definition. There remains a great difference of opinion on that point, however.

In a subsequent colloquy with this Member, Chairman BROOKS agreed to such language changes in the bill—obviously in conference with the Senate—to clearly conform the language of the definition of quotas with his own declared interpretation; that is, that employment quotas deemed illegal by the act would include quotas applicable to qualified as well as to unqualified employees. With such a language change, now agreed upon by Chairman BROOKS, the act would clearly declare that nothing contained in it would encourage nor mandate employment quotas, and the act would further make employment quotas of any kind an illegal employment practice. As such, any employee affected by such a quota would have a right of action for reverse discrimination, a right some members of the white majority in America have long desired.

With the assurance by Chairman BROOKS that the definition of illegal employment quota will be perfected to cover quotas affecting both qualified and unqualified employees, I have decided to vote for H.R. 1 as amended, in order to keep the process alive. I do so in the sincere hope that negotiations will continue to close the remaining differences between the proponents of H.R. 1 and the administration, so that the President may be presented with a bill which he can and will sign. I also do so with the caveat that I am not prepared to vote to override a Presidential veto if the remaining problems in the bill are not resolved. I speak of the following problems:

First, the problem of unlimited damages coupled with the new provisions for jury trials. I do not personally like punitive damages, and I do not support the notion of codifying the practice. But if juries rather than judges will, under the bill, decide these punitive damages, and if there are no real limits on how high the juries may award these damages, I believe the combination will prove legally deadly. Potential liabilities under the bill will either destroy employment opportunities in America, or will force employers to hire by the numbers—the very practice the illegal quota language is meant to forbid.

If juries will decide these cases and if the bill codifies the practice of awarding punitive damages, then real, not fake, limits must be placed upon those potential damages. H.R. 1 now contains, as everyone knows, a fake limit or "cap" on these punitive damages. That must be corrected.

Second, the problem of the language defining an employer's defense of "business necessity." The President's civil rights bill, H.R. 1375, restores the exact phrase of the Griggs decision on this point, specifically in stating that any given job requirement must have a "manifest relationship" to the "employment in question." H.R. 1 seeks to restore the Griggs decision on this point, but uses language composed of words found in Griggs, but pieced together in a new and uninterpreted phrase which declares that employment criteria "must bear a significant and manifest relationship to the requirements for effective job performance."

In order to restore the status of the civil rights laws of our Nation, as they existed prior

to the 1989 Supreme Court term, I believe the exact phrase used in Griggs and contained in H.R. 1375 should be used in H.R. 1. I will watch the conference carefully to determine whether or not an agreement can be reached on this point.

The President has made it rather clear that he will veto H.R. 1 unless those specific problems are resolved. I believe the interest of the eventual success of civil rights legislation this year, and perhaps for many years, requires that those problems be resolved.

Therefore, my vote today will be to keep the process alive. The process must now, however, include negotiations and agreement, or there will be no success in the end. There will only be retreat, failures, and politics as usual. Democrats blaming the President for the demise of civil rights reform, and Republicans chanting "quotas" to the ugly beat of a new Willy Horton political ad. It ought not end that way. We should find agreement and the President should be part of the agreement—I think Americans would be both surprised and appreciative if we did.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in strong support of President Bush's civil rights bill and in opposition to the latest Democratic version of H.R. 1.

Throughout my tenure in office I have championed human rights abroad and civil rights at home. In fact, I have voted in favor of every civil rights bill that has become law during the past decade, including the Voting Rights Act Amendments of 1981, the Civil Rights Restoration Act of 1988, the Fair Housing Act Amendments of 1988 and the Americans with Disabilities Act of 1990, which I also cosponsored. And today I will vote in favor of legislation to expand and enhance civil rights for women and minorities. I will not vote, however, for legislation that will clearly result in quotas.

Mr. Chairman, make no mistake about it, the Democrats' civil rights bill will force businesses to use quotas. To quote the former Democratic mayor of New York City, Ed Koch, "H.R. 1 is not a civil rights bill. It is a bill which will encourage quotas based on race, ethnicity, religion and gender."

Mr. Chairman, the President has offered a genuine civil rights bill—one that will foster civil rights without forcing quotas. Contrary to assertions by proponents of the quota legislation, the President's civil rights bill contains important provisions that provide extra protection for workers against both intentional and unintentional discrimination—without leading to quotas.

First, the President's civil rights bill reverses the Wards Cove decision which made it harder for employees to challenge hiring practices that unintentionally discriminated against minorities and women. Under the President's bill, the burden of proof in such cases would be returned to the employer, using the same standards of evidence that had been used successfully for 20 years prior to the Wards Cove decision.

Second, the President's civil rights bill will reverse the Patterson decision concerning discrimination in contracts by expanding the definition of "make and enforce contracts" to include "the making, performance, modification and termination of contracts and the enjoyment of all benefits, privileges, terms and conditions of the contract."

Third, the President's civil rights bill reverses the Lorance decision and specifies that, with regards to seniority systems, the statute of limitations begins to run when the violation occurred or on the date the employee is adversely affected.

Fourth, the President's civil rights bill would establish, for the first time, a right to file civil suits against employers on the grounds of harassment in the workplace based upon an employee's race, color, religion, sex or national origin.

Fifth, the President's civil rights bill raises the amount of money that may be recovered for expert witness fees to $300 per day, thereby providing victims of job discrimination another tool to prove their case.

Sixth, the President's civil rights bill extends the statute of limitations for cases brought against the Federal Government from 30 to 90 days.

Seventh, the President's civil rights bill contains provisions to apply title VII to the Congress, which is currently exempt from most federal antidiscrimination laws.

In addition, the President's civil rights bill outlaws the practice of race-norming by making it illegal to adjust the result of employment tests on the basis of race, color, religion, sex or national origin.

Mr. Chairman, the Democrats' latest version of H.R. 1 is not much different than last year's bill which the President vetoed, with the Senate sustaining his veto.

While the President's civil rights bill restores a fair balance between employee and employer rights, the Democrats' bill makes it virtually impossible for employers to defend themselves against any allegation of unintentional discrimination.

Under the Democrats' bill, any employee who can show that the composition of the work force does not exactly match the composition of the population, may allege that a group of unspecified employment practices has had a "disparate impact" on women and minorities. Employers would then be required to prove that each and every one of their employment practices is indispensable. In addition, the employer must prove that there is no other criteria that can be used for making hiring decisions.

Mr. Chairman, the only sure way for employers to prevent costly litigation and large damage awards will be to insure that the composition of their work force exactly matches that of the population—in other words hire by the numbers and establish quotas.

Despite their repeated protestations, the Democrats' bill does coerce employers to use quotas in hiring and promotion. The cynical and shallow attempt to include antiquota language will not work. Even the liberal Washington Post acknowledges that the Democrats' antiquota language won't work:

"We don't think the Democrats helped their cause by including in their bill a definition of quotas that, whatever its legal provenance, is a straw man. Quotas cannot be limited in definition to forcing employers to hire the unqualified; the question is whether, as among qualified applicants, they will have to hire by the numbers based strictly on race."

Further, in Sunday's New York Times, another liberal publication, columnist Steven A. Holmes also dismisses the Democrats' purported antiquota language:

"* * * because the civil rights bill defines quotas so narrowly, such programs would still be permitted, even though the measure's supporters say that they are explicitly outlawing quotas."

Mr. Chairman, the difference between the President's civil rights bill and the Democrats' quota bill are real and substantive. The Democrats' bill will force the use of quotas in hiring and promotion. The President's bill will provide new protections against both intentional and unintentional discrimination in the workplace without resorting to quotas. I urge all of my colleagues to stand up for true civil rights legislation and vote for the President's bill and against the Democrat quota provisions of H.R. 1.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were— ayes 264, noes 166, not voting 1, as follows:

[Roll No. 130]

AYES—264

Abercrombie	Cramer	Hall (OH)
Ackerman	Davis	Hamilton
Alexander	de la Garza	Harris
Anderson	DeFazio	Hatcher
Andrews (ME)	DeLauro	Hayes (IL)
Andrews (NJ)	Derrick	Hefner
Andrews (TX)	Dicks	Henry
Anthony	Dingell	Hertel
Applegate	Dixon	Hoagland
Aspin	Donnelly	Hobson
Atkins	Dooley	Hochbrueckner
AuCoin	Dorgan (ND)	Horn
Bacchus	Downey	Horton
Beilenson	Durbin	Houghton
Bennett	Dwyer	Hoyer
Berman	Dymally	Hubbard
Bevill	Early	Hughes
Bilbray	Eckart	Jacobs
Boehlert	Edwards (CA)	Jefferson
Bonior	Edwards (TX)	Johnson (SD)
Borski	Engel	Johnston
Boucher	English	Jones (GA)
Brewster	Erdreich	Jones (NC)
Brooks	Espy	Jontz
Browder	Evans	Kanjorski
Brown	Fascell	Kaptur
Bruce	Fazio	Kennedy
Bryant	Feighan	Kennelly
Bustamante	Fish	Kildee
Byron	Flake	Kleczka
Campbell (CA)	Foglietta	Klug
Campbell (CO)	Ford (MI)	Kolter
Cardin	Ford (TN)	Kopetski
Carper	Frank (MA)	Kostmayer
Carr	Frost	LaFalce
Chapman	Gaydos	Lancaster
Clay	Gejdenson	Lantos
Clement	Gephardt	LaRocco
Coleman (TX)	Geren	Laughlin
Collins (IL)	Gibbons	Leach
Collins (MI)	Gilman	Lehman (CA)
Condit	Glickman	Lehman (FL)
Conyers	Gonzalez	Levin (MI)
Cooper	Gordon	Levine (CA)
Costello	Gray	Lewis (GA)
Cox (IL)	Green	Lloyd
Coyne	Guarini	Long

Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NOES—166

Allard
Annunzio
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Boxer
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeLay
Dellums
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mink
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Russo
Santorum
Savage
Saxton
Schaefer
Schroeder
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Washington
Weber
Weldon
Wheat
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—1

Sisisky

□ 1230

Mr. KOSTMAYER changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under the consideration the bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, pursuant to House Resolution 162, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

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

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

Mr. BROOKS. 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 273, nays 158, not voting 1, as follows:

[Roll No. 131]

YEAS—273

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—158

Allard
Annunzio
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer

Darden
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Russo
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—1

Sisisky

□ 1255

Mr. WASHINGTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. SISISKY. Mr. Speaker, due to a long standing family commitment, I will be absent when the House considers the Civil Rights Act of 1991 this week. However, had it been possible for me to be here for this important vote, I would have voted in favor of the Brooks-Fish substitute and in favor of the bill.

As a supporter of a similar civil rights measure that passed this body last year and, as someone who believes strongly in equal opportunity for all Americans, I endorse the objectives of H.R. 1 and encourage my colleagues to do the same.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1790.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and that I may include extraneous and tabular material on H.R. 2506, the bill about to be considered.

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

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1992

Mr. FAZIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2506) making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not exceed 1 hour, the time to be equally divided and controlled by the gentleman from California [Mr. LEWIS] and myself.

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

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

□ 1259

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. 2506, with Mr. DONNELLY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, it is a pleasure to present H.R. 2506, the legislative branch appropriations bill for fiscal year 1992 to the House.

The bill and the report, House Report No. 102–82, were filed on Thursday, May 30, 1991.

I do not intend to go into every detail of this bill. The report and the bill have been available to the Members for several days, so at this point I will simply summarize.

I would before I begin, though, want to thank each member of my Legislative Subcommittee on Appropriations. First of all, my good friend and the ranking minority member, the gentleman from California [Mr. LEWIS] who has worked so diligently with me on this bill for the last 11 years.

The other members of the subcommittee: Messrs. MRAZEK, SMITH of Florida, ALEXANDER, MURTHA, TRAXLER, PORTER, and Mrs. VUCANOVICH.

Also, Mr. WHITTEN, the chairman of the full committee, is a member of the subcommittee. Mr. MCDADE, the ranking minority member is an exofficio member of the subcommittee.

I should also point out that we work very closely with the Committee on House Administration, and I also want to express my appreciation to the members and leadership of that committee, primarily the chairman, the gentleman from North Carolina [Mr. ROSE], and the gentleman from California [Mr. THOMAS], the ranking minority member of that committee; the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Kansas [Mr. ROBERTS], the chair and ranking member on the personnel and police subcommittee.

The gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from New York [Mr. WALSH], the chairman and ranking minority member of the Subcommittee on Office Systems and the gentleman from Pennsylvania [Mr. GAYDOS], and the gentleman from Ohio [Mr. GILLMOR], chairman and ranking member of the Accounts Subcommittee.

Then there is BILL CLAY, and BILL BARRETT, chairman and ranking member of the Subcommittee on Libraries and Memorials.

We also work closely with our dear friend Chairman FRANK ANNUNZIO and ranking member MICKEY EDWARDS of the Subcommittee on Procurement and Printing.

SUMMARY OF BILL

Mr. Chairman, the bill before the House totals $1.8 billion ($1,805,378) in budget authority for fiscal year 1992.

COMPARISON WITH FISCAL YEAR 1991

In fiscal year 1991, we provided $1.74 billion to the activities and agencies funded in this bill. I am excluding funds for the Senate which will be added when the bill goes to the other

body. The funding for fiscal year 1991 includes the funds in the regular bill, and the supplemental which was necessary for some of our operations.

The increase between 1991 and 1992 is $64.6 million ($64,575,474). That's an increase of only 3.7 percent.

We have had to constrain the legislative budget severely. The budget requested an increase of $353 million, which was trimmed by 82 percent.

COMPARISON WITH 602(b) ALLOCATION

Under section 602(b) of the Budget Act, our committee allocated $2.344 billion for the legislative bill. The bill before us contains $1.805 billion in budget authority. That means we are $539 million under the target.

However, if we add the $504 million that we have left for the Senate—which is their baseline—and then if we add the $34 million that we have been scored as an advance appropriation even though that money was appropriated in the fiscal year 1991 bill, we are within $1 million of our 602(b) BA target.

We did a similar analysis on our outlay target. Our calculation is that the bill is about $7 million under the 602(b) outlay ceiling. If we can hold that level in conference with the Senate, that will be a further contribution to deficit reduction that goes beyond the budget summit agreement.

COMPARISON TO BASELINE

Another measure of the bill is the extent to which we are close to the baseline estimate by CBO and the Office of Management and Budget.

The baseline is supposed to tell us what level of funding is required just to stay at the current level of services. That is, only an allowance for prospective COLA's, health and retirement contribution increases mandated by law, and an allowance for the inevitable increase in prices to acquire the same amount of pencils, computer paper, electricity, gas and oil, travel, and other routine expenditures.

The $1.8 billion in this bill is eight-tenths of 1 percent above that baseline.

That is true even though we had to add about $30 million to the bill to take care of a few projects that are absolutely essential, such as the $5.2 million deacidification project at the Library of Congress, removal of toxic PCB's and asbestos from the Capitol complex and the General Accounting Office building, and several small, but unavoidable maintenance projects.

COMPONENTS OF INCREASE OVER 1991

As I have pointed out, the bill contains $64.6 million more than the current fiscal year 1991 appropriation, including supplementals, and the advance appropriations provided in the 1991 bill. That increase over the current level can be explained by its five components.

First, mandatory items cause an increase of $82.1 million. These items consist of COLA increases paid to our employees, the normal merit and longevity increases, and increases in health and retirement benefits.

Second, the effect of price increases in contracts, rents, supplies and materials, and other normal expenditure items is about $25.8 million.

Third, we have provided a net increase of $1.1 million for mandated legislative requirements, the primary one being a proposed compression in the amount of time it takes for our Capitol police to reach the top step of their salary longevity ladder. That proposal is currently pending before the Committee on House Administration. The funds are in the bill if that proposal is enacted.

Since the increase necessary in those first three categories is $109 million, and we have only provided a $64.6 million increase overall, we had to reduce the final two components under the 1991 level by over $44 million to reach our mark.

There is a net reduction of $10.8 million in workload items.

Some workload items were increases, others decreases. Overall, there is a net decrease of the $10.8 million.

	Millions
Essential increases:	
Book deacidification	$5.2
LOC automation	1.0
Congressional printing	6.8
Decreases required to meet targets:	
Mail (net decrease under 1991 bill)	12.0
Police overtime and equipment	7.0
Position and base reductions at GAO	5.6
Depository library publications	1.4

Finally, a net reduction of $33.5 million in the fifth component of equipment, alterations, maintenance, and repairs.

There were a few repair, renovation, and equipment items that cannot be deferred. In the architect's budget alone, we denied over $58 million in projects. But a few things have to be done.

	Millions
Major essential increases:	
Library of Congress day care center	$1.0
PCB removal	2.0
Energy efficient lighting (1st installment)	1.0
Escalator and elevator repairs	0.5
Emissions monitors, pipe insulation, steamline repairs, other crucial maintenance	2.0
Asbestos removal and renovation at GAO building (continuing project)	6.8
Illustrative decreases necessary to meet target:	
Office equipment (House)	6.3
St. Cecelia's purchase (one time)	5.9
Capitol and office building maintenance	16.5
Talking book machines	8.5
GAO computer hardware and software	3.1

MAJOR ITEMS IN BILL

House of Representatives: We have allowed $709.2 million for the operations of the House. This is the budget baseline level, less a reduction of $16 million under the baseline for House mail. This is a $61.5 million increase over 1991. The components of the increase are +$5.3 million was allowed for benefits (retirement, health benefits, thrift savings); +$20 million for clerk hire; +$6.9 million for Committee employees; +$4.2 million for administrative staff salaries and expenses; +$6 million for various office expenses. Included is $80 million for House mail, a reduction of $13.4 million under the budget estimate.

Joint Items: We have allowed $80 million for Joint Items, including salaries of police, Joint Committees, the guide service, and the Attending Physician.

Architect of the Capitol: For the Architect of the Capitol, the bill appropriates $111.4 million. That's a reduction of $8.8 million below 1991. In addition to the one-time projects that we were able to eliminate because they were funded last year, we had to reduce annual and cyclical maintenance by $6.1 million, and allowed only one position. We did add $2 million to continue removing PCB's, and we added $2 million to continue the electrical wiring renovation at Cannon and to make structural repairs at the northwest corner of Cannon tunnel where there is a constant water seepage problem. We also provided $1 million for a major test of an electric energy retrofit program. We did allow some funds to rehabilitate space for a day care center for the Library of Congress. But by and large, this is a very austere year for our physical plant maintenance. Overall, we denied $58 million in projects submitted by the Architect.

I want to point out that we have been advised that the Palm House at the Botanic Garden (the glass enclosed central portion of the building) has to be demolished because it has been found to be structurally unsafe. We don't have the funds to replace it.

Congressional Research Service: $55.7 million is allowed for CRS, the CBO baseline. That may necessitate a reduction in services, even though the baseline is generally understood to be the current service level. Certainly, CRS will have to hold open a number of vacancies to meet this tight budget level.

Library of Congress: $248.5 million is allowed for the Library of Congress in several accounts. We allowed $5.2 million and 10 positions to finally begin the task of deacidifying the 15 million books in the Library's collections that are deteriorating due to the high acid content of the paper. We also added $1 million for automation, and funds for the equipment needed to equip the day care center. In order to finance these essential items, we had to go into the Library's operating budget and reduce it by $3.5 million.

Government Printing Office: We have provided $116.3 million for printing and

distribution of congressional documents and for the operation of the depository library program. The funding provides $3.5 million for a recent increase in GPO page rates, $3.2 million for an expected increase in the volume of congressional printing, and $3.6 million to begin paying off a $17.6 shortfall in what we owe GPO for our printing bill from previous years.

General Accounting Office: For the GAO, there is $440.9 million, plus $6.2 million in building rental collections. We had to add $6.8 million to keep the asbestos removal and renovation program going at the GAO building ($114 million total cost of project). In order to continue that program and meet our target, we had to reduce the employment base by 38 positions, block another 41 positions, and make a base reduction of $5.6 million.

LEGISLATIVE BRANCH STAFFING

Of the 245 new permanent positions requested, a net increase of one new position has been allowed. Also, funding is allowed for 41 blocked, unfinanced positions already authorized at the Library of Congress, but that increase is canceled out by blocking 41 currently authorized positions at GAO.

GENERAL AND ADMINISTRATIVE PROVISIONS

There are several housekeeping provisions in the bill, most of which have been contained in previous bills. The new ones cover equipment charges, a funds transfer to pay for leased space, adjustments in a few staff salary ceilings, and performance awards. We also have included language which authorized the House to operate its day care center.

MAINTAINING THE 1991 LEVEL OF OUTPUT

Mr. Chairman, I have often said the legislative branch is just people and computers. The Members and staff of the House and Senate are paid salaries by the American taxpayer. We have excellent assistance from the CBO, OTA, General Accounting Office, the Congressional Research Service, our Government printers, our maintenance and custodial people, and a few other small entities. Plus we have the Nation's library, the Library of Congress.

Our assets and our capability in this branch of Government are our people. And they need, just like office workers everywhere, computers, calculators, telephones, the ability to send and respond to mail, fax machines, and a variety of communication devices.

The charts in the Speaker's lobby tell the story. They were prepared by the Congressional Research Service from data collected on fiscal year 1990 expenditures and salary data generally. One chart is a pie chart, and it documents my point precisely. The personnel expenses of the legislative branch consist of 50 percent of this bill. Fifty cents of every dollar in this $1.8 billion appropriation is for the salaries of our staff resources for the legislative branch of Government.

The second chart in the Speaker's lobby documents the reality of paying our staff. To typify a legislative employee, we used the average clerk on a Member's payroll who makes about $25,000. When you add the health and retirement benefits and last January's COLA, and next January's COLA, and a modest allowance for merit increases, that $25,000 employee's total cost in fiscal year 1991 would be $31,204.

That same employee will require $33,368 in the fiscal year 1992 bill, after the COLA, a probable increase in health or retirement costs, and perhaps another very small merit increase.

That means this bill must have a 6.9 percent increase in personnel compensation just to pay the current staff. That allows no growth in staff.

That works out to an increase of about $60 million.

The balance of the bill, primarily computers, telecommunications, maintenance, and a small element of capital improvements, primarily is driven by price levels in general.

If we assume a modest 4 percent increase in projected prices—which is consistent with OMB projections—that would be another $35 million.

So in order to just stay even with this year, our appropriation in this bill would have to increase by $95 million over the fiscal year 1991 level.

Our bill is up by only $64.6 million, or only 68 percent of the level necessary to maintain our current level of services. We have reduced this bill that much in order to meet our budget target.

I think that is a remarkable achievement.

And I don't think you will find anything even remotely comparable in the executive branch.

Their salary and expense budgets will go up by amounts far in excess of the 3.7 percent in this bill. If you want further savings, let's first bring executive agencies down to our modest level.

COMPARISONS

In conclusion, Mr. Chairman, we have developed some interesting comparisons.

Since 1978 the legislative appropriation has grown at an average annual rate of 5.6 percent. The executive budget has grown at an annual rate of 8.3 percent. The CPI has grown at an annual rate of 5.6 percent. That means the legislative branch has just about stayed even in real terms while the rest of the Federal budget has grown at an annual rate about 48 percent higher.

This bill is only 3.7 percent higher than the overall budget authority provided in the 1991 bill.

We have tried to protect core legislative functions. Members can be assured we have trimmed the maximum, but the House will have the funds needed for essential operations. There is no need to apologize for this bill, or to make meat ax reductions.

I urge an aye vote for the bill.

□ 1300

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

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is approximately a decade that I have been working on this bill with my colleague, the gentleman from California [Mr. FAZIO]. It seems that maybe on that 10th year anniversary it is appropriate for me to mention to the House that the work of this subcommittee not only addresses itself to the pure appropriations whereby we operate the Congress and its related agencies, the support agencies, but we very much as well affect some of the fundamentals that make up the interworking of the House.

The chairman of the subcommittee has played a very, very significant role in seeing that the funding that is available for our office staff, official expenses, as well as the Members themselves.

I might mention further that the gentleman has played a very key role in making certain that the facilities of the House, namely, the Capitol Building itself, is kept up in a reasonable manner. That was long overdue before the gentleman became chairman of the subcommittee. I might mention to the Members that when the gentleman from California [Mr. FAZIO] and I arrived here, there were 20-by-20 inch pillars in the west front of the Capitol that had been holding up that part of the building for some 20 years. It was this subcommittee chairman who was willing to bite the bullet and put together a sizeable package of some $45 million needed to renovate that portion of the Capitol.

Mr. Chairman, while the legislative branch appropriations bill provides the funding for the House in this year, in my own judgment we have gone forward on a very conservative basis. On the total appropriations of $1.8 billion, of which $1.1 billion is for the congressional operations themselves, it is important to note that the remaining 40 percent of the bill, $728 million, is for the operation of other legislative branch related agencies. That is a reduction of 13.8 percent or $288.3 million under the budget request.

□ 1310

Over the 1991 appropriations, there is an increase in total of $64.6 million. Not included in this bill, but scored against it, is some $29.9 million that actually was appropriated in the 1991 fiscal year. The bill reflects, thereby, an increase of only 3.7 percent over the 1991 years.

Within the bill, the Architect of the Capitol, as the gentleman from California [Mr. FAZIO] indicated, has come under serious scrutiny. The bill allows

for $111.4 million, which is a reduction of $8.8 million below the 1991 baseline.

Any number of other areas of responsibility of the legislative branch will come under serious scrutiny today. I might mention to Members that indeed our ability to expedite our work on this bill today will very much depend upon the kind of rhetoric we decide to go forward with as we amend various sections of the bill. It has been a pattern in the past that a number of Members have enjoyed themselves demonstrating that we as Members of Congress are willing to cut our own appropriations.

There are a number of areas that could be addressed for possible reductions. Indeed, if we are willing to, if we address those amendments one by one in a relatively moderate way, it is conceivable that we may not only complete the bill at a much earlier hour than expected, it is my own judgment it is possible that we might adjourn in time to enjoy the President's barbeque.

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

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from California [Mr. PANETTA], a member of the Committee on House Administration.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2506, the legislative branch appropriations bill for fiscal year 1992. This is the third of the 13 annual appropriations bills. Again, I commend the gentleman from California [Mr. FAZIO], the chairman of the subcommittee, and the ranking member, the gentleman from California [Mr. LEWIS], for adhering to the limits established by both the budget resolution and the budget agreement, as well as the allocations provided through the appropriations process.

The bill provides $1.839 billion in discretionary budget authority and $1.836 billion in discretionary outlays. This includes $34 million in budget authority provided in the 1991 bill which has been scored, for budget scorekeeping purposes, as advance appropriations for 1992. I am pleased to note that the bill is $505 million below the level of domestic discretionary budget authority and $481 million below the domestic discretionary outlays as set by the 602(b) spending subdivision for this subcommittee. I also note that, in keeping with tradition, Senate items are excluded from this bill.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its other bills.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 3, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2506, the Legislative Branch Appropriations Bill for Fiscal Year 1992. This bill is scheduled to be considered on Wednesday, June 5.

This is the third regular Fiscal Year 1992 appropriations bills to be considered and the bill is below the 602(b) subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

Attachment:

FACT SHEET OF H.R. 2506, LEGISLATIVE BRANCH APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102-82)

The House Appropriations Committee reported the Legislative Branch Appropriations Bill for Fiscal Year 1992 on Thursday, May 30, 1991. Floor consideration of this bill is scheduled for Wednesday, June 5.

Comparison to the 602(b) Subdivision

COMPARISON TO DOMESTIC SPENDING ALLOCATION

The bill, as reported, provides $1,839 million of discretionary budget authority, $505 million less than the Appropriations 602(b) subdivision for this subcommittee. This includes $34 million in budget authority provided in the 1991 bill (P.L. 101-520) which has been scored, for budget scorekeeping purposes, as advance appropriations for 1992. The bill is $481 million under the subdivision total for estimated discretionary outlays. In keeping with tradition, Senate items are excluded from the House bill. A comparison of the bill with the funding subdivisions follow

[In millions of dollars]

	Legislative branch appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	1,839	1,836	2,344	2,317	−505	−481
Mandatory[1]	81	81	81	81		
Total	1,920	1,917	2,425	2,398	−505	−481

[1] Conforms to the Budget Resolution estimates for existing law.

BA = New Budget authority.
O = Estimated outlays.

Following are major program highlights for the Legislative Branch Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
House of Representatives, salaries and expenses	709	684
Congressional Budget Office (CBO)	22	20
GPO—Congressional Printing and Binding	90	78
Congressional Research Service	56	50
Library of Congress, salaries and expenses	194	142
General Accounting Office (GAO)	441	384

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. LEWIS of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, This is my first year on the Appropriation Committee and I feel very fortunate to have been assigned a seat on the Legislative Branch Subcommittee. It is a privilege to serve with such distinguished Members as the chairman, VIC FAZIO and the ranking member, JERRY LEWIS. I would like to commend them for their hard work on this bill. This is always a controversial piece of legislation and Mr. FAZIO and Mr. LEWIS have worked hard to bring a fair and balanced bill to the floor.

Mr. Chairman, this year's bill is no exception. The bill would appropriate $1.8 billion for the operations of the House and other congressional agencies in fiscal year 1992, such as the Library of Congress, General Accounting Office, and Government Printing Office. Although this is about $65 million or 4 percent more than this fiscal year, it is $288 million or 14 percent less than the amount requested.

This is, by its very nature, a difficult debate. I would like to point out, however, that the restrictions we put on House Members' use of taxpayer funds for mass mailings last Congress appear to be reducing the cost of the frank. For fiscal year 1992—an election year—this bill includes $80 million for mailing costs. The figure for the past 4 election years ranged between $96 million and $114 million. In addition, there are no additional funds for the fiscal year 1991 franking appropriation of $59 million. This is one of the first years when we have not been embarrassed by a shortfall of funds.

Let me also point out that this bill contains no funds for Members' salaries. Salaries for Members are paid out of a permanent appropriation for the compensation of Members.

Appropriations for the Architect of the Capitol total $96 million, $3 million less than the 1991 appropriation and $44 million less than the amount requested. Although the committee understands the historical importance of this magnificent building, the report directs the Architect to sort out his priorities in future budget presentations, so the committee will have a more reliable estimate of essential activities.

Mr. Chairman, on the whole, I support this bill and I urge my colleagues to do the same.

I know that this is an easy bill to criticize but this funding is necessary for the efficient operations of the House. A lot of hard work on both sides, has gone into this bill and I urge passage of H.R. 2506.

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

Mr. Chairman, I would like to thank the gentlewoman from Nevada [Mrs.

VUCANOVICH] for her comments and for her general participation in the work of the committee. I would also like to simply say to the gentleman from California [Mr. LEWIS], how much I not only enjoy working with him, but I appeciate the leadership he provides. He really is a true partner in the way this bill is drafted and managed, and it has been a great privilege to spend the last decade working on these issues, issues that are really important to this institution and to the people of this country.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would echo the comments of the gentleman from California [Mr. FAZIO] that the time we have worked together on this bill has been among the most satisfying experience in my professional career here. There is no doubt that the work of this subcommittee is very important to the House. While controversial, it is a fact of life that the House of Representatives needs professional personnel. Indeed, we need facilities to allow us to adequately carry forward the people's work. So the decade or so we have worked together in this bill has been very rewarding for me as well.

Mr. McDADE. Mr. Chairman, I rise in support of the legislative branch appropriation bill, and I commend the chairman and ranking members of the subcommittee, in particular, for their work. Theirs is a thankless task and one which is of little positive impact back home in their districts. But their colleagues know and appreciate what they are doing.

Mr. Chairman, the legislative branch bill is the third fiscal year 1992 appropriation bill brought before the House this year. Once again it makes clear that the Budget Enforcement Act of 1990 does impact the appropriations process. It has imposed considerable discipline; spending constraints are real and they are difficult.

This is the only appropriation bill which funds one of the three branches of the Federal Government in its entirety and only that branch of government. The funding for that branch, the people's branch, totals $1.8 billion. It contains $1.1 billion, or 60 percent, for actual operations of the Congress—excluding Senate items—and, $728.8 million, or 40 percent, for the functions of other agencies such as the Library of Congress, the Government Printing Office, the General Accounting Office and the Botanic Garden which are not specifically related to the Congress.

The total appropriation provided in this bill, $1.8 billion, represents a $288.3 million, or 13.8 percent, reduction to the budget request. The bill is under the subcommittee's section 602(b) allocation by $539 million, and is over the 1991 appropriation by $64.4 million, or 3.7 percent. Mr. Chairman, not included in this bill, but scored against it is an advance appropriation of $34 million.

Mr. Chairman, this bill holds the line. The subcommittee had some difficult decisions to make and they did so as a team. The committee has reported a balanced, fair and disciplined bill. I urge my colleagues to support it.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of the legislative branch appropriations bill for fiscal year 1992. This bill is a fiscally responsible piece of legislation which will limit the potential for growth in legislative branch expenditures. It is the product of a very rational and systematic process of reviewing in detail every budget request from the entities comprising the legislative branch. The bill, as skillfully crafted by the Subcommittee on Legislative Branch Appropriations, prudently balances the demand for fiscal restraint in the expenditure of public funds with the critical need for the legislative branch to discharge its constitutional responsibilities in an effective manner. Consequently, I commend the chairman of the subcommittee, Mr. FAZIO, the ranking minority member, Mr. LEWIS, and the members of the subcommittee for their hard and thoughtful work.

The recommended total new budget authority for fiscal year 1992 is only $64,575,474 more than the total amount available for fiscal year 1991. Furthermore, the recommended total amount for fiscal year 1992 is $288,313,000 less than the sum total of all the budget requests from the respective legislative branch entities. In effect, the total of all the requests was cut by 13.8 percent. Thus, the recommended total appropriation for fiscal year 1992 is very reasonable and it certainly cannot be considered as excessive in any way. In other words, the subcommittee has presented to the house a true product of fiscal restraint and prudence.

In terms of understanding the relationship of the pending appropriations bill with the legislative branch budgets approved over the past several years, the committee report is very instructive. Since 1978, a year in which legislative branch operations stabilized, the legislative branch budget has remained approximately the same in real terms. As the report indicates:

The average growth since 1978 has been 5.6 percent per year, the same as price levels measured by the consumer price index. Congressional operations, title I of the bill (and adding the budget estimates for the Senate), also have been restrained, growing at only 5.9 percent annually. During the same period, the executive branch has averaged an 8.3 percent annual rate of growth, an increase in real dollars at an annual rate of 48 percent higher than the legislative budget.

Finally, I strongly urge my colleagues to support this bill. It is a very responsible allocation of Federal funds. In particular, I would recommend against supporting any indiscriminate across-the-board cut. Approval of such a cut would seriously negate the careful judgements made by the appropriations subcommittee during its meticulous budget review process. In fact, the adoption of such an amendment would impair the process itself and it would lead to unforeseen consequences. It would be a defeat for the House's effort to apportion its funds in a fiscally responsible manner.

Mr. CLAY. Mr. Chairman, the Appropriations Committee is to be commended for providing a responsible legislative appropriations bill. In fiscal year 1992, the legislative appropriation would be $1.8 billion, which represents a $64.5 million increase over the fiscal year 1991 appropriation, an increase of only 4 percent. This legislation appropriately accommodates the basic needs of this body while remaining well within the budgetary constraints faced by all Federal agencies.

Additionally, in my role as chairman of the Franking Commission, I would like to commend the committee and Mr. FAZIO for the fine work he has done in the area of reformed control of official mail costs.

Finally, I would like to state my strong opposition to the Lewis amendment, requiring House committees to pay for GAO detailees. It is important that we recognize the chilling impact that such a requirement would have on the effectiveness of this body. The majority of the congressional committees are understaffed and lack expert investigatory support on certain issues. For these reasons Congress recognized more than 20 years ago the importance of GAO detailees to its operations. The need for GAO detailees is just as strong today as it was then.

I urge my colleagues to oppose the Lewis amendment, an amendment that would serve to cripple the oversight and investigatory functions of this legislative body.

Mr. LEWIS of California. Mr. Chairman, I have no futher requests for time, and I yield back the balance of my time.

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

The CHAIRMAN. All time has expired for general debate.

The Clerk will read.

The Clerk read as follows:

H.R. 2506

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 Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $709,001,000, to remain available until expended, as follows:

AMENDMENTS OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer six amendments, and I ask unanimous consent that they be considered en bloc. Furthermore, I ask unanimous consent that other amendments on pages 1 through 7 of the bill be considered after my amendments.

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

Mr. FAZIO. Mr. Chairman, I reserve the right to object.

The Clerk read as follows:

Amendments offered by Mr. SANTORUM:

Page 2, line 8, strike "to remain available until expended,".

Page 4, strike line 22 and all that follows thereafter through page 5, line 2.

Page 6, strike lines 14 through 18.

Page 6, line 23 through line 24, strike "'"HOUSE LEADERSHIP OFFICES"

Page 6 Through Page 7, Lines 24 Through line 3, Strike "COMMITTE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (HOUSE INFORMATION SYSTEMS)", "CONTINGENT EXPENSES OF THE HOUSE",

Page 7, Lines 3 Through 6, Strike "OFFICAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES"

□ 1320

The CHAIRMAN. Does the gentleman from California reserve a point of order?

Mr. FAZIO. Mr. Chairman, we have just received copies of the amendments and at the moment we are still analyzing them. I am not sure that I have a right to object, but I do want to consider whether they should be allowed en bloc.

The CHAIRMAN. The gentleman from California reserves the right to object.

Mr. FAZIO. Mr. Chairman, I continue to reserve my right to object.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I will try to clarify for us. I believe what the gentleman from Pennsylvania [Mr. SANTORUM] is trying to accomplish here is while he puts his amendment en bloc, because he is addressing those sections, he will not stop another Member who wishes to present an amendment later that deals with one of the sections that is involved.

It is an amendment that we presumed would be considered. So frankly, I do not think there is a problem.

Mr. DINGELL. Mr. Chairman, reserving the right to object, until we know what the different amendments might be that are included in this unanimous consent request with regard to en bloc, I would have to object.

The CHAIRMAN. There is a possibility of a pending point of order.

Mr. DINGELL. Mr. Chairman, I would like to know about that, too.

The CHAIRMAN. Does the gentleman from Michigan make a point of order?

Mr. DINGELL. Mr. Chairman, at this point I do not, but I reserve one.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] reserves the right to make a point of order.

Mr. LEWIS of California. Mr. Chairman, I can assure the gentleman from Michigan the amendment involved is not one that he is concerned about in a direct way.

Mr. DINGELL. Mr. Chairman, if the gentleman would permit, I feel very much affected by a lot of amendments that I gather might be offered today, and I would like to know what they all are before I become more cooperative. But I do withdraw my reservation.

Mr. LEWIS of California. Mr. Chairman, it is my understanding that the amendment he is concerned about is the one that addresses the official mail cost. We are going to deal with that amendment sooner or later anyway and so he is suggesting he does not want this en bloc to block that other amendment.

Frankly, if we could agree upcn that, I do not think there would be a problem.

Mr. FAZIO. Mr. Chairman, is the gentleman's amendment simply directed towards the transfer of funds issue solely and only?

Mr. SANTORUM. Mr. Chairman, that is exactly right. It is reprogramming the funds.

Mr. FAZIO. Mr. Chairman, so the amendment that he wishes to take up en bloc, which is all in order, as I read it, is simply directed at that only?

Mr. SANTORUM. That is correct.

Mr. FAZIO. Then I would not object, Mr. Chairman, and I withdraw any reservation of objection.

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

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SANTORUM] is recognized for 5 minutes in support of his amendments.

Mr. SANTORUM. Mr. Chairman, I, too, want to pitch in on my part, and I commend the gentleman from California, Mr. FAZIO and Mr. LEWIS, for the job that they have done on this appropriations bill. As a new Member, one of the things I like to do is read the bills and try to find if there is anything there that I object to. And while there are certain things that I do object to, by and large I think they have done a very fine job.

As a new Member, I was elected, obviously, to represent my constituency. And one of the things that I heard loud and clear during my election is that we have got some things in the Congress that we are not particularly happy about. I do not think I ran as a Congress basher, and I do not think that I ran as the gentleman from California [Mr. FAZIO] said, to save the Congress and am in fact trying to destroy it. I think frankly the system is doing a pretty good job of destroying itself right now, and what I would like to do is see what I can do about pitching in to bring things aboveboard and let people know exactly what is being done here.

Again, I commend the gentleman from California for the job he has done by and large, but that does not mean that we are all perfect and that there are not changes that can be made along the way. That is what I am hoping to do here.

Let me say that what I am not doing in this amendment is attacking the budget amount. That is not a concern of mine. What I am saying is that we should live within our budget. And that is exactly what this amendment does.

It says that if we live within our budget and we spend at or less than the amount, then the money, a Member can spend that money but if a Member spends less than that amount, the money does not go into some fund to be spent for some other purposes that we know not what. But the money would go back to the Treasury, would go back to the taxpayers to reduce the Federal deficit. That is all my amendment does.

It says that the moneys appropriated for whatever function of the legislature should go for that function. And if it is not expended, then the money should go back to the Treasury to reduce the Federal deficit. To be lapsed back. It should not go into some account managed by the Speakers, the leaders, whomever, to be spent in a way that they see fit. I think that that is inappropriate. I think that is something that the people in America would not like to see done with their taxpayers' dollars.

They would like to see where it is budgeted and spent for that purpose. That is what this amendment does.

I am confident that this type of radical reform is generally well accepted here in the Congress since we have been doing it for many, many years. And it has only been in the last couple years that we have created this system that allows unspent funds to be kept in house to be used for other purposes.

If I can give an example of how this money is being spent for other purposes and what I am aware of is that this recent increase that we got in our clerk hire account was a result, this $40,000 increase was a result of funds being reprogrammed, unused funds being reprogrammed and divvied back out to the Members. I have been asked by Members who I am asking for support on this whether I have accepted that money. My answer is, "Heck, yes, I have." Because if I do not accept that money, it is just going to go back to the leaders for them to spend in some other way. So I guess the answer is, those of us who want to be somewhat responsible and restrained in using our account really find ourselves in a catch-22. If we do act responsibly and restrain our spending, then the money goes back to the leadership for them to use for whatever purposes they want to use it for. And so we are forced in a situation to spend our money or give it back to someone to use it for another purpose.

I think I should have the option, as a Member of Congress, to either spend my money for the purposes of the district that I represent or the money should go back to the Treasury to the people who paid those taxes in the first place.

That is what my amendment does. I seek the support of both sides of the aisle.

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

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment.

I really do appreciate the fact that the gentleman from Pennsylvania [Mr. SANTORUM] has offered this amendment because I think it is very important to clear up a number of misunderstandings that are typical and which sort of feed upon themselves from one Congress to another.

We have always had this question of whether there is a Speaker's slush fund somewhere where all the money that is not spent ends up going. And then of course the Speaker, the story goes, has the unilateral authority to decide how these funds are spent.

Nothing could be further from the truth. There is a very clear process which the gentleman from California [Mr. LEWIS] and I use to reprogram funds. It is the same process that is used in other appropriation, and it is certainly something that is a great aid and assistance to any agency of the Federal Government that is trying to make the best use of their resources.

Let me begin with a little bit more information for the gentleman from Pennsylvania [Mr. SANTORUM] because I think this is important. I do not want to repeat myself but I do think there is some basic information that we have to get across here. We do not appropriate the full amount of funds authorized for either clerk-hire or for a Member's office expenses. We already know that many Members will not fully expend those allowances.

So we have already reduced the appropriation from the authorized amount to what we think is a reasonable expectation.

For example, clerk-hire in this bill is funded at 93 percent of the authorization and at only 82 percent if you factor in the $75,000 transfer from their office account allowance that Members are authorized to move into that account should they make that decision.

Members' office accounts are only funded at 91.9 percent and at 67 percent, if you factor the transfer in.

So if Congressman A, as your material refers to does not spend his full amount, he or she can truly say that the unspent funds will stay in the Treasury or, more likely, will be spent for something else since we are in a deficit. But they do not come to the Hill. They do not come to our coffers. They stay in the Treasury. You are drawing on that.

So there is no loose money slipping around from one account to another. One would think that from hearing the arguments that we routinely use clerk-hire funds or Members' office accounts for other purposes, that we are somehow engaging in a sleight-of-hand. That is not the case.

For those who are concerned about this so-called slush fund, we have looked at our records for several years and found not one instance where those Members' clerk-hire funds have been utilized elsewhere.

□ 1330

There have been several instances when we have had to transfer savings, however, into Members' clerk hire, since we had not provided enough in those instances obviously for cost of living adjustments to give our staff, the same increase that other Federal agencies give their employees. In three instances, for example, we used excess office account funds to make up deficiencies in the clerk hire account, but that is only right, because under the rules, Members are allowed to transfer, as some may know, from office account to salaries. Therefore, we needed to have the flexibility to transfer the funds.

We did transfer $6 million in fiscal year 1989 from office account funds to purchase the new telephone switch and related equipment. That was one of the best investments we ever made, and the life-cycle savings from that investment are going to be somewhere in the neighborhood of $26.6 million. I think technology will be even more important to us in the future.

We have also used surplus office account funds for equipment for Members' district offices in the years when we were not charging Members for their equipment use. I do not see anything wrong with this. I think it is good management. These adjustments are required.

Without this flexibility, we would need supplementals. We would pass up improvements that lead to reduced spending, and we would not be taking advantage of the skills and expertise of our financial managers in the operations of the House.

There really are a number of areas within the bill where the committee has to retain authority to transfer funds from areas where a surplus may exist to an area where a deficit may occur because of unforeseen circumstances and because we have occasionally underestimated our requirements. This is prudent fiscal management. There is nothing sinister, nothing underhanded about it. It is not unusual. This is a tool that is practiced in every agency of the Government, in every corporation in America.

So we think it is good business to allow some flexibility in the budget plan and to provide a procedure which is very much up front, signed off on both sides of the aisle, for making that flexibility as efficient as possible.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I would like to say to my colleague, the gentleman from Pennsylvania, that I very much appreciate the thrust of his amendment, the effort to focus upon places within a bill like this where money can be saved rather than being reserved and then transferred elsewhere. On the surface, it is an obvious difficulty. I commend the gentleman for focusing in that detail upon this very important piece of legislation.

I must say that I reluctantly oppose the amendment because of some of the difficulties that my chairman has suggested.

We do, from time to time, find ourselves in a circumstance where an expenditure planned for a year ahead exceeds itself a good deal, and that expenditure turns out to be totally unpredictable. For example, we usually, in the even-numbered years, if you will, budget more money for mail costs than in odd-numbered years, because it just seems that a lot of Members mail more in those even-numbered years. From time to time, you will find yourself having to deal with a supplemental to solve such a problem.

We have presently a circumstance dealing with office property that people, Members, are in line for. There are a lot of Members who are interested in a two-drawer filing cabinet that might be available if there was funding available for it. There are 130 Members in such a line. If we had funding that was left over in reserve, we might reprogram it to make that equipment available to those Members who need that kind of equipment in their office.

Sometimes these sorts of reserves become highly technical in terms of the way the House operates. Nonetheless, transfer authority has been very, very helpful.

The gentleman has raised questions about the opportunity to transfer from fund to fund causing the bill to overspend. There is little doubt that in an appropriation bill like this one there is that possibility. But I must say that within the subcommittee we have made every effort to be extremely conservative with the legislative branch and, indeed, cutting every category of spending wherever it was possible, and for that, Mr. Chairman, I reluctantly oppose the amendment.

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

Mr. Chairman, I commend the gentleman from Pennsylvania for his amendment.

This amendment would require that funds not spent on clerk hire be used to reduce the deficit.

Now, within the realm of what we have here, we have a huge deficit, and I appreciate the analogy between corporate America and the Government here. But we are talking about taxpayers' money that we are shifting fund to fund here, and I think the gen-

tleman from Pennsylvania is saying that if you are a Member and you are giving back part of your clerk hire, you want to be sure you know where it is going.

The patriotic thing to do is to try and return it to the Treasury, so I think that is what his amendment is saying, let us specifically designate it to reduce the deficit.

As many Members know, several months ago we were notified that our clerk hire accounts would be increased by $40,000. Now, even though the House rejected this increase last October, we were told savings had been realized in other areas. It was not explained to us how this came about, but it was just sent to us in a memo, so that the clerk hire could be increased.

Several Members, including myself, have declined this increase. While the reasons may be varied, I am hopeful that all Members who turn their money down all want to see it returned to the Treasury to reduce the deficit.

The question is: What is going to happen to the $1 million saved by the 23 Members who declined this additional increase? I do not think they want this money to be put toward rugs, new hair dryers, or new decorator furniture. A more worthwhile expenditure is to put this money toward the growing deficit.

Previously the House was instructed to give any unspent legislative branch money back to the Treasury. However, under last year's legislative branch appropriations bill, any remaining funds are not to be returned to the Treasury but are simply to stay in the account to be used on any other House project.

Members without this amendment that the gentleman from Pennsylvania has introduced will not be assured that there is an incentive to save this money and to reduce the deficit. In private industry, managers are rewarded for coming under budget. However, here in the House of Representatives money saved simply means money that can be spent somewhere else.

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

Mr. STEARNS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, just a clarification for the purposes, that the amendment that the gentleman offered last year that defeated the increase in the clerk hire basically is going to be overrun by this reprogram. Is that my understanding?

Mr. STEARNS. To put it in perspective, it was overwhelmingly voted that we would reduce the clerk hire to the cost of living. Now, what happened was in January they came back and they put more funds than the cost of living which brought it up to a little over 8 percent increase in the clerk hire. Then with the recent memo from the committee, it went up to 15.8 percent. For a matter of record, it is even more than my legislative amendment was fighting against. So we now have the Congress spending even more than was even talked about in October.

Mr. SANTORUM. If the gentleman will yield further, those people who voted with the gentleman against the increase in clerk hire should vote for this amendment if they really want to see clerk hire accounts kept reasonable?

Mr. STEARNS. I think so, and I think the gentleman is putting it out in black and white where the money would go so there would be no question that a Member would have his funds returned to the Treasury to reduce the deficit rather than going from a multitude of funds which we know not where they would go.

Mr. SANTORUM. If the gentleman will yield further, is it my understanding that this money, when it is sent back into this reprogramming fund, can stay in there for years and does not have to be spent the next year; it can stay there as long as it wants?

Mr. STEARNS. What the gentleman is saying is that there is no accountability, and that is true.

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

The CHAIRMAN. Without objection, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

There was no objection.

Mr. FAZIO. Mr. Chairman, I just simply have to clarify the record. The reason that the gentleman from Florida is mistaken is that he, in fact, did cut the funds that were to be appropriated for the additional clerk hire raise for staff. He did not remove the authorization, and as I said earlier in my remarks on the amendment offered by the gentleman from Pennsylvania [Mr. SANTORUM], we appropriate as well as authorize in this bill, and in this case, we clearly used a pay-as-you-go approach.

We went back, scrubbed all the accounts and found some savings so that we will not increase the deficit. We simply made up for the reduction in the appropriation that the gentleman from Florida [Mr. STEARNS] and the gentleman from North Carolina [Mr. HEFNER] offered on the floor with other funds, so there was no net increase to the cost to the legislative branch.

I noted that the gentleman from Arizona [Mr. KOLBE] was quoted in Roll Call as having said that that is the reason he felt comfortable accepting the clerk hire allowance, and I am sure many Members, even some who supported the gentleman from Florida [Mr. STEARNS] and the gentleman from North Carolina [Mr. HEFNER], have made that decision, because they felt it was appropriate since they were not adding to the cost of the legislative branch or the Federal budget.

□ 1340

The money that the gentleman struck on the floor did go back to the Treasury just as the gentleman wished. In fact, it never came out of the Treasury. We did not fund the increase in the clerk hire allowance for our staff, other than in the routine procedure to reprogram funds available from legitimate savings.

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

Mr. FAZIO. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I thank the gentleman for yielding. Let me ask a simple question. I am sure the American people do not quite understand the difference between appropriation and authorization.

Mr. FAZIO. I think many Members do not understand.

Mr. STEARNS. And I understand your point, but the fundamental fact that Members do understand, and the American people do understand, we voted on the House floor to reduce the clerk hire, would the gentleman agree?

Mr. FAZIO. We certainly voted to eliminate the funds to pay for an increase in the clerk hire account, and we also adopted language that authorized an increase in the clerk hire.

Mr. STEARNS. If the gentleman will continue to yield, if the vote was overwhelmingly to give just a cost-of-living to the clerk hire in the appropriations rather than the authorization, does that not in a sense represent the will of Congress, the will of all the Members, to say let Members hold spending on the legislative side to the cost of living, and then Members on the committee decide to thwart this through some legislation?

Mr. FAZIO. We want to make it clear we were not telling Members how to act. We were not thwarting any Member's needs.

In fact, it was indicated that each Member who felt it appropriate to take the funds for clerk hire should stipulate so, and many Members did. Many who voted with the gentleman from Florida and many who voted against the gentleman from Florida on the premise that they were not adding to the deficit, they were using other funds that had been derived through savings. I think every Member has to make that decision, and everyone now must make it publicly. I think that is a fine way to determine what the real will of Congress was.

Mr. STEARNS. If the gentleman will continue to yield, I will close, if the gentleman will allow me a few moments more.

The basic premise a lot of Members felt was that we voted to reduce this, as an act of courage.

Mr. FAZIO. An act of courage?

Mr. STEARNS. I think it took courage to vote to try and limit Congress' spending; does the gentleman think it

does not take courage to limit Congress' spending?

Mr. FAZIO. I would not typify it that way.

Mr. STEARNS. Any time a Member comes on the House floor to reduce Government spending, I think it takes courage.

In a sense, this has been thwarted through your not only giving more than was talked about, 15 percent. You are now up to 15.8.

Mr. FAZIO. All we did was allow the amount to be provided for on an annualized basis. We did not even fund it at the cost that was represented on a full year basis.

Mr. STEARNS. The gentleman will admit it is more than our amendment called for?

Mr. FAZIO. No, I think that simply allowed the clerk hire to be funded for part of the year at the level that was authorized by our bill last year.

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

Mr. Chairman, the gentleman mentioned that by doing this maneuver, we did not increase the deficit. I think that is perfectly correct. We did not increase the deficit but we did not decrease the deficit either. Should that not be our goal here, to decrease the deficit, and not just hold our own? We held our own, perhaps, in this because we found the money other ways within the budget, but we did not decrease.

I think we need some kind of a motivation to help Members control their own spending. I cannot tell Members how many of the people that I have talked to that voted for the gentleman from Florida [Mr. STEARN's] amendment last year and that told me that I was silly to be 1 of the 23 that turned my back, because if they turned theirs back it will just be spent somewhere else, and it does seem silly to turn mine back under those circumstances. Why turn it back, to let somebody else's priority take over? I could take it and use it to good effect.

However, it seems to me we have a role to play in trying to reduce the deficit. So, should there not be a motivation here to do that, if we turn that money back, if we make that choice?

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

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

Mr. FAZIO. We have never transferred any funds out of clerk hire for any other purpose in the records we have looked at. So any dollars that the gentleman does not spend in his clerk-hire remains in the Treasury, does not go back to the Treasury, it remains in the Treasury. It must be drawn down from the Treasury. If a Member does not spend it, it remains there.

Therefore, I would urge Members to continue the policies that, obviously, they have adopted, which is to make the deficit reduction your No. 1 priority and reduce the size of the spending on your staff. The money spent does not come to the Hill. It remains in the Treasury. If a Member does not spend it, it stays there. No money has ever been transferred out of clerk-hire.

Mr. HEFLEY. If the gentleman will share with me, why is he opposed to the gentleman's amendment, then? Is that not what the gentleman is trying to get at?

Mr. FAZIO. If the gentleman will continue to yield, I have the same question. I wonder about the intent of the amendment.

Mr. HEFLEY. What the gentleman is saying, basically, it seems to me is that the amendment does no good because that is what happens anyway? Why fight the amendment? Make Members feel better by supporting the amendment and be assured what the gentleman is supporting us actually is what happens.

Mr. FAZIO. If the gentleman will continue to yield, his amendment goes far beyond your clerk hire and far beyond your office expenses and would restrict any transfers.

Mr. HEFLEY. Is it not that kind of motivation that we would like to have here? I think it was the height of hypocrisy for Members, last year, to stand before the election when everyone was upset, that the Nation was upset over the way the Congress was handling the budget matters, and we came up here and we voted courageously to cut our own clerk hire fund just before an election time. Now the election is gone. There will not be another election for a year and a half. When there is not another election for a year and a half miraculously we find the money somewhere.

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

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

Mr. LEWIS of California. The gentleman is making an important point, but perhaps I could clarify for those who would like to understand the way our bill operates. The need for transfer within the legislative branch from time to time become very real.

In another subcommittee, to illustrate the point, the Subcommittee on Foreign Operations that I used to serve on that provides all the money for foreign assistance, many, many times every year the administration will come in and ask for transfer of funds, because a crisis developed in a different part of the world. So funds are taken from one category and moved to another in order to be able to accomplish that which is necessary. As a practical fact, this does not compare with those kinds of concerns and needs, but is a fact of life that within the legislative branch we do need to transfer from time to time.

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

Mr. HEFLEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. As a chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, I would like to buttress what the gentleman from California is saying.

The fact is that while many Members seem to have the impression that we are appropriating specifically for spending for specific countries or specific accounts in the foreign aid bill, the fact is that we get hundreds and hundreds of transfer notices from the agencies every month. The fact is that the executive branch has mammoth ability to move funding around between accounts.

They may come in and tell Members that they intend to appropriate money to a specific country, and come in with a revised sheet telling Members they intend to send it someplace else.

(On request of Mr. OBEY and by unanimous consent, Mr. HEFLEY was allowed to proceed for 30 additional seconds.)

Mr. OBEY. Mr. Chairman, I simply say if Members want to take a look at an agency which has an incredible amount of slosh, take a look at the way any administration will deal with the foreign aid budget. That is where they ought to be focusing

Mr. HEFLEY. I can understand that with the foreign operations bill because there are external factors that are playing a role, and we do not have any control over the external factors, but in our own legislative budget, we have control of how it is spent, it seems to me.

I think we ought to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANTORUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 276, not voting 5, as follows:

[Roll No. 132]

AYES—150

Allard	Clinger	Erdreich
Archer	Coble	Fawell
Armey	Combest	Fields
Baker	Condit	Franks (CT)
Ballenger	Costello	Gallegly
Bereuter	Cox (CA)	Gekas
Bilirakis	Crane	Geren
Boehner	Cunningham	Gilchrest
Broomfield	Dannemeyer	Gillmor
Browder	DeLay	Gingrich
Bruce	Dickinson	Goodling
Bunning	Doolittle	Goss
Burton	Dornan (CA)	Gradison
Callahan	Dreier	Grandy
Camp	Duncan	Green
Campbell (CA)	Edwards (OK)	Hall (TX)
Chandler	Emerson	Hancock

Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horn
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Livingston
Luken
Machtley
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Petri
Poshard
Ramstad
Ravenel
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Russo
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (WY)
Upton
Valentine
Vander Jagt
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—276

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Reed
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—5

Ford (TN)
Lehman (FL)
Martinez
Sabo
Sisisky

□ 1408

Messrs. BATEMAN, EVANS, and MARTIN, and Mrs. ROUKEMA changed their vote from "aye" to "no."

Messrs. ZIMMER, PARKER, SHAYS, and OXLEY changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

POINT OF ORDER

Mr. BORSKI. Mr. Chairman, I ask unanimous consent to make a point of order against section 105, notwithstanding the fact that it has not been reached in the reading.

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

There was no objection.

The CHAIRMAN. The gentleman may make his point of order at this point.

Mr. BORSKI. Mr. Chairman, on behalf of the leadership of the Committee on Public Works and Transportation and on a bipartisan basis, I raise a point of order against section 105 of the bill because it is legislation in an appropriations bill and therefore in violation of clause 2 of rule XXI.

Section 105 would authorize and appropriate funds to the Architect of the Capitol to lease and occupy approximately 75,000 square feet of space in the Judiciary Office Building and to acquire and install funiture and furnishings for the leased space.

As such, this section speaks to issues which may run cross-purpose to the Judiciary Office Building Development Act of 1988 which was authored by the Committee on Public Works and Transportation. That law—specially section 3(a), (6)(a) and (b)—provides a specific process for allocating space in the Judiciary Building. Section 105 raises a number of questions about that process.

In addition, Mr. Chairman, I would be remiss if I didn't mention that inclusion of this provision is also objectionable as a matter of process. This matter has not been considered by our committee, was included without our consultation, and can and should be handled through the normal legislative process. Circumventing that means that this issue escapes the scrutiny normally afforded other proposals.

Accordingly, Mr. Chairman, section 105 is legislation is an appropriations bill and violates clause 2 of rule XXI.

□ 1410

The CHAIRMAN. Does the gentleman from California wish to be heard?

Mr. FAZIO. Mr. Chairman, I would be inclined to concede the point. I think the gentleman from Pennsylvania [Mr. BORSKI] makes a worthy point within the rules. I simply would say, however, that this is the second time we have had a discussion about procedure with the Committee on Public Works and Transportation. We do not wish to intrude into their territory, but I do want to urge the committee to hold hearings on these subjects so we can begin the process of streamlining the legislative branch. Moving forward in this area would be to the benefit of all of us. We certainly have no desire to interfere with the work of the Committee on Public Works and Transportation, but it is a failure to hold hearings in the proper subcommittee that might be able to move beyond this impasse.

The CHAIRMAN (Mr. DONNELLY). For the reasons stated by the gentleman from Pennsylvania [Mr. BORSKI] the point of order is sustained. Section 105 is stricken from the bill.

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

Mr. Chairman, I want to commend my subcommittee chairman, the gentleman from California [Mr. FAZIO], and my ranking member also, the gentleman from California [Mr. LEWIS], and the members of the committee for the fine job that they have done in bringing the bill together. I want to point out to the Members that this legislation contains some important environmental provisions that they ought to be aware of.

First, Mr. Chairman, we put in funding for the expansion of the office waste recycling program that is going forward in the House of Representatives, and we have also put in money for a comprehensive review of the lighting systems in the House, Senate, Capitol and the Library of Congress. The review will be used to determine a schedule for retrofitting all of the systems with efficient lighting technology and toward the goal of saving substantial amounts of money in that account.

Mr. Chairman, the bill also contains provisions regarding recycled paper, and we love to pat ourselves on the back and say, many of us, that we use recycled paper in our work in the Congress, but, as a matter of fact, most of the paper that is used here is not really recycled paper. It is not paper that contains post-consumer waste paper; that is, paper that has been used once and de-inked. It is, rather, paper that has been scraped up off the floor, never used before, and put into the process.

Mr. Chairman, the Government is the single largest user of paper in the world, using 2 percent of all the paper used in the United States, and there are many applications of paper that do not require highly reflective white paper, but paper that could contain post-consumer waste and may have a slighlty gray hue to it. The Moore Business Forms Co., the largest purveyor of business forms in the world, has begun a process whereby it is using a great deal of post-consumer waste paper in its operations. It seems to me that the Government ought to take the lead as well, particularly in the use of forms within the Congress or forms within agencies like the Internal Revenue Service where we can stop the need to cut down virgin timber and create the same paper by using paper that has been truly recycled; that is, post-consumer waste paper.

Mr. Chairman, this would eventually, if we follow our good principles, create an entire new industry and make our society, our economy, a dynamic one. It is a fine provision for conservation, and the bill contains extensive language requesting the Government Printing Office to report to the Congress a list of printing jobs that can be printed on real recycled paper. It suggests innovative uses of recycled paper for such bulky items as IRS tax documents.

Mr. Chairman, I commend the members of the committee for including these environmentally sound provisions in the bill.

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

Mr. Chairman, I will not take all the time. I just rise to set the record straight on when an objection was raised to appropriations without authorization with regard to the matters involved in the Architect of the Capitol. During that debate it was mentioned that the point wanted to be made that the Subcommittee on Public Buildings and Grounds had not held hearings and wanted to bring it to the attention of the subcommittee to do so expeditiously. Well, Mr. Chairman, I happen to be the chairman of that subcommittee, and I resent that comment because it is completely wrong. We have not been asked by the Architect of the Capitol to hold any such hearings, and this is not the first time this problem has arisen between our subcommittee and the Architect of the Capitol. We have held hearings almost weekly since I became chairman this year on that subcommittee, trying to entertain all requests for hearings. We had no such requests. If someone has a complaint or a criticism, it is not with this subcommttee. It is with the Architect of the Capitol.

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

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

Mr. FAZIO. Mr. Chairman, I would be more than happy to help enlighten the Architect of his responsibility to contact your subcommittee.

Mr. SAVAGE. Let me just say this. We held a hearing where we had the Architect present, and the gentleman does not have to enlighten him. We enlighten him in the public hearing. So, this was no accident on his part.

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

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,781,000, including: Office of the Speaker, $1,477,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,127,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,388,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $1,025,000, including $5,000 for official expenses of the Majority Whip and not to exceed $308,930, for the Chief Deputy Majority Whip; Office of the Minority Whip, $764,000, including $5,000 for official expenses of the Minority Whip and not to exceed $93,520, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $218,500,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $67,900,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $409,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,900,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $20,025,000, of which $8,615,000 is provided herein: *Provided*, That House Information Systems is authorized to receive reimbursement for services provided from Members and Officers of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $214,518,000, including: Official Expenses of Members, $82,600,000; supplies, materials, administrative costs and Federal tort claims, $19,116,000; net expenses of purchase, lease and maintenance of office equipment, $4,427,000; furniture and furnishings, $1,810,000; stenographic reporting of committee hearings, $1,100,000; reemployed annuitants reimbursements, $1,000,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $103,833,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $632,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,500,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $80,000,000.

AMENDMENT OFFERED BY MR. PENNY

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

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 5, line 15, strike "$80,000,000" and insert "$59,000,000."

Mr. PENNY. Mr. Chairman, I will be brief. I offer this amendment together with the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Michigan [Mr. UPTON] and the gentleman from Pennsylvania [Mr. SANTORUM]. The amendment will reduce the appropriation for official mail contained in the committee reported bill from $80 million to $59 million. This reduced level of funding, a reduction of $21 million, in effect would freeze next year's funding at the current year level. With a surplus this year projected by the Franking Commission to be $25 million, a freeze level of funding for mail costs should more than cover projected mail costs next year despite increased postage costs.

Mr. Chairman, the committee will argue that they are only meeting the projected costs, but no one has a crystal ball, so we have to go with what we know to be true now. We know that franking costs are coming down. We know a surplus will likely exist at the

end of this year. And we know Members will not mail as many pieces now as during the last election cycle.

Accordingly, Mr. Chairman, we should appropriate a smaller number. Enough said. I urge adoption of the amendment.

Mr. ROBERTS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota [Mr. PENNY].

Mr. Chairman, I thank my colleague, the gentleman from Minnesota [Mr. PENNY] for introducing the amendment. I am a cosponsor. I am a member of the Committee on House Administration and the Commission on Congressional Mailing Standards, and this is really a proposal to reduce the fiscal 1992 funding level for congressional mail to better fit existing reform and current mail costs. So, I am joining the gentleman from Minnesota [Mr. PENNY], the gentleman from Pennsylvania [Mr. SANTORUM], and the gentleman from Michigan [Mr. UPTON] in opposition to the committee recommendation of $80 million. I think it makes a lot of sense because this sum by many estimates, as was pointed out by the gentleman from Minnesota [Mr. PENNY], is far, far above the amount we really need, and, if adopted by the House, I would tell my colleagues that it does provide an opportunity to increase the mail Members may wish to send by, yes, reprogramming funds for various reasons.

□ 1420

We have already had a full debate in that regard. We do not need to go down that road again.

The gentleman from Minnesota [Mr. PENNY] pointed out that the Commission on Congressional Mailing Standards of the U.S. Postal Service says that of the $59 million that is provided for official mail in fiscal year 1991, we are not going to use 42 percent of it; we are only going to use $34 million, and $25 million will be saved or not used.

If $80 million is provided in fiscal year 1992, as proposed in this bill, it is going to far exceed the needed funding, and as I say again, it would create an opportunity for all parties interested in changing the current franking formula.

We have worked very hard for franking reform. We do not need this lollypop inducement, if you will, for us to go back on franking reform.

We have always argued that the frank is essential to communicate and respond to our constituents. Let me point out that in 1989, of the 262 million pieces of mail we sent from the House, only one-third or 87 million was sent in response to constituent inquiries. So the majority of mail sent from Congress was unsolicited—letters, newsletters, and targeted mass mailings.

Next year is an election year. In past years, everyone in this Congress knows from wandering up and down the halls that we see pallet after pallet of unsolicited mail. We are making progress along those lines, and we do not need to encourage any Member to backslide or to change that progress.

I do not want to confuse my colleagues with this amendment. It does not reduce the possible mailings that can be done in fiscal year 1991 or fiscal year 1992. It is meant to prevent even further increases in the Members' official mail accounts or the reprogramming of the surplus funds.

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

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

Mr. UPTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support this amendment offered by the gentleman from Kansas [Mr. ROBERTS], the gentleman from Minnesota [Mr. PENNY], the gentleman from Pennsylvania [Mr. SANTORUM], and myself to keep the fiscal year 1992 House mail expenses at the same level as last year.

This is a freeze, and with the projected surplus in the account this year, as the gentleman from Kansas mentioned, there should be more than enough funding to provide for next year's need, despite increased postage costs.

Franking costs are coming down. We have become more efficient as we have worked with the Committee on House Administration, and we know that Members will not mail as many pieces in 1992 as they did in 1990. If we honestly need more next year, we can address the situation then in a supplemental which we know comes once or twice every year.

With other efforts to reduce expenses in this bill, we must demonstrate to Federal agencies who are working to reduce their spending and to the American people that we share in the efforts to control Federal spending and we cannot ask others to do what we will not do ourselves.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman from Michigan [Mr. UPTON] for his contribution.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly in opposition to the amendment.

The gentleman is addressing an area that is of great concern to me, and has been for a number of years. The House will remember that early on I was one of the Members who led the fight to reduce the numbers of postal patrons available in the House, those mailings that are dropped to every household in a Member's district. We at one time were allowed six, and eventually through one of my amendments those numbers dropped to three. That was the first major step in an attempt to address the way we handle mail around this place.

During the last Congress my leader, the gentleman from Illinois [Mr. MICHEL], appointed a Republican task force, and with the diligence of our good friend, Bill Frenzel, some major reforms were implemented regarding the mail.

I believe personally that the giant steps they made toward getting a handle on those costs ought to have some time to operate. In this session of Congress we are going through the first experience of dollar allocation to Members' offices to reflect a potential reduction in mail, and that in turn leaves a great deal of responsibility to each individual Member's office to try to control the cost of running their operation.

Mr. Chairman, because of the very recent changes and reforms we have made, I urge the Members at this point to vote no on this amendment.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Penny amendment.

Last year, once and for all, I thought that we had settled the issue of House official mail costs. We passed legislation which limits the amount of money each Member can spend on mail. Those limits were reasonable and responsible. This appropriations bill simply provides the funds for Members to mail, if they choose, up to the legally authorized amount—an amount equal to three times the number of addresses in their districts times the current first class postage rate.

Frankly, this amendment is a bit of grandstanding, Mr. Chairman. The franking law entitles each Member to mail up to his or her legal limit. If a Member exceeds that limit, the law also provides an enforcement mechanism: The Postal Service is required to refuse to deliver any more franked mail for the Member who has exceeded his or her limit.

The Penny amendment simply cuts this year's appropriation. It will not hold down franked mail volume. Members can still mail up to their legal limit, and if the appropriation is insufficient, we will simply have to appropriate more money next year to reimburse the Postal Service.

Members have been very reasonable in using their individual franking allowances. The most recent quarterly report from the Postal Service shows that the House spent only $7 million in the second quarter of this fiscal year. This is the quarter in which the franking reforms took effect. Under the franking reforms, the House spent $10 million less than in the same quarter of the most recent non-election year, 1989. In an apples-to-apples comparison, the House spent $10 million less under the franking reforms.

Mr. Chairman, under the leadership of the gentleman from California [Mr. FAZIO], chairman of this subcommittee,

the House has been very responsible concerning the use of the frank, and I say that because of the increase in postage from 25 to 29 cents, it is necessary for us to support this piece of legislation. So let us support the committee and the chairman and vote down the Penny amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the arguments made by the gentleman from Missouri [Mr. CLAY] and my colleague, the gentleman from California [Mr. LEWIS], should be persuasive.

I would simply say, as the cosponsor with Mr. Frenzel of this reform effort, that it is really just being implemented at this time, and that this would be an unfortunate decision if we make it, because we have already reduced this item by a sizable amount, over $13 million. I think we have done what we can about franking reform. This is predicated on the lowest outgoing mail volume in an election year in the last 9 years, and the House is on track.

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

Mr. FAZIO. Yes, before I complete my remarks, I will yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, let me echo the comments of the gentleman with regard to the success we have had with franking reform. That is precisely why we are offering the amendment. I do not want to see an inducement to back away from those limits.

We have 120 days when we cannot mail anything other than a constituent response because of the election deadlines. We are not using 40 percent of the existing funds that are provided as of this year. We do not need the $59 million. We may need the $59 million for this year. We are only using $34 million, and yet we have a figure in there of $80 million.

If we have the figure of $80 million, we know what the next step is going to be. Someone will say, "Well, now, let's change these franking reform rules. Maybe we need to mail a little more here in an election year." And the gentleman knows on those even-numbered years, with all of those mailings that have been stacked up in the folding room and the mailing room, that they cannot get them out and they are an invitation for someone to say that we are violating the ethics on the frank. We do not need to go back down that road.

Mr. Chairman, I say that $59 million is enough for this year. We are not spending that, and $59 million should be the franking level for next year.

□ 1430

Mr. FAZIO. Mr. Chairman, reclaiming my time, I think the point which I am making is that we ought to err on the side of caution. We think we are making progress. I do not think we have an answer. I think we ought to let the system work for 1 year before we tinker with it. I will be the first one to take any savings in this area that I possibly can. The gentleman knows what a burden it places on the overall bill. It would be foolish to jump too quickly into making savings that we are not sure we know are going to exist.

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

Mr. FAZIO. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, I hate to revisit an old issue, but we are increasing this by 35 percent. We are not using the bulk of the money right now. If we show that next year we end up not using all of this money too, to the tune of what we are doing this year, the same percentage, all that money would be eligible for reprogramming, is that correct?

Mr. FAZIO. Mr. Chairman, reclaiming my time, we will continue to ratchet down the funding in this bill every chance we get, and will, as soon as we understand the pattern that will exist in the new era when each Member controls their own mailing.

Mr. SANTORUM. If the gentleman will yield further, all that money would be eligible for reprogramming if we do not spend it.

Mr. FAZIO. Mr. Chairman, only if we can get an agreement from all the parties involved, including the gentleman from California [Mr. LEWIS], the ranking Republican member, and we have a purpose generally accepted by the body.

I rise in opposition to this amendment.

I had thought we had laid this franked mail matter to rest last year.

We enacted a serious and permanent reform in the use of franked mail. This was done on a bipartisan basis, and we now have an allowance for each Member, based upon a formula.

We now have incentives for Members to send their mail at the lowest rate possible in order to utilize that allowance effectively.

We are beginning to use automation more wisely to assist in counting and ZIP Code sorting. This will help us reduce our expenditures and help the Postal Service reduce their mail delivery costs.

We also have disclosure in the Clerk's Report so that all can see what we spend on our constituent mail.

But this amendment is misleading. We have an allowance. If the gentleman wants to change the allowance, let him work with the authorizing committee to change it.

By reducing the funding, he is merely trying to force us into a supplemental. It will not save money. We will be back where we started before the mail reform.

We will have shortfalls, supplementals, and protracted debate over our mail bill.

The $80 million in the bill is a reduction of $16 million under our mail baseline. It is a reduction of $13.4 million under the budget. It is about $15 million below the allowance formula, if Members, committees, and offices utilized all they are allowed. Actually, it is also a reduction of about $12 million under 1991 when we had to augment the bill to pay for the 1990 shortfall.

So we are below everything in sight.

As a further indication that reform is working, the committee, in reducing the budget estimate by $13.4 million, reduced the estimated piece count by 74 million pieces.

This will be the lowest election year piece count in the last 9 years.

Our mail cost trend line is down, when postal rates are held constant.

Our mail volume trend line is down.

But our incoming mail continues to rise at about 5.5 percent a year.

I don't think the House should reopen this issue, Mr. Chairman.

We do not need a knee-jerk amendment to practice fiscal prudence. Our reform was carefully thought out and crafted.

Let's give the reform a chance to work. By all accounts, it already is.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 227, not voting 6, as follows:

[Roll No. 133]

AYES—198

Allard	Early	Jacobs
Andrews (TX)	Edwards (OK)	James
Archer	Emerson	Johnson (CT)
Armey	English	Johnson (SD)
AuCoin	Erdreich	Johnson (TX)
Baker	Fawell	Johnston
Ballenger	Fields	Jones (GA)
Barrett	Frank (MA)	Jontz
Barton	Franks (CT)	Kasich
Bateman	Gallegly	Klug
Bennett	Gekas	Kolbe
Bentley	Geren	Kyl
Bereuter	Gilchrest	Lagomarsino
Bilirakis	Gingrich	Laughlin
Bliley	Glickman	Leach
Boehner	Goss	Lewis (FL)
Broomfield	Gradison	Lightfoot
Browder	Grandy	Livingston
Bunning	Gunderson	Lloyd
Burton	Hall (TX)	Long
Byron	Hamilton	Lowery (CA)
Callahan	Hancock	Luken
Camp	Hansen	Machtley
Campbell (CA)	Harris	Marlenee
Campbell (CO)	Hastert	Martin
Chandler	Hayes (LA)	McCandless
Coble	Hefley	McCollum
Combest	Henry	McCrery
Condit	Herger	McDade
Coughlin	Hobson	McEwen
Cox (CA)	Holloway	McMillan (NC)
Crane	Hopkins	Meyers
Cunningham	Horn	Mfume
Dannemeyer	Houghton	Michel
de la Garza	Hubbard	Miller (OH)
DeLay	Huckaby	Miller (WA)
Dickinson	Hughes	Molinari
Doolittle	Hunter	Montgomery
Dorgan (ND)	Hutto	Moorhead
Dornan (CA)	Hyde	Morella
Dreier	Inhofe	Murphy
Duncan	Ireland	Nichols

Nowak
Nussle
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Petri
Porter
Poshard
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—227

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hammerschmidt
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Jefferson
Jenkins
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—6

Brooks
Collins (IL)
Goodling
Lehman (FL)
Sisisky
Thomas (GA)

□ 1451

Messrs. BUSTAMANTE, McMILLEN of Maryland, KOLTER, LENT, and SKEEN changed their vote from "aye" to "no."

Mr. SAXTON and Mr. ROEMER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

Mr. FAZIO. Mr. Chairman, I ask unanimous consent that the remainder of the bill, except for lines 22 and 23 on page 40, 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 California?

There was no objection.

The text of the remainder of the bill, through line 21 on page 40 is as follows:

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $48,878,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $20,860,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,288,000; Office of the Doorkeeper, including overtime, as authorized by law, $10,013,000; Office of the Postmaster, $4,377,000, including $126,850 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $19,805 per annum each; Office of the Chaplain, $120,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $946,000; for salaries and expenses of the Office of the Historian, $361,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,356,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,171,000; six minority employees, $713,000; the House Democratic Steering Committee and Caucus, $1,476,000; the House Republican Conference, $1,476,000; and other authorized employees, $1,721,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1992 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (HOUSE INFORMATION SYSTEMS)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. Effective for the fiscal years beginning with fiscal year 1992, the annual rate of pay for the positions established for the Democratic caucus and the Republican conference by section 2 of House Resolution 413, 94th Congress, as enacted by section 201 of the Legislative Branch Appropriations Act, 1976 and the positions established by section 102(a)(1) and (2) of the Legislative Branch Appropriations Act, 1990 shall not exceed the annual rate of pay payable from time to time for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 103. The Clerk of the House under the direction of the Committee on House Administration, is authorized to receive payments of assessments for monthly equipment charges incurred by such organizations as are authorized by the Committee on House Administration. Receipts under this subsection shall be deposited into the Treasury for credit to the appropriate account under the appropriation for "Salaries and expenses" under the heading "Contingent expenses of the House", "Allowances and expenses".

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,020,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,391,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,759,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $1,000 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) $999,800 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,509,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $63,343,000,

of which $31,389,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $31,954,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That of the amounts appropriated for fiscal year 1992 for salaries, including overtime, and Government contributions to employees' benefits under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, expenses associated with the implementation of the Capitol Police Employee Assistance Program, including but not limited to professional referrals, and expenses associated with the awards program not to exceed $2,000, expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $2,029,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1992 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,603,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred and twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $292,000, to be disbursed by the Secretary of the Senate.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundred Second Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official representation and reception expenses (not to exceed $3,500 from the Trust Fund) to be expended on the certification of the Director of the Office of Technology Assessment, expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w-1, $21,025,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available, and reimbursement may be accepted, for salaries or expenses of the Office of Technology Assessment in connection with facilitating completion of the work required by section 400DD(e)(1), and the report required by section 400DD(g)(2), of the Energy Policy and Conservation Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,300 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $22,372,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $7,858,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $21,990,000, of which $3,405,000 shall remain available until expended: *Provided*, That of the funds to remain available until expended, $2,000,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $4,150,000.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $33,403,000, of which $4,780,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Judiciary Office Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $30,800,000: *Provided*, That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1992.

ADMINISTRATIVE PROVISIONS

SEC. 104. (a) Section 108(b)(1) of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b(b)(1)) is amended—

(1) in subparagraph (A), by striking "the rate payable" through the semicolon and inserting "90 percent of the maximum rate allowable for the Senior Executive Service;";

(2) in subparagraph (B), by striking "the rate payable" through the period and inserting "85 percent of the maximum rate allowable for the Senior Executive Service."; and

(3) by adding at the end, as a flush left sentence, the following:

"For purposes of the preceding sentence, 'the maximum rate allowable for the Senior Executive Service' means the highest rate of basic pay that may be set for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(b) Section 108 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b) is amended by adding at the end the following:

"(c) Effective beginning with any pay period beginning on or after the date of enactment of the Legislative Branch Appropriations Act, 1992, the rate of basic pay for up to 8 positions under the jurisdiction of the Architect of the Capitol may be fixed at such rate as the Architect considers appropriate for each, not to exceed 135 percent of the minimum rate payable for grade GS-15 of the General Schedule.".

SEC. 105. (a) Notwithstanding any other provision of law, the Architect of the Capitol with the approval of the Senate Committee on Rules and Administration and the House Office Building Commission is authorized to lease and occupy 75,000 square feet of space, more or less, in the Judiciary Office Building: *Provided*, That rental payments shall be paid from the appropriation "Architect of the Capitol, Capitol Buildings" upon vouchers approved by the Architect of the Capitol: *Provided further*, That nothing in this section shall be construed so as to obligate the Architect of the Capitol to enter into any such lease or to imply any obligation to enter into such lease.

(b) There is hereby authorized to be appropriated to the "Architect of the Capitol, Capitol Buildings" such sums as may be necessary to carry out the provisions of subsection (a).

(c) There is hereby authorized to be appropriated to the "Architect of the Capitol, Senate Office Buildings" such sums as may be necessary for the acquisition and installation of furniture and furnishings for the space to be leased pursuant to subsection (a).

(d) There is authorized to be appropriated to the Sergeant at Arms of the United States Senate such sums as may be necessary to provide for the planning and acquisition and installation of telecommunications equipment and services for the Architect of the Capitol necessitated incident to occupancy of space pursuant to subsection (a).

(e) The authority under this section shall continue until otherwise provided by law.

SEC. 106. The Legislative Branch Appropriations Act, 1989 is amended in the matter under "House Office Buildings", under the paragraph headed "Architect of the Capitol" (40 U.S.C. 175 note)—

(1) by striking "5 U.S.C. 5307(a)(1)(B)" and inserting "section 5306(a)(1)(B) of title 5, United States Code,"; and

(2) by striking "policy." and inserting "policy, and subject to any increase which may be allowed by the Committee on House Administration based on performance exceeding an acceptable level of competence over a 52-week period (except that no such performance-based increase shall affect the waiting period or effective date of any longevity step-increase or increase under such section 5306(a)(1)(B)).".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $55,725,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $89,941,000: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1992".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,862,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $201,494,000, of which not more than $7,300,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,300,000: *Provided further*, That of the total amount appropriated, $7,636,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That, of the total amount appropriated, $4,870,000 is to remain available until expended for the deacidification program.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $25,823,000, of which not more than $14,000,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under 17 U.S.C. 708(c), and not more than $1,979,000 shall be derived from collections during fiscal year 1992 under 17 U.S.C. 111(d)(3), 116(c)(1), and 119(b)(2): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $15,979,000: *Provided further*, That $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $41,179,000, of which $9,417,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $3,235,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $175,690, of which $54,800 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 205. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $10,187,000, of which $2,000,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $865,000, of which $735,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $26,327,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $117,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,000 workyears: *Provided further*, That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15, nor to any employee involved in the in-house production of printing and binding: *Provided further*, That expenses for attendance at meetings shall not exceed $95,000: *Provided further*, That the revolving fund shall be available for expenses not to exceed $100,000 for a special study of GPO's personnel and compensation systems.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $440,879,000: *Provided*, That not more than $6,213,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1992: *Provided further*, That this appropriation and appropriations for administrative expenses of any other 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 costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That, notwithstanding any other provision of law, $1,800,000 of this appropriation shall be available for the planning, administering, receiving, sponsoring and such other expenses as the Comptroller General deems necessary to represent the United States as host of the 1992 triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI): *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions to be held in trust, which shall be available without fiscal year limitation, not to exceed $20,000, for any purpose related to the 1992 triennial Congress.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. 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. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of

the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. 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. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Section 3216(e)(2) of title 39, United States Code, is amended by striking "subsection (1) of this section" each place it appears and inserting "paragraph (1) of this subsection".

SEC. 307. Notwithstanding any other provision of law, and subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, and subject to enactment of authorizing legislation, amounts may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care" for the purpose of rental, lease, or other agreement, of temporary storage and warehouse space for use by the Library of Congress during fiscal year 1992, and to incur incidental expenses in connection with such use.

SEC. 308. Section 311(d)(2)(A) of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a-2a), as amended by section 308 of the Legislative Branch Appropriations Act, 1991 (Public Law 101-520; 104 Stat. 2277), is amended by striking "5305" and inserting "5303".

SEC. 309. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.

SEC. 310. (a) The Clerk of the House of Representatives shall maintain and operate a child care center (to be known as the "House of Representatives Child Care Center") to furnish pre-school child care—

(1) for children of individuals whose pay is disbursed by the Clerk of the House of Representatives or the Sergeant at Arms of the House of Representatives and children of support personnel of the House of Representatives; and

(2) if places are available after admission of all children who are eligible under paragraph (1), for children of individuals whose pay is disbursed by the Secretary of the Senate and children of employees of agencies of the legislative branch.

(b)(1) There shall be an advisory board, the members of which shall serve without pay, for the purpose of providing advice to the Clerk on matters of policy relating to the administration and operation of the center (including the selection of the director of the center).

(2) The Speaker of the House of Representatives shall appoint 3 voting members of the board from each of the following categories:

(A) Individuals proposed by the parents association of the center.

(B) Individuals proposed by the director of the center.

(C) Members of the House of Representatives and spouses of Members, who express an interest in the center.

The director of the center shall serve as a member of the board, ex officio and without the right to vote.

(3)(A) Each voting member of the board referred to in paragraph (2) shall be appointed for a term of 3 years, except that, as designated at the time of appointment, of the members first appointed, one member from each category shall be appointed for a term of one year and one member from each category shall be appointed for a term of 2 years.

(B) In addition to the voting members referred to in paragraph (2), there shall be 2 additional voting members of the board, each to be appointed by the Speaker of the House of Representatives, from any category described in such paragraph, for a term of 2 years, beginning at the same time as the terms of the voting members first appointed under that paragraph. The member positions under the preceding sentence shall cease to exist at the end of the 2 year terms of such positions.

(4) Of the voting members of the board appointed by the Speaker under paragraph (2), 4 members shall be appointed on the recommendation of the majority leader of the House of Representatives, 4 members shall be appointed on the recommendation of the minority leader of the House of Representatives, and one member shall be appointed on the recommendation of the chairman and ranking minority party member of the Committee on House Administration, acting jointly. Of the 2 voting members of the board appointed by the Speaker under paragraph (3)(B), one member shall be appointed on the recommendation of the majority leader of the House of Representatives and one member shall be appointed on the recommendation of the minority leader of the House of Representatives.

(5) A vacancy on the board shall be filled in the manner in which the original appointment is made. Any member appointed to fill a vacancy occurring before the expiration of a term shall be appointed only for the remainder of that term. A member may serve after the expiration of a term until a successor is appointed.

(6) The chairman of the board shall be elected by the members of the board.

(c) In carrying out subsection (a), the Clerk is authorized—

(1) to collect fees for child care services;

(2) to accept such gifts of money and property as may be approved by the House Office Building Commission; and

(3) to employ a director and other employees, including temporary employees, for the center.

(d) There is established in the contingent fund of the House of Representatives an account which, subject to appropriation, shall be available for activities carried out under this section. The Clerk shall deposit in the account any amounts collected or received under subsection (c).

(e) As used in this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, and the Copyright Royalty Tribunal; and

(3) the term "support personnel" means, with respect to the House of Representatives, any employee of a credit union or of the Architect of the Capitol, whose principal duties are to support the functions of the House of Representatives.

(f) House Resolution 21, Ninety-Ninth Congress, agreed to December 11, 1985, enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99-500 and Public Law 99-591) (40 U.S.C. 184b-184f) is repealed.

The CHAIRMAN. Are there any points of order against that section of the bill?

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I raise a point of order against section 310 on the ground that it violates clause 2(b) of rule XXI of the House of Representatives by changing existing law.

Section 310 of this bill would rewrite the law regarding the House Child Care Center. This provision was not considered in the Committee on House Administration which is the committee of jurisdiction. It is not the product of any introduced bill, and hearings have never been held in any committee.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on the point of order?

Mr. FAZIO. Mr. Chairman, I thought that the Chair had passed the point in the bill where this was appropriate to be offered. That is my understanding, that the gentleman has passed that point, and the gentleman no longer has the right to offer that.

The CHAIRMAN. The bill is open for amendment at any point. The Chair then queries whether there be any points of order. The Chair has requested whether there be any points of order against that section of the bill that was open, and that is when the gentleman arose and made his point of order.

Does the gentleman from California wish to speak on that point?

Mr. FAZIO. Not at the moment.

The CHAIRMAN (Mr. DONNELLY). Are there any other Members requesting to speak on the gentleman's point of order?

If not, the Chair is then prepared to rule. For the reasons stated by the gentleman from Colorado, the point of order is sustained. Section 310 is stricken from the bill. Are there any amendments to that section of the bill?

AMENDMENTS OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. UPTON: Page 8, line 8, strike "$4,020,000" and insert "$3,858,750".

Page 8, line 11, strike "$1,391,000" and insert "$1,332,450".

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

There was no objection.

Mr. UPTON. Mr. Chairman, I have very carefully reviewed this appropriations bill and found that many accounts received significant increases. But most of them did not receive everything they asked for. In a time of incomprehensible, unbelievable $300 billion deficits, we all limit our appetites—including Congress and its support agencies.

For this reason, I rise to reduce the increase in funding for the joint Committee on Printing and the Joint Economic Committee. Both received the entire increase they requested—somewhere between 9 and 10 percent over fiscal year 1991. I propose to limit the increase to 5 percent over fiscal year 1991.

Mr. Chairman, I am not acting out of some desire to single out these committees for unfair treatment. Other areas within Congress are learning to live with less. So must these. A 5-percent increase should be enough for them to continue their valuable activities. Even a 5-percent increase is greater than increases received by other accounts in this bill. Indeed, some accounts received significant cuts.

Mr. Chairman, we all recognize that sometimes requesting more than you really need is standard practice in government budgeting. In other cases, real increases above inflation are necessary. And perhaps these two committees could put the new money to a good end. But how can we agrue that other important Federal programs must suffer to help reduce the deficit and not face the same music ourselves? This is not a time for significant real growth in noncritical Federal programs.

I fully realize we are talking about relatively small amounts of money and that this amendment will do little to balance the budget. I am more concerned about the principle. I urge my colleagues to join me in voting for this amendment.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendments.

I want to try to explain to the Members. First of all, the Joint Committee on Printing, for example, is at the baseline that the Congressional Budget Office calculated.

□ 1500

We did not augment or reduce their request because it was a small entity. The increase is $122,000.

Let me explain how this can quickly pile up in a small personnel-intensive agency. Of that increase, $42,000 is necessary for next year's cost as a result of the January 1, 1991, 4.1-percent COLA. We have to include $35,000 which is the anticipated COLA for the same number of people, by the way, no change in the number of people working there, that will occur on January 1, 1992. Then on top of that, $24,000 is for the increase in the benefits attributable to the increase in salaries because they are proportionate.

In addition, there is $21,000 remaining, the actual amount of the discretionary increases to be used for staff changes and salary adjustments amounting to a mere 1.6 percent of last year's bill.

As I indicated earlier, and the chart in the lobby, I think, underscores this, these are personnel-intensive agencies. They are not doing any cap outlay. They are not doing any program that expends additional funds that can be redirected to pay their very limited staff resources. They are simply performing the same functions, but as the staff receives cost-of-living adjustments or benefit costs increase, the cost goes up.

I would like to compare that 9.6-percent increase with a number of increases that have been proposed by a variety of agencies in the executive branch. In the Executive Office of the President, for example, the Special Assistance to the President, a requested budget increase of 13.3 percent; the Office of Management and Budget, 10.5 percent; the Points of Light Foundation, a 50-percent increase; in the Department of Commerce, the General Administrative Office, 12.2-percent increase. In the Department of Interior, the Office of the Secretary, 20.3-percent increase; in the Department of Justice, General Administration, 30.4-percent increase; in the administration of foreign affairs at the Department of State, 9.6-percent increase; in the Department of Transportation, the Office of the Secretary, a 39.9-percent increase.

There are a variety of others in the executive branch, and I could go on. They are almost all well above the 9.6-percent increase that was asked for by the Joint Committee on Printing. This is much ado about nothing. This is nothing that we should be concerned about because this is not an increase in the scope of this small joint committee. It is simply to compensate its people fairly.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I would simply like to add to the comments made by the chairman of the subcommittee and make a couple of comments specifically about the Joint Economic Committee, because if there is one committee in the Congress that has been restrained in its budget requests, it has been that committee. I know of no other committee in the Congress about which it can be said that for 10 years in a row they have requested absolutely no staff increase. Ten years in a row. They finally did get a small increase of three people after I, when I became chairman in 1985, asked for an increase of five people, so that we could deal with some of the new problems that we are facing.

The committee, for instance, did not even have enough budget to have an agricultural economist on its committee, and I do not think that rural America ought to be ignored.

This year, for instance, there is a $340,000 increase in the committee budget, and I would point out there is no increase for staff. There is no increase for contract budget. There is no increase for hearing activity. There is no increase for staff travel. There is no increase for any ancillary miscellaneous expenses. The increase of $340,000 largely goes to provide for mandatory agency contributions and COLA adjustments, something which is perfectly appropriate, certainly essential, and something which the committee cannot avoid.

This is the committee of Congress, the only committee of Congress which deals with long-range economic problems facing the country. We have just seen a very large increase recommended by the President for the statistical basis for the Bureau of Labor Statistics. I fully support that. I think the executive branch needs that. However, I would suggest that the committee of the Congress charged with the responsibility for reviewing the accuracy of all those figures needs a stand pat, stay-in-place budget, which this budget is. There is absolutely no increase, in real terms. There is no real increase in this committee budget at all. These are very largely mandatory items beyond the control of the committee.

I would suggest that this committee, above all others, has been restrained in its requests, and certainly does not deserve the actions suggested by this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan [Mr. UPTON].

The question was taken; and on a division—demanded by Mr. UPTON—there were—ayes 8, noes 18.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. ROBERTS

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

The Clerk read as follows:

Amendment offered by Mr. ROBERTS. Page 15, line 25, strike out "$21,990,000" and insert in lieu thereof "$20,990,000".

Mr. ROBERTS. Mr. Chairman, I am offering this amendment to strike $1 million from the Architect of the Capitol building fund. The amendment, as has been indicated, reduces this fund from $21,990,000 to $20,990,000, and I am offering this amendment to respond to talk, to some rumors that have been apparently flurrying all throughout Capitol Hill as described in the report that does accompany H.R. 2506. These funds will be allegedly used, and I am quoting now, for a structural and space renovation project in the Cannon Building.

However, this vague description fails to properly or adequately detail the uses of these funds. We have heard talk, as a matter of fact I have been told by the leadership or certainly someone who is very close to the leadership as of this afternoon, that this appropriation would be used for the construction, will be used someday for the construction of a gym, a new gym, a new House gym in the Cannon House Office Building. In fact, the Architect of the Capitol and his attorney are continuing a study on the feasibility of constructing such a facility.

This is somewhat of a surprise to me in that last year's appropriation bill we had $50,000 for a study to determine whether such a gym would be appropriate or could work, liability questions, et cetera, et cetera. It was struck in conference. Here we find the planning is still proceeding.

I am offering this amendment, since this provision was not struck by the full Committee on Appropriations or detailed by the subcommittee. The report in subcommittee hearings do not mention the ongoing study by the Architect, the need for the facility, or other alternatives that the House should consider.

Should Congress appropriate $1 million in funding during these times of fiscal cutbacks? I do not think so. We have a great many current projects in existing House office buildings to complete. We cannot even get the escalator to work going from the Longworth down to the Longworth Garage. That piece of equipment, whatever it is, is 26 years old. We are trying to fix it. We took money out for elevator operations. We have people on top of people in our office suites. This space over there, and I went over and looked at it this morning, is the size of at least seven three-room suites. I am not really trying to criticize the merits of such a proposal. However, the procedures chosen to appropriate this funding is wrong, and the priorities are wrong, and it should be exposed.

I am asking my colleagues to support my amendment to eliminate the $1 million in the Architect's fund without accountability and discussion of the merits and use of these funds. They should not be approved by this body.

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

□ 1510

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment of the gentleman, referring to the leak in the Cannon Building.

This is in fact documented in the legislative branch hearings for fiscal year 1992. I will simply read what the Architect has outlined as to the importance of making this repair:

Funds in the amount of $1 million are requested to complete work in the schedule to begin in fiscal year 1991 to repair leaks in the Cannon tunnel and to renovate the space that has been damaged by water leaks. For some time water has been leaking into the space at the end of the Capitol tunnel leading to the Cannon Building. There has been over time some kind of corrosion in the reinforcing steel and concrete structural members. The program is scheduled to be undertaken to repair these structural members as well as resolving the cause of the water leakage.

I will not go on. We did not specifically go into this project when the full committee considered the bill. I grant, and I am very glad we did not.

These funds are not for a staff gym. Some people have thought that might be a purpose that this would somehow further. The space has structural and water damage that needs repair. That is what the funds are for.

I regret we could not do all the things we know need to be done. I said in my introductory remarks that we cannot find all the funds that the Architect would like to have for maintenance and other projects. He asked us for I believe a $49 million increase in his budget this year. We could not accommodate it.

We did, however, I say to the gentleman from Kansas [Mr. ROBERTS], provide funds for the escalator that is always broken down. The gentleman can see the funds are in here for that.

I do not think the gentleman wants to let this section of the Cannon Building become more structurally unsound. We have an obligation to protect and maintain our physical plant and our physical plant manager, the Architect of the Capitol, has said this is an important priority.

If at some point that space will be put to some use, the House Office Building Commission will decide. That Commission consists of the Speaker, the majority and the minority leaders.

In the meantime, we need to provide the funds to repair the damage and prevent further damage.

I will just simply indicate to the Member myself personally that I think it would be inappropriate for us to back into something that really does need a lot of thought and discussion before we proceed on it; so the gentleman has my assurance that if we, like every other federal agency by the way, decide to have some sort of gym facility for our employees, we are going to do it with everyone being aware of it and on board. It would be inappropriate for us to do otherwise.

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

Mr. FAZIO. I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, let me understand what the gentleman is saying, and I am fully aware of the structural problems.

I just went over to B-106 of the Cannon Building as of this morning. We reprogrammed funds to the tune of $1.1 million. There is the reprogramming again, to make the necessary structural repairs and stop the water leaks.

I have a letter that was sent to the gentleman by the Architect of the Capitol going into the $200,000 for the Longworth project, $800,000 for the Cannon project, and the reprogramming of these funds to fix the structural damage.

Now, I was just told by Mr. Raines of the Architect's office that that project can be completed with the reprogrammed funds, and we are asking for another million dollars.

What I want assurance about is the extra $1 million. I do not want any penny of it to be used for refurbishing, modernizing or equipping this space without the subcommittee and the full committee going into the intended purpose specifically, not the Building Commission. Once it is to the Building Commission, it has passed the floor of this House. It has passed the subcommittee and it has passed the full committee; so that extra $1 million that we are going to use, I want to make sure that it is used for a proper purpose, as opposed to an "all-of-a-sudden gym that is discovered.

Mr. FAZIO. Well, Mr. Chairman, I want to assure the gentleman that will be the case.

Normally we do not take any action unless the Building Commission has acted first. That is our authorizing entity. So it has not passed us or gone to the House floor when it goes to the Commission. It is before us and we have to take action only when they have gone forward with an approval.

Mr. ROBERTS. Mr. Chairman, will the gentleman continue to yield on one point?

Mr. FAZIO. Yes, I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I have the work sheet that the Architect has prepared in regard to the structural damage. I am not an expert. I do not know if it is going to take another $1 million to fix what is structurally wrong over there, but I also know in ways that I can describe to the gentleman privately that this space is being reserved for a gymnasium. Before we go down that road, it seems to me if we are going to be spending funds, that we ought to have assurance from the gentleman, which he has given me now, that no funds will be expended for this purpose unless first taken up by the subcommittee, the full committee and the Building Commission without a full debate. Is that correct?

Mr. FAZIO. That is correct.

Mr. ROBERTS. Mr. Chiairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Kansas [Mr. ROBERTS] is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HEFLEY

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

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: On page 40, insert after line 21 the folowing new title:

Title IV: Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 1.4 percent.

Mr. HEFLEY. Mr. Chairman, this is a simple amendment. It reduces the budget authority in this bill by 1.4 percent. This translates into outlays savings for the fiscal year 1992 of $21.4 million, or a total increase over last year's spending level of 2.4 percent.

Its goal is to hold spending to a 2.4 percent increase over last year's spending level.

Why would we want to hold it at 2.4 percent? Well, I think it was stated on the floor here just the other day by the gentleman from Pennsylvania [Mr. WALKER] that Congress can achieve a balanced budget without cutting Federal spending by holding our spending increases at or below 2.4 percent over the next 4 years. This amendment will do that for the House of Representatives.

Is the amendment necessary? This bill is already $288 million under the President's own request. But we know that the "President's Request" is in name only in this particular item on the budget. The President never actually requested any such amount. Every year the House Clerk sends the OMB an inflated estimate of House expenses for the upcoming year, and every year the OMB, as required by law, returns those inflated estimates to the House as the so-called "President's Request."

Congress passed a law which prohibits the President from amending the request made by the House Clerk.

The legislation is under its budget limits. It only offers a small 3.7 percent spending increase, so why do we need this amendment?

Nearly every bill we passed last year fell within its budget allocations, and we have a deficit of over $350 billion. With the economy still in recession, this deficit could rise to new record levels. In the face of these record shortfalls, it is not enough to oppose new spending caps by hiding behind this year's budget allocations. We need to do more.

Last year the House of Representatives defeated a balanced budget amendment by only seven votes. During that debate, opponents to the amendment argued that Members of Congress did not need a mandate to balance the budget, they needed courage to make the tough choices. This may be one of the tough choices.

Now, I know that when we have legislation for the veterans done here, there is a great constituency out there pressuring us for more money. When we have health legislation, there is a constituency out there that says we have got to have more. When we have legislation for seniors, there is a constituency demanding more. Even for foreign aid, there is a constituency out there asking for it; but Mr. Chairman, there is no constitutency demanding that Congress spend more on itself. There is no pressure on us to spend more for the operation of Congress.

We can very easily make this very modest 1.4-percent cut here and we will be on the road to a balanced budget, at least so far as this aspect of our budget is concerned.

Mr. LEWIS of California. Mr. Chairman, I rise in reluctant opposition to the across-the-board cut amendment proposed here by my colleague.

Mr. Chairman, I rise to resist this amendment for the following specific reaons:

During the deliberations of the subcommittee this year, the legislative branch made every effort to be as tight as they could in every category of this bill. The 1991 enacted legislative branch appropriations bill was $1.740 billion for the legislative branch of the House. The 1992 request was for $2.093 billion. The 1992 recommended amount was only $1.805 billion. Compared to the 1991 fiscal year, the increase reflects for the entire body and its supportive agencies, $65 million of increase.

□ 1520

The request itself would have been as much as $288 million. The percentage of increase reflects approximately 3.7 percent. This cut would cut the House back to far below any inflation rate that I believe it could have a serious impact on the operation of the personnel of the House.

For that reason, while I am empathetic to the gentleman's view, I rise to resist the amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise to echo the words of my friend, the gentleman from California [Mr. LEWIS], in opposition.

The amendment is really similar to the one that was offered the other day by the gentleman from California [Mr. DANNEMEYER], I believe. A similar amendment was offered on the energy and water bill, the same approach, to restrict outlays by the same percentage, I believe.

At that time 92 Members voted in favor and 320 voted against. That bill was a 4-percent increase. This bill is a 3.7-percent increase above the fiscal year 1991 bill.

I want to point out we are well within our 602(b) target. We are within 8/10ths of 1 percent of our baseline. We are below the 4 percent that OMB estimates the rate of inflation will be. We are $30 million below where we would need to be just to pay the legislative branch staff COLA's and benefits. In other words, we have added that money and then cut other programs in order not to increase our spending by what it takes just to pay our staff.

We are well below the 10.5-percent increase requested by OMB for its own expenses. We are below the 13.1 percent for special assistance to the President, or the 50 percent for the Points of Light Foundation or the 9 percent that the Office of White House Policy Development has requested, or the anywhere from 8.6 percent to 39.9 percent requested in major executive department salaries and expense accounts.

In other words, the legislative branch bill, as usual, is much tighter than that of the same kinds of personnel-intensive agencies in the executive branch.

This amendment is not aimed at a profligate budget increase. I think it is just picking on what we all know to be a relatively easy whipping boy.

If it takes courage to vote against spending in the legislative branch, I need a new definition of courage in my dictionary. It is the easiest bill to cut, and I think you will see a very different vote on this reduction than you saw on the energy and water bill, for one reason alone, and that is: some Members simply are afraid to stand up and vote for this institution. I am sure a majority will, however, and I look forward to seeing that on the voting board shortly.

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

Mr. FAZIO. I yield to the gentleman from Colorado.

Mr. HEFLEY. I thank the gentleman for yielding.

Mr. Chairman, you know, in the energy and water bill, there were constituencies out there demanding more spending. There is not that here. But if there is ever a place that we could set the example, it is in this bill.

No, you have not——

Mr. FAZIO. If the gentleman will let me reclaim my time, did the gentleman hear me tick off these percentage increases that the executive branch agencies that are very analogous to what we do here have asked for? How far below that we are?

That is setting an example, that is exactly what I meant by that.

Mr. HEFLEY. If the gentleman will yield again.

Mr. FAZIO. I yield again to the gentleman.

Mr. HEFLEY. I thank the gentleman. In the last 10 years we have increased the legislative budget by 83 percent. I am not sure, in a time of great deficits, that is something to be tremendously proud about.

Mr. FAZIO. I do not know where the gentleman gets that information. All I can tell you is that the increases in our budget on an annual basis have been far below that in the executive branch. We are somewhere in the neighborhood of a 5.5 percent average over the last 10 years. Here it is: Since 1978 the legislative appropriation has grown at an average annual rate of 5.6 percent. The executive budget has grown at an annual rate of 8.3 percent. The CPI has grown at an annual rate of 5.6. We are right on it.

That means that the legislative branch has just about stayed even in real terms while the rest of the Federal budget has grown at an average annual rate of 48 percent higher than the CPI or the legislative budget. That is the example that the gentleman asked us to set, and we set it every year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 134]

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1545

The CHAIRMAN. Four hundred nineteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado [Mr. HEFLEY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 255, not voting 5, as follows:

[Roll No. 135]

AYES—171

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton

Hubbard
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (FL)
Lloyd
Long
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Myers
Neal (NC)
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Petri
Pickett
Porter
Poshard
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Zeliff
Zimmer

NOES—255

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—5

Callahan
Collins (IL)
Lehman (FL)
Sisisky
Thomas (GA)

□ 1553

Mrs. ROUKEMA changed her vote from "aye" to "no."

Mr. WALKER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COX of California: On Page 31, Line 5 Strike "$440,879,000" and insert "$333,333,000"

Mr. COX of California. Mr. Chairman, I rise as the Republican chair of the congressional Grace caucus, which, as most Members know, because so many are members, is dedicated to limiting and weeding out fraud and waste and abuse throughout the Federal Government, and, yes, in the Congress.

The purpose of my amendment is to limit the General Accounting Office to one-third of $1 billion annually. Many Members may not have known that the General Accounting Office has a budget so large that it is even as big as one-third of a billion dollars each year. But this part of our congressional staff is this year asking for $440 million.

Mr. Chairman, the General Accounting Office was created in 1921 as the investigative arm of Congress, to audit Government spending. It has evolved into a sprawling organization with approximately 5,000 employees, which produces thousands of reports. In fact, over 3,000 reports since 1986 have been produced.

It has been growing like Topsy for years, and no one has ever said anything about it. As we will learn later, the General Accounting Office has so many employees, it actually loans them to the Congress.

Today, instead of limiting congressional spending, the GAO itself is a major source of deficit spending. Its budget, if H.R. 2506 passes without amendment, will be $440 million, nearly one-half of a billion dollars, or $4 for every taxpayer in America, just for that one part of our congressional staff.

What is more, instead of acting as a watchdog for wasteful congressional spending, GAO has actually assisted in the process, serving as a virtual arm of the Congress.

In a recent judicial decision, the Supreme Court found that the Comptroller General and the GAO are controlled by the Congress. That is why, of course, the agency rarely investigates Congress, even though many people say there is at least as much mismanagement and misconduct on Capitol Hill as in any Federal agency.

Mr. Chairman, I will quote the New York Times: "Asked if he ever considered doing a comprehensive audit of the Congress, the Comptroller General said in an interview, 'I would love to do it, but in my 15th year.'" In other words, after he is gone.

Mr. Chairman, it now costs over $2 billion a year to run the Congress. There are only 535 of us. In fiscal year 1990 it cost $2,263,000,000 to operate the Congress.

We are often told that we cannot cut congressional spending because it comprises entitlements. Our legislative staff are not entitlements. They are not uncontrollable programs. We ought to make sure they do not become such.

Mr. Chairman, the GAO does some good work for Congress, as an adjunct staff for the Congress. But, with good management, we can run it for under one-third of a billion dollars.

□ 1600

Our annual deficit is now slated to exceed $400 billion. If we care about it, let us show that we are willing to vote yes for fiscal restraint in the Congress.

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

Mr. COX of California. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I just want to clear up one point. The actual cost of operating the Congress under title I of the bill is $1.1, not this $2.1 billion. This is for the House and our direct support agencies like the Architect of the Capitol, the Congressional Research Service, like the Congressional Budget Office, and for congressional printing. The House itself is about $700 million. The Senate cost will be added when the bill gets to over there, another $500 million.

Mr. COX of California. Reclaiming my time, that is where the staff explosion in Congress has occurred, with the Office of Technology Assessment, with the Congressional Budget Office, with the General Accounting Office. What Congress has done over the last several decades is create a shadow executive

branch. It is redundant. It is wasteful, and it is time for us to cut spending. It always hurts to cut spending. We have got to make cuts in these discretionary programs.

Mr. FAZIO. The Congress has had almost a level work force for the last 12 years. The explosion, if one could call it that, occurred in the early 1970's. It has not taken place at all during the 1980's.

Mr. COX of California. Does the gentleman deny that there are approximately 5,000 staff positions at the General Accounting Office?

Mr. FAZIO. No, I think that is wonderful exactly as it should be.

Mr. COX of California. That is exactly right.

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

Mr. SYNAR. Mr. Chairman, I rise in opposition to the amendment.

I could not think in my history of 13 years that I have been in the U.S. Congress of a more misdirected amendment than this amendment. Of all the agencies that we have in the Federal Government that has served this Congress, this body and this Government well, it is the General Accounting Office. It is the single agency which serves the investigating arm of this institution in order that we can accomplish the responsibility directed to us and us alone by the Constitution to make sure that Government works correctly.

The 5,000-plus men and women who serve us in the General Accounting Office have literally saved us billions of dollars through fraud, abuse, and waste. It is probably one of the most important functions which we have to ensure the American public that their taxpayer dollars are being used efficiently and effectively.

This amendment is in many ways very mean-spirited because what they are saying through this amendment is they do not like the work that the General Accounting Office has been doing in routing out the fraud and abuse and waste of the management of this administration over the last 13 years.

What is a crime is the fact that many times these General Accounting Office reports and investigations have been done in a bipartisan fashion. They have been done through subcommittee work and committee work which serves this institution and this country well. It would be a crime to cut the General Accounting Office because it would indeed then take away the best tools we have to ensure that we are using taxpayers' money efficiently.

I rise in strong opposition of this, and I direct my colleagues to the point that the billions of dollars which the General Accounting Office will save us this year will be more than made up by the cost of the agency.

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

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

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

Mr. LEWIS of California. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, I rise in support of the Cox amendment. Surely the General Accounting Office can get by on one third of a billion dollars. How do we know this? Well, for one thing, they have got so much money that they have got extra employees. This year they have brought apparently 172 extra employees. How do we know that? Because something called detailees, loaners from the GAO to the congressional committees, people, staff people have been loaned to the committees of the Congress. That is a 23-percent increase over last year. And they had a 21-percent increase over the year before.

In other words, to the point the gentleman from California was making earlier, the increase in the detailees has been substantially over the last 3 or 4 years. It has not been flat.

And since we just got through debating the civil rights bill, where we were talking about trying to have a fairness for minorities, and of course those of us in the minority over here are a little sensitive to that, when it comes to staff around here, let us look to some of the committees to see where these detailees have gone.

In my committee, the Government Operations Committee, there were 27 detailees in 1990. And what does the staff ratio look like as a result of these detailees? Ninety-three percent for the majority, 7 percent for the minority. That is pretty fair, is it not, with a majority/minority ratio in the Congress of approximately 60 to 40.

Let us look at the Judiciary Committee. It is the same percentage, 93 percent to 7 percent. And let us look at the Energy and Commerce Committee, 91 percent to 9 percent. And a large part of this is due to the fact that these detailees from the General Accounting Office have gone over to the staffs of these committees.

In the case of Energy and Commerce, 33 detailiees. As I said, 27 to the Government Operations Committee. And when we talk about bipartisan, let us ask about bipartisan. Of the requests of the GAO for opinions, a very conservative estimate is a 4-to-1 ratio. It is probably closer to a 5-to-1 ratio request of Democrat Members to Republican Member requests for work done by GAO, accepted by the GAO, resulting in reports.

The point, Mr. Chairman, is this. The General Accounting Office has enough money to be loaning all of these extra employees to the committees which already have a ratio which far exceeds that that is appropriate in terms of the majority and the minority. If there is a place to save money clearly it can be saved in this area.

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

Mr. LEWIS of California. Reclaiming my time, I yield to the gentleman from California.

Mr. FAZIO. I just want to point out at one point during the year, maybe 50 or 60 people would be detailed from GAO. The 172 is the number of people who at any time, maybe even a week, over a period of a year, would be detailed. But no more than 50 or 60 at any time. And no more than 10 people have ever been detailed for more than a year.

Mr. LEWIS of California. Reclaiming my time, we are going to have an amendment to discuss in great detail the detailees. Having said that, I would to mention to my colleague, the gentleman from Oklahoma [Mr. SYNAR], that his comments were not only interesting but that they are part and parcel of the frustration that many Members are feeling on this side of the aisle regarding GAO.

That agency was begun initially to provide bipartisan, nonpartisan work for the Congress. The way staffing has developed over time, just the reverse has taken place. More and more there is frustration on our side of the aisle with work and reports and detailees and personnel who are operating with a partisan beat.

Indeed, it is undermining the confidence of this side of the aisle in their work. Unless we change that pattern, we are going to have more of this kind of dialog. I urge my colleagues who so highly regard the work of the GAO to recognize that this lack of confidence is a fact of life over here. It is not something that people are just kidding about.

Over time our Members have become more and more frustrated with the kind of product they are seeing coming out of what was once an independent agency designed to serve all of us equally. Today many of us believe it is something less than equal.

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

Mr. LEWIS of California. I yield to the gentleman from Oklahoma.

Mr. SYNAR. I think the gentleman from California needs to get one subject committee chairman from Government Operations to come up here and make that case, because in the Government Operations Committee, which is the committee of jurisdiction which really does the oversight for all the other agencies of Government, most of those are done in a bipartisan fashion. The gentleman from New York [Mr. HORTON] and the gentleman from Texas [Mr. BROOKS], and now the gentleman from Michigan [Mr. CONYERS] have worked in a bipartisan fashion. The gentleman from Pennsylvania [Mr. CLINGER] and I have.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] is expired.

(On request of Mr. SYNAR and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. Mr. Chairman, if the gentleman will continue to yield, those colleagues from his side of the aisle who work with Government Operations, I would like them to come forward during this debate and say they have been dissatisfied because they have never said that to me as a subcommittee chairman, nor any of the other subcommittee chairmen on Government Operations, that they have felt that we have abused or used to our own purpose the Government accounting agency officials. I would be very interested to hear one of them come forward in this debate and tell us that they think they have been abused.

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

Mr. LEWIS of California. I yield to the gentleman from Arizona.

Mr. KYL. As a member of the Government Operations Committee, since the time I came to the Congress, let me just respond to that by telling a story. I think all the members of the committee will remember this. When the committee had its official photograph taken earlier this year and all the Republicans lined up on one side and the Democrats on the other side and the Republicans' staff members on their side, and the Democrat staff members were called in. And all of us broke out in laughter because, of course, the line of committee staff people on the Democratic side, including the detailees from the General Accounting Office, were so numerous that they circled all the way around to the point that the photographer could not get them all in the photograph. And they had to bunch up two or three deep.

□ 1610

They had to bunch up two or three deep, and I think we all recognize the fact that there is an imbalance, and let us not deny that fact.

I think the gentleman from California had the point. There is great frustration on our side. It does need to be bipartisan. It does need to be fair. Right now it is out of balance. Part of the reason is because of the detailees that have gone over to the majorirty side.

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

Mr. Chairman, I rise to support the amendment offered by the gentleman from California [Mr. COX], and I do so in part to send a signal to the Comptroller General.

The General Accounting Office used to be prestigious and reliable. I would argue that, having watched it for the last 2 or 3 years, it ought to be audited. It is uncoordinated, it is ideological, it is increasingly sloppy in its behavior. On some occasions its reports are technically incompetent. In other cases they are politically motivated.

Let me suggest that every Member of the House should be aware, and let me suggest two examples of what concern us in terms of the direction the General Accounting Office is going in.

First, there have been a series of letters between the gentleman from Illinois [Mr. MICHEL] and the Comptroller General about the fact that a partisan Democrat for partisan reasons asked for an inquiry into October 1980, in a way in which no Republican was ever involved. There was no effort to establish a bipartisan fair standard for the report. There was no effort to involve anybody on our side of the aisle about what was inherently and unquestionably a political question.

If the GAO is going to become a branch of the Democratic National Committee, they ought to go out and raise money privately. But it is outrageous that they would accept a partisan request about a partisan topic and engage in an investigation without anybody, starting with the gentleman from Illinois [Mr. MICHEL], being asked about it.

Let me give the second example, which was in the paper yesterday. The General Accounting Office on its own has decided that it will decide the value structure of American health care. It decides it will endorse Canadian health care. It does say in the fine print, "Oh, by the way, you will not have new technology, you will have to wait 6 months to 3 years, you will not get a whole set of services, you will not be allowed to privatize any behavior even like on the British model," but you have got to get to the fine print.

It is not the business of a technical accounting agency to decide on values questions, and the General Accounting Office has to understand that we will move to cut its spending if it does not correct its behavior and become genuinely bipartisan; if it does not drop its ideological bias, we will recommend to the administration for next year's budget to dramatically cut its spending.

We are not going to have a partisan, ideological, pro-Government agency engaging in sloppy behavior on its own terms and then masquerading as though it is nonpartisan.

I hope the Comptroller General will take note of this.

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

Mr. GINGRICH. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I understand the gentleman's concern, and I think there are issues that really need to be discussed with the Comptroller General.

I just wanted to make two points. First of all, I do not want anyone to forget that this Comptroller General was appointed by President Reagan, and this is a Republican appointee for a 15-year term. He has no ability to succeed himself, and he is not influenced, therefore, because of the method by which he is selected and appointed. This is a very unique position in the Federal structure.

Second, the GAO's budget does not go through any rigorous review by the executive branch. We simply receive the GAO budget, and we make the decision, so it is appropriate that we discuss it here today.

I do think that there is more support here than anger and opposition, but if the gentleman has concerns that may or may not be legitimate that are based on partisan leanings one way or the other, I think these do need to be directly taken up with the Comptroller General.

Mr. GINGRICH. Let me ask the distinguished chairman: When is the last time the GAO was audited by an outside agency?

Mr. FAZIO. I really do not know.

Mr. GINGRICH. When was the last time GAO had any kind of outside management report on the way in which it is run and whether or not it is efficient?

Mr. FAZIO. I am told that the investigative staff of the Committee on Appropriations has looked at the GAO, and that is not too long ago. In fact, I would urge the gentleman to look at that report, because it may well be far more critical than some of the Members on the gentleman's side seem to think.

Mr. GINGRICH. With all deference to the distinguished staff of the Committee on Appropriations, I think it would be interesting to consider a totally independent audit of the GAO, to then have somebody who is in private business tell us how efficiently and effectively it is being run.

Mr. FAZIO. It is now being run, of course, by a man who was in private business as a senior partner with one of the leading accounting firms in the country.

Let me reiterate my opposition to this amendment. This amendment could not be more misdirected.

The General Accounting Office may be, next to Congress itself, the best watchdog the American taxpayer has in minding the store.

They locate the fraud, waste, and abuse in Government. These are not partisan issues, Mr. Chairman.

If we eliminate the funds for this agency, or drastically reduce their budget, we will lose one of the most effective programs in the Government.

Let me cite a few examples. In 1990, the GAO found measurable financial savings of $15 billion. Those are real

dollars this agency has helped the Federal Treasury save.

They issued 921 reports to Congress in 1990; 54 to Federal agencies; and issued 3,500 legal opinions.

If we impair this agency, competition in Government procurement goes with it because the GAO legal staff has a major role in the Competition in Contracting Program.

This agency does several major financial audits a year. They audited the Air Force 2 years ago and uncovered major problems. They did one at the Exim bank that revealed major bookkeeping shortcomings.

They are currently doing vital work in many areas, including assessing Federal liability in the savings and loan industry; an assessment of health care costs; and the future military force structure in a rapidly changing international environment.

Mr. Chairman, these are not partisan issues. We need GAO—A junk yard dog so to speak. They earn their keep many times over.

Reject this amendment.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(By unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. Mr. Chairman, let me make this point, because I think the gentleman from California made a very good ploy. The fact is that any one man put in charge of 5,000 career bureaucrats, within a very short time, tends to become a captive of the system. The fact is that the overwhelming pressure on GAO is a partisan pressure, and the fact is that we on this side of the aisle are unequivocally not comfortable with the product we are getting, and I strongly urge a yes vote for the amendment offered by the gentleman from California [Mr. COX].

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

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I wanted to quote from Hobart Rowen in the Washington Post who indicated in an article that was published recently that Mr. Bowsher may be the one job selection that President Reagan and surely President Bush wishes they had back. That may tell a little bit about where the politics of all this lie.

Mr. SMITH of Florida. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Georgia has obviously cut right through to the gravemen of this amendment, and that is that they do not like people being able to look into the administration, because that is what the GAO does, how the administration runs. It is designed to help the Congress help run the country. That is what it does.

Now, even though it has a Republican appointee as the head of it and even though this is a man who has a 15-year term appointed by a Republican President, they do not want it. They do not like it.

So instead of coming to the committee, to the subcommittee when the hearings were held or the markup was held to talk about the issue of cutting the budget, they come to the floor and ask for cutting $107 million from an agency that most of the people in this institution, both Republicans and Democrats alike, have acknowledged performs a very valuable service.

One of the gentlemen on the other side said that,

> We do not like the way the detailees are apportioned, and we do not like the way staffs are apportioned. Why, there was as much as, at one time, or totally, 172, 172 detailees to the Congress, and so we are going to cut $107 million.

If you give them an average salary of $30,000, 172 detailees, if you wanted to cut them for that reason only, is $5,160,000, so in their attempt to sustain their argument that they are being mistreated, the Republicans want to cut the GAO 22 times larger than they would have to if they wanted to cut only the disputed positions of those whom they claim are abusing what they are supposed to be doing.

Let me tell the membership of this body that that GAO organization saves the United States of America and its taxpayers billions of dollars a year. When I first came here 9 years ago, I found that in south Florida where HMO's had been given the right by Federal law to enter into the business of providing Medicare services to Medicare beneficiaries and that the U.S. Social Security System would pay for that, we began to find an enormous amount of fraud and abuse.

We asked for a GAO investigation in south Florida. That GAO investigation, after approximately 1 year, found practices that they estimated had already cost the U.S. taxpayers close to one-half a billion dollars during that preceding year, and could have cost on an exponential basis, if not dealt with, billions, billions of dollars.

This was done on a bipartisan basis. The gentleman from Florida [Mr. SHAW], the gentleman from Florida [Mr. LEWIS], the gentleman from Florida [Mr. FASCELL], Congressman Pepper, myself, the gentleman from Florida [Mr. LEHMAN] all joined in asking for this, and the whole of the United States benefited, not only from being able to weed out the fraud and abuse but by upgrading the quality of Medicare which was being delivered by these federally licensed HMO providers of Medicare coverage to Medicare beneficiaries.

□ 1620

That is what this organization, this agency does. If there is a problem in any way, this is certainly not the way to fix the problem, an across-the-board, blind cut, with no regard for the value the agency has. If we cut $107 million now, we will be looking for billions more to pay for what the GAO could not do to save the taxpayers of this country a great deal of money.

I tell Members something, folks. If that is not counterproductive, we will never do anything here.

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

Mr. SMITH of Florida. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I want to say to my colleague that it is the first time I had a chance to have an exchange regarding the work of our subcommittee, and it has been a pleasure to work with the gentleman.

I would mention to my colleague, while the gentleman and I agree upon the thoughts that an agency like GAO should be available to take a look at the administration and the work they do.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I hope, as we work together, and I would take a careful look at the thought that that agency that we created, designed to look at the administration and represent our interests as well, has come to the point where there are 5,000 investigators, probably enough, I would say. From there, they are investigating at the discretion and direction of a highly partisan Congress, the gentleman might agree, as a practical fact of life. Members on this side of the aisle are now concerned that there is such a bias that their ability to have confidence in the work of that agency is in serious question. The gentleman would not want to change this?

Mr. SMITH of Florida. Reclaiming my time, does the gentleman believe that that agency deserves to have positions which would be 20 times the amount of the detailees that the gentleman talked about before, cut out of its budget as a result of your arguments? Does the gentleman truly believe that?

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Does the gentleman from California believe we should cut the GAO $107 million?

Mr. LEWIS of California. If the gentleman will yield, the gentleman from Florida knows well that I worked very intently to cut various aspects of this budget, including this one.

My point is that this recommended cut of 25 percent of their personnel is a reflection of tremendous frustration over here that is not a healthy circumstance for this agency.

Mr. SMITH of Florida. I understand the reason for which it was offered, but I am asking the gentleman if he agrees and is going to vote yes to cut 25 percent?

Mr. LEWIS of California. The gentleman from Florida and I will talk about that.

Mr. SMITH of Florida. I see. I think the gentleman answered the question.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, this is a penny-wise, pound-foolish partisan amendment. It totally lacks merit. Its function is to cut by 25 percent the budget of an agency which saved for the Federal taxpayer a measurable and measured $15 billion.

Now perhaps the gentleman wants to go back to his home State and say that he cut an agency of that sort by 25 percent, and as a result perhaps there will be 25 percent less in the savings for the taxpayer of that $15 billion. The General Accounting Office, I will say for the benefit of the author of the amendment, and the rest of my colleagues unfamiliar with it, is the auditing arm of the Congress. It is a nonpartisan agency, headed by an appointee of the President. That President who appointed the current Comptroller General was Ronald Reagan. He appointed, a Republican, for a 15-year term, who may not succeed himself.

Now, let Members look at what the GAO does. It audits on its own as it is chartered to do by the Congress, to find out whether there is waste, fraud, abuse, in the executive branch, or whether there is a failure to carry out the letter, spirit, or intent of the law. As I said, it has saved the taxpayers in the last year $15 billion.

Now, I have seen this kind of amendment come before us in the past. On one occasion I saw an amendment to cut the number of customs employees. The offeror wanted to cut them by a hundred. The interesting thing about that was that every customs employee brings in about $18 for every dollar that we pay for them. In another instance, I remember from that side of the aisle, came a massive cut in the number of Internal Revenue Service agents. We saved about $2 million. The result, however, in terms of losses to the taxpayer, were that the Federal Government lost about $20 billion in revenue.

That is the kind of thinking that underlies this amendment. We are throwing the baby out with the bath water; we are burning down the barn to cook the pig. We are not supporting good government, if you offer or support an amendment of this kind.

Now, what does the General Accounting Office do for the Congress of the United States and the general public? One, they perform audits on request by any Member or any group of Members. Those audits relate to performance of government agencies, or whether policies are being carried out. They also result in findings of where there is waste, fraud and abuse in terms of the behavior of the Federal Government and the waste in Federal moneys.

Now, it is useful, I think, to see what GAO detailees have done in terms of serving the Congress and the people of the United States. Every single committee under the law has the right to call upon the GAO to have detailees assigned to it, to carry out specific functions and performances. Almost every single committee in this Congress in 1990 has called upon the General Accounting Office to carry out that particular performance. They are listed at the end of the following letter:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 29, 1991.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We understand that during consideration by your Committee of the legislative appropriations bill for fiscal year 1992 an amendment may be offered which reportedly would require all House Committees to pay or reimburse the General Accounting Office (GAO) for all or part of the cost of GAO personnel assigned to congressional committees and subcommittees in fiscal year 1993 and thereafter. We strongly urge that your Committee reject such an amendment.

As you know, the Committee on Appropriations and many legislative Committees periodically arrange (pursuant to 31 U.S.C. 731) for the assignment of GAO personnel to the Committees and their Subcommittees for various purposes. This is natural because the GAO is an arm of the Congress. It was established to, among other things, support Congress.

This practice was authorized as long ago as 1970 as part of the Legislative Reorganization Act. These GAO personnel, who are nonpartisan, have expertise and skills that are very helpful to the Committees in their work, including oversight and investigation functions mandated by the House Rules. The Senate Committees also utilize GAO personnel on detail.

The GAO's supplement to its annual report (copy enclosed) provides a detailed account of these assignments to each House and Senate Committee. The report shows that the Committees and Subcommittees vary from year to year to the extent of such use of GAO personnel. These assignments are sometimes very brief, lasting anywhere from a few days to a few months, depending on the need. All assignments have a specified term not to exceed one year, although GAO employee may be assigned to a subcommittee for a certain period and then to the full Committee for another term. Both majority and minority Members of committees and subcommittees benefit from these assignments.

The GAO's annual report, which is public, shows the travel and salary costs for each GAO assignee in the House and Senate, costs which are covered by the annual appropriation for GAO. For fiscal year 1990 the total of all associated costs for 172 skilled and dedicated GAO people detailed to the House and Senate was a little more than $5.2 million. That is only about $30,000 per person. GAO provides this information pursuant to 31 U.S.C. 719 and presumably in partial justification of its own budget each year. If the Committees and Subcommittees hired consultants or more staff in lieu of these detailees, the costs would be far larger and the benefits for the taxpayer probably not as great.

We understand that Congressman Jerry Lewis and others want all of the Committees to pay or reimburse the GAO for these costs beginning in fiscal year 1993. Presumably, this would mean a comparable cut in the GAO appropriation which could harm that agency. Apparently this would require the Committees to determine in advance how many GAO personnel would be needed in a fiscal year and to seek such personnel, based not on experience and skills, but rather on their salaries in order to ensure that the Committee did not exceed the additional appropriated sums which would be needed to cover their costs. The Committees are not always sure of their needs at the beginning of each fiscal year. Any mistakes in estimates, or an appropriation that falls short of those estimates, could reduce the use of GAO personnel and thus curtail oversight, investigations, and other activities which significantly benefit the House, the Congress, and the taxpayers. In short, this amendment could result in limiting congressional oversight. We do not think that is in the public interest.

We point out that these GAO personnel have helped ferret-out millions of dollars of waste and fraud, such as the recent investigations of unauthorized charges by universities for such items as statues, travel, yachts, and entertainment. Simply put, detailing GAO personnel to Committees saves taxpayer dollars far beyond the actual cost of the GAO personnel.

We urge you to reject this amendment.

With best wishes.

Sincrely,

John D. Dingell, Chairman, Committee on Energy and Commerce.
Henry B. Gonzalez, Chairman, Committee on Banking, Finance and Urban Affairs.
Walter B. Jones, Chairman, Committee on Merchant Marine and Fisheries.
George E. Brown, Chairman, Committee on Science, Space, and Technology.
Charlie Rose, Chairman, Committee on House Administration.
George Miller, Chairman, Committee on Interior and Insular Affairs.
Dante B. Fascell, Chairman, Committee on Foreign Affairs.
John Conyers, Jr., Chairman, Committee on Government Operations.
G.V. Montgomery, Chairman, Committee on Veterans' Affairs.
William D. Ford, Chairman, Committee on Education and Labor.
Dan Rostenkowski, Chairman, Committee on Ways and Means.
Jack Brooks, Chairman, Committee on the Judiciary.
William Clay, Chairman, Committee on Post Office and Civil Service.
E de la Garza, Chairman, Committee on Agriculture.
Robert A. Roe, Chairman, Committee on Public Works and Transportation.
Leon E. Panetta, Chairman, Committee on the Budget.
Les Aspin, Chairman, Committee on Armed Services.

HOUSE COMMITTEES THAT UTILIZED GENERAL ACCOUNTING OFFICE DETAILEES IN FISCAL YEAR 1990 PURSUANT TO 31 U.S.C. 731

Committee on Armed Services.
Committee on Ways and Means.
Committee on the Judiciary.
Committee on Appropriations.
Committee on Energy and Commerce.
Committee on Veterans' Affairs
Committee on Standards of Official Conduct.
Committee on Agriculture.
Committee on Banking, Finance and Urban Affairs.
Committee on the Budget.
Committee on Foreign Affairs.
Committee on Government Operations.
Committee on House Administration.
Committee on Post Office and Civil Service.
Committee on Science, Space, and Technology.

What has been the result? I will not describe what has happened with regard to other committees, but I will tell Members what has happened as a result of the work that has been done by the General Accounting Office for the Committee on Energy and Commerce.

First of all, hundreds of millions of dollars each year in waste, fraud, abuse, and overpayments has been curtailed with regard to defense contractors. Other committees have done the same kind of work. Just this year, better than $1 billion of waste, fraud, and abuse and overpayments and overcharges by universities of higher learning in connection with billing for overhead charges was saved. Other examples follow:

MAJOR INVESTIGATIONS DURING 101ST CONGRESS USING GAO DETAILEES

A. HEALTH

1. Blood Supply Safety.—exposed substantial problems and led to the recent beginning of complete overhaul of Red Cross blood banking system and tougher FDA enforcement.

2. Food Imports.—exposed major loopholes and led to improved FDA enforcement efforts.

3. Medical Devices.—exposed lax FDA monitoring and enforcement.

4. Government supported research.—exposed substantial abuses and led to extensive changes, both voluntary and involuntary, in university indirect cost charging practices as well as the expected recovery of millions of dollars.

5. Bottled Water.—exposed significant gaps in regulation.

B. ENVIRONMENT

1. EPA Inspector General.—exposed management and auditing problems.

2. Superfund and RCRA oversight—ongoing review of critical programs.

C. SECURITIES AND FINANCE

1. Insurance Company Insolvencies.—exposed wrongdoing and state regulatory inadequacies.

2. Insider Trading.—variety of investigations, including Drexel.

3. Northrop.—exposed procurement abuses.

4. Merged Surplus and "M" Accounts.—exposed "slush funds" involving billions of dollars and led to corrective legislation.

D. COMMERCE

1. Substandard Fasteners.—exposed use of tens of millions of counterfeit/substandard fasteners and led to corrective legislation as well as enforcement actions that have resulted in payments of over $20 million.

Now, perhaps some believe these are not meritorious. If Members think they are not, I urge those Members to vote with the author of the amendment. If Members think this kind of expenditure of the public moneys, and this kind of service to the Congress is of value, I urge those Members to reject this amendment out of hand.

There appear to be some curious games going on on the other side of the aisle, and I do not know quite what they are; but I want my colleagues over there who are serious about good government to listen. They complain about detailees and budgets. I want to first address the question of the budget of the Republican side of the aisle on the Committee on Energy and Commerce.

(By unanimous consent Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. There is no Democratic staff on the Committee on Energy and Commerce. There is a committee staff, and there is a minority staff. The minority staff is a special staff that works only for the minority, and the minority in our committee got every nickel and every staff member they requested from the House Administration Committee. I presented it to the Administration Committee and they got every nickel and every staff member they wanted. There is no partisanship on that matter.

The Republicans are kept fully informed on our committee with regard to the hearings and so forth that are engaged in by the Subcommittee on Oversight and Investigations which I chair.

As I pointed out, billions of dollars have been saved, and audits of things like the safety of the blood supply, audits of things like misbehaviors at colleges, universities, and by defense contractors, audits of important questions like rail safety where tons and tons of trainloads and carloads of hazardous substances are being carried around this country have been carried out by the General Accounting Office and by detailees. The minority on our committee participated in those actions. More recently, the General Accounting Offices has been looking into serious misbehavior in the security industry.

If my colleagues do not believe me, call Mr. Broyhill, who used to be our ranking minority Member, or call our current Republican minority leader, the gentleman from New York [Mr. LENT], the ranking minority member on the subcommittee, and ask whether there is any partisanship, or whether there are games played with detailees or with the staff of the committee.

I think it is time we recognize that we Members have some duty in this place to see to it that this Congress has the resources that it needs to serve the public interests, to do the things that need to be done, and to curb the excesses in the government downtown and outside of the government.

□ 1630

The only way we are going to be able to do that is to see to it that we have an adequate level of staff to catch wrongdoing, misuse, and misbehavior.

I hear constant complaints about waste, fraud, and abuse, about the fact that the budget is not balanced. Most of it comes from that side of the aisle. I want those people over there who constantly complain and carp about such matters to take a look and see how we use the GAO to curb and to cut back on the kind of waste, fraud and abuse, about which they are complaining, and through that effort to help balance the budget.

If you are serious about saving money, then I urge you to vote against this amendment. For good and all, this kind of nonsense and trivia should be buried so it does not continue to waste the time of the House, so that we can concentrate on more important and serious matters instead of nonsense like this.

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

Mr. DINGELL. Yes, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding.

I say to the gentleman from Michigan [Mr. DINGELL], I am sure the gentleman knows that I am as concerned as the gentleman is to make certain——

Mr. DINGELL. The gentleman is not showing it very well today.

Mr. LEWIS of California. To make sure that we have facilities to make sure we review that work that the administration is doing, and I know that my chairman would never involve himself in partisan considerations.

All I was suggesting is that there are people on this side of the aisle who see a pattern developing in the GAO that raises serious questions about partisan leanings.

Mr. DINGELL. There are old ladies in this society who find a man under the bed or think there is a man under the bed every night. Some of them I think are actively hoping so.

Mr. LEWIS of California. I do not know about the chairman, but we do not have any old ladies over here like that..

Mr. DINGELL. Mr. Chairman, this is an offensive amendment and should be rejected overwhelmingly.

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

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

Mr. Chairman, I am a little confused about this debate and I would like to ask perhaps the chairman of the committee some questions.

We have in the GAO how much total personnel employed?

Mr. FAZIO. Mr. Chairman, if the gentleman will yield, there is a limit of 5,062 staff years, which has been reduced by 38 positions in this bill.

Mr. ARMEY. It is 5,062

Mr. FAZIO. Yes.

Mr. ARMEY. And a certain number of these personnel in the GAO are assigned to work for Members of Congress, or on the staffs?

Mr. FAZIO. A relatively small percentage, in fact as I said earlier, maybe 50 to 60 at any time are detailed to the hill.

Mr. ARMEY. Detailed to the Hill, how many did the gentleman say?

Mr. FAZIO. At any one time, 50 to 60. Over a year, I believe the gentleman from Arizona [Mr. KYL] said 172. They may be here for a brief period, some for a longer period. Very few are here longer than a year. There are currently I believe about 11 who have been allowed to stay longer than a year.

Mr. ARMEY. The chairman is very generous with his explanation.

Mr. FAZIO. I tried to be helpful to the gentleman from Texas.

Mr. ARMEY. Are they detailed to individual Members, like could I have one detailed to me?

Mr. FAZIO. I think you have to be the chairman of a committee or a ranking member. That request goes forward to the GAO and they are assigned to the committee, not to any given individual Member. One of these days if things go the gentleman's way, he may be in a position to have someone detailed.

Mr. ARMEY. If I am a ranking member of a committee, I contact the head of the GAO and ask for somebody to be detailed to me?

Mr. FAZIO. No. First of all, you have to be a chairman or a member of a committee, with the support of the chairman. You then can get a GAO staff person assigned to the committee, not to any individual Member, for the purpose of helping on a specific study or assignment.

Mr. ARMEY. So that you have to be a committee chairman to arrange for somebody to be detailed to work for——

Mr. FAZIO. For the committee.

Mr. ARMEY. So that the Republican chairman or Democrat chairman, I mean, like if I were the Republican chairman of a committee, I could have people detailed to me?

Mr. FAZIO. No. You could have a person detailed to the committee to work on a designated project that is within the purview of the committee's work.

Mr. ARMEY. The point is that the only person who can make an arrangement for such a thing to occur is a Democrat committee chairman.

Mr. FAZIO. Well, I think ranking members on most committees have a good working cooperative relationship with the chairman and the request is usually totally nonpartisan.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, the answer is yes.

Mr. FAZIO. Mr. Chairman, if the gentleman will yield further, I would think that many of them would be jointly requested.

Mr. ARMEY. Mr. Chairman, in my short tenure here in Congress, there are two words that I have come to totally distrust. The two words are "nonpartisan" and "bipartisan," and yes, I say to the gentleman from Michigan [Mr. DINGELL], this is a partisan amendment and I support it on that basis. It is a partisan concern. The concern is that the GAO, like other agencies, such as the Joint Tax Committee staff and the Congressional Budget Office, work first and foremost and most enthusiastically for the Democrat majority of this body and only intermittently and unenthusiastically on behalf of nonpartisan or bipartisan or Republican concerns; but that is not my concern.

My concern is this. If you take the official reports of official agencies of the Federal Government, such as the GAO, such as the Joint Tax Committee, such as the Congressional Budget Office, they become part of the public's data base by which they understand the operation and functioning of the Government, of the economy and of the Government in the economy, and the relationships in-between. If we do not have scientific accuracy, if we do not have good data bases, if we do not have sound methodological approaches to generating these government reports, we misinform the Nation and that, my friends and colleagues, I believe is serious business.

The universities that we are so concerned about with waste, fraud, and abuse at the universities, we have been concerned and I applaud Chairman DINGELL for the work he has done there. I am very proud of the work he has done there in his committee.

But if the Government of the United States through the malfeasance of its own agencies are giving the American universities fraudulent data base, then we ultimately are to blame.

I would say that the gentleman from California is to be admired for raising the question, because it gets to the heart of the matter. Is this Government committed enough to accuracy in the reports that we make that we are willing to in fact be nonpartisan. I do not think that is the case.

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

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the GAO falls within the jurisdiction of the Government Operations Committee, and as its chairman I would like to make it clear that we have announced that there would be oversight hearings in the GAO and that from approximately 6 months ago, we have sought to find any Member who wished to come forward in an oversight hearing on the GAO, including all the members of the Government Operations Committee, and I wish to report to you that up until this moment the number that had come forward was zero.

I would be happy to entertain any of the new found concerns about an agency that I feel must be defended in terms of its scrupulous fairness in attempting to bring to us the answers to investigative matters without which our staffs could not operate. These are technical matters and I would just like to review a couple that have come to our attention.

Several GAO investigators were assigned to our committee to help uncover the serious risks associated with adapting embedded computer systems with the multi-million dollar weapons systems in the Navy Seawolf attack submarine. As a result of our work, the House Armed Service Committee and the Defense Appropriations Subcommittee substantially reduced the funding for the Seawolf by $2 billion.

□ 1640

The chairman of the Committee on Energy and Commerce is absolutely correct, the savings of GAO in bipartisan efforts to reduce waste, fraud, and abuse amount to $14.5 billion, nearly $15 billion.

Now, what we want to make clear is that in our committee, and I can only speak for the Committee on Government Operations, we have a completely fair operating system with reference to any requests for detailees. We have enjoyed a very good relationship. I might say the gentleman from Arizona [Mr. KYL], who serves with great distinction on the Committee on Government Operations, is fully aware of the processes that we use.

The gentleman from Pennsylvania [Mr. WALKER], former member of the Committee on Government Operations, I think call all join in making it clear that under no circumstances has any Member on the Republican side who has made a request ever been refused a detailee. The gravamen of my case against a reduction is that we will be cutting the best staff that we have, sometimes even as competent as many of our own staff members.

My necessity to request assistance is because of the technical nature of some

of the assignments that come to our committee, and it is in that spirit, ladies and gentlemen, that I urge that this amendment be rejected.

I can tell you that the ranking members of the Committee on Government Operations, the minority member, has cooperated with me, my predecessor, the gentleman from Texas, JACK BROOKS, now chairing the Committee on the Judiciary; in all my years on Government Operations we have enjoyed this kind of relationship that has led to no Member to have asked to participate in the oversight hearings that we would be holding.

I trust that out of this discussion there may be Members who will wish to come before the committee, and they will certainly be invited to do so.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think most of you know I serve as the ranking member of the Committee on Government Operations, and from the day that I came to the Congress, practically, my first assignment was on the Committee on Government Operations. For some years I have served as the ranking Republican. I have worked very closely, for my 29 years in the Congress, worked very closely with the Comptrollers General, particularly Mr. Bowser, and before him Elmer Staats.

I want to say, and I hope that we can kind of calm down the tone of the debate here a little bit, I think there is a legitimate concern by my colleagues on the Republican side with regard to some of the assignments that have been made with regard to people from the GAO and from other administrative agencies.

I think that it is important for us to have a better handle than we have had in the past with regard to these assignees to the various committees.

The chairman, the gentleman from Michigan, [Mr. CONYERS] and I have worked it out pretty carefully as far as our commitee is concerned.

I am aware, and my staff is aware, who those assignees are. We work very closely with them.

In the 29 years I have been on the Committee on Government Operations we have tried to operate without regard to partisanship but from an objective standpoint for the good of the Government. Our job in the Committee on Government Operations is to check on efficiency and economy and to check on waste, fraud, and abuse. I have often said that we have two responsibilities in the Congress: One is to legislate, and the other is to oversight.

We are basically the oversight committee.

The General Accounting Office, over those 29 years that I have been there, has given us outstanding professional service, and I think that we ought to recognize the debate that is going on here is not aimed at any of these professional people who work in the General Accounting Office. Time after time after time these reports have come in, they have been excellent reports, reports that we can rely on after indepth investigation, indepth recommendations. I personally think that these reports have been very excellent.

I think what we need to do is to understand that there is a problem with regard to these detailees, and hopefully we can work that out to the satisfaction of everybody. Maybe as a result of this discussionm that we are having here, we can have a more effective General Accounting Office. It is one of the important tools that we have in the oversight function.

The General Accounting Office, the inspectors general, the chief financial officers that we have just put in, the Paperwork Reduction amendments, the OIRA we have in the OMB are all tools for us to have a better handle on oversight. Let us not throw the baby out with the bathwater as a result of what we are trying to do here.

Let me point out what would happen if this amendment goes through, and I hope it does not go through, but I understand the motivation that has brought this amendment to the floor. The General Accounting office, as a I understand it, and I checked with them this afternoon, they requested approximately $490 million for this next budget, and that was cut by this committee by approximately $50 million, which brought them to a level of $440 million.

I have been informed that if this amendment goes through, it would reduce travel to data collection points and regions to the point where it would almost have to be stopped; the professional staff of 4,000 would have to be cut by approximately 1,000. I do not think we want that.

The congressional requests would be delayed a minimum of 8 to 10 months before they could be even started. And many of us—and I have asked for those reports, and I have gotten them. I realize that as the ranking member of the Committee on Government Operations, I could get that. I remember they spent a whole year checking and giving me a report on what we did at the borders with regard to fresh fruits and vegetables coming into this country. That was the first time anybody had ever looked at that.

They did look at it, gave us a report, which is a bible and which has brought out a lot of information with regard to that subject.

There would be serious disruptions in computer acquisition and data analysis.

The CHAIRMAN. The time of the gentleman from New York [Mr. HORTON] has expired.

(By unanimous consent Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. HORTON. I would not be surprised that right now the General Accounting Office is operating under a hiring freeze.

So I think this amendment would create some very serious problems, and I hope that it does not move forward.

I do think, in the affirmative, I do think what we need to do is sit down and talk about this subject.

The chairman has indicated he wants to have some hearings, and I think that is an excellent thing to do, and I would certainly join with him and the members who have been talking here today on the Committee on Government Operations, and they will have an opportunity to get answers to their questions from the General Accounting Office.

I think the chairman's suggestion which the gentleman from Michigan, [Mr. CONYERS] has made with regard to having hearings on the General Accounting Office is good. We have done that in the past, we have looked it over in the past. We have had those kinds of hearings. I think that would be helpful.

But I do think that it is important for us in our discussions here to recognize there are professional people that we have to respect and we have to thank and we have to applaud for the tremendous job that they have done over the years.

Now, I agree that there is this problem of detailees, but I think that too can be worked out.

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

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, when I came as a freshman, I would ask the GAO to do some studies on some things that they were about the only ones who would have done anything for me as a freshman Member. I have some problems with some of the studies that they have done, but overall I have very high regard for the GAO. I think they have done excellent work. I think a lot of what the chairman, the gentleman from Michigan [Mr. DINGELL] said about the GAO is true. I guess my concern is that there is, speaking to Chairman DINGELL and to the gentleman from California [Mr. FAZIO] there is deep concern here that it is just skewed the wrong way and that Republicans ought to have a bigger shot at how the staff gets divided up.

Now, I am prepared to vote against this amendment if there is some assurance that we can start to look at it and fix this so that there is some greater equity.

From the chairman's Mr. DINGELL's remarks it was one that the system appears to be fine, "Don't mess with it."

I think that there is a legitimate issue here about how people get detailed. I am prepared to vote against the amendment if ther is some sense that we are going to get this equity.

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

Mr. HORTON. I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has raised questions that I think deserve consideration and they deserve a fair and respectable answer, and I want to try to give it to him.

□ 1650

First of all, the detailees that come to our committee are not detailed to me. They are detailed to the committee or to the subcommittees, and they function to do specific tasks for those committees and subcommittees. We have never had a request from our Republican colleagues either to use resources of the committee or to use the resource of the detailees on particular tasks.

I do want to lay to rest one question. My Republican colleagues on the Committee on Energy and Commerce have received every single staff member and every single nickel that they requested. I make that a matter of pride. I make it a matter of personal pride that I try to see to it that my Republican colleagues on our committee have the resources, both money and people, of which they have need so that they may carry out their responsibilities as a minority. I want my Republican colleagues to be thoroughly informed so they can come to the best possible position because I believe that is the best way our committee can legislate and present to this House a good work product.

Mr. Chairman, I work very closely with both the gentleman from New York [Mr. LENT], the ranking minority member of the committee, and the gentleman from Virginia [Mr. BLILEY] with regard to the business in the subcommittee. I fully intend to continue that, and I will tell my colleagues this: That never in the years which I have been chairman of this committee has there ever been a complaint from my Republican colleagues about the way I——

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

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, this is in regard to Chairman DINGELL. There is no one in the House that raises cane more effectively than he does, and I say—That means you have to take on some people out there who aren't going to appreciate what you're trying to do. I felt myself in that position from time to time. I do not think, though, that I should have to go to a committee chairman to get his approval. What if the committee chairman does not agree with me, and I happen to be right? We do not want ever to have a committee chairman in the position to deny a request to somebody because that Republican wants to be more aggressive than Democrats.

Mr. Chairman, I have shared that concern of mine with the gentleman from Michigan [Mr. DINGELL].

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

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

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman from Ohio [Mr. KASICH] because he raises two points that I would like to elaborate on.

First of all, Mr. Chairman, the ranking minority member of the committee also shares in the disposition of detailees, and I think that applies to all the committees across the Congress.

Second, I think the gentleman raises a good point, that we are trying to improve a situation with GAO and not to cripple the excellent effort that they have done.

I am hopeful that, if I reiterate the commitment of the Committee on Government Operations to hold the hearings, the oversight hearings that would take into consideration all of these matters and invite any of the Members here in this discussion that would like to join it, I would like to ask the author of the amendment to consider withdrawing the amendment until we at least have had such hearings, and I would hope that that would be taken in good faith.

Mr. HORTON. Mr. Chairman, I would like to add one other thing, and that is this:

I was concerned 2 or 3 years ago about this detailee situation. The leadership on my side knows this. The gentleman from Michigan [Mr. CONYERS] knows, and others know. I was the first one to bring up this subject because up until that time no one had ever kept track of or asked anything with regard to the detailees.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. So, I think that there is a legitimate concern here. I think we can work it out, and I am sure that, as a result of these hearings, we can.

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

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I think it is very important that this issue get worked out, and I will tell my colleagues why: Because there are a number of my colleagues on the Republican side who have viewed the GAO increasingly as putting forth politically charged reports. The one thing about the GAO that made it effective is that, when the reports came out, they were viewed as unbiased and without a partisan slant.

So, we can get this thing fixed. Maybe we can take some of the recurring charges of partisanship out of the debate because the GAO, I think, offers great help to the taxpayers and to the people on both sides of the aisle. But clearly it has got to get fixed.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. KASICH] for his contribution.

Mr. WALKER. Mr. Chairman, I move to strike the last work.

Mr. Chairman, one gets the impression that someone may have kicked over a sandbox that some people have been laying in for some time here, and the fact is that there are legitimate concerns about GAO which I think are raised by this amendment.

When I joined the Committee on Government Operations some years ago, the GAO was in fact considered an independent, nonpartisan agency. I have got to tell the gentlemen who have billed it as such today that the impression on our side is that it is less than that today, and I find that tragic, and I will tell my colleagues the reason why we regard it as less than that.

First of all, Mr. Chairman, there are the numbers of detailees, and that has been roundly discussed here, but some of the people who have risen to speak so loudly in favor of the GAO in fact have dozens of detailees from those agencies working on their committees, and at least our impression on our side is that the minority does not even share in knowing that those detailees are there, let alone in the allocation of them.

Second, the real concern I have is that there has been a drift away from the GAO doing reports that it regards as being important to GAO doing reports the Democratic committee chairmen think are important, and I will give my colleagues some numbers on that. I cannot be exactly specific, but there is at least one newspaper investigation going on at the GAO at the present time, which has found a rather startling statistic, and that is that something better than 75 percent of all the reports done by GAO in 1980 were done self-initiated. In other words, GAO initiated them. Today, right now, 10 years later, some 75 percent or more are done at the insistence of Democratic committee chairmen in the Congress.

Mr. Chairman, that is a complete reversal in a 10-year period that I think is one of the things that disturbs us.

The gentleman from Michigan [Mr. DINGELL] said a little bit ago that his committee always allows all cooperation with the GAO. Let me give him a specific example. Recently one of his subcommittees did an investigation of the space station. The minority attempted to find out what was going on

in that GAO investigation. The minority was told specifically that it was being done for the committee's subcommittee chairmen, and the minority was not permitted to see it. In fact, Admiral Truly was asked to come up to testify. We tried to get a copy of the report so he would at least know what he was testifying on. We were told specifically that the chairman had that report and was not going to give it to anybody, that it was being done for the chairman, and the minority would not be granted access to it.

Mr. Chairman, I say that does not sound to me as though it is a nonpartisan kind of thing. It sounds to me as if it is being done very specifically for a specific person, and in this case it was a political purpose.

Mr. CONYERS. Mr. Chairman, will the gentleman yield for a response?

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

Mr. CONYERS. Mr. Chairman, we have a rule that, I think, is Congress-wide that no reports are released until the hearing at which they are contemplated would occur, and for that reason we never let any reports out prior to the date of the hearing.

Mr. WALKER. Mr. Chairman, I will tell the gentleman from Michigan [Mr. CONYERS] that it goes further than that. When Admiral Truly asked to view the report, as reports are usually done at the agency, in other words, when they are doing a report, they are to review them, he was told specifically: No, the subcommittee chairman has said this was not be reviewed with the agency, so there was not even that courtesy extended.

In this particular case, sure we do not release them publicly. The fact is this one leaked the day before. Now since only the committee chairmen, or subcommittee chairmen in this case, had access to it, one has to guess that it was leaked out of that venue, but I do not know that to be the case. What I do know is that, when the minority was asking for access to it, not to leak it, but simply to have the data, the minority was denied access to it.

Now I am telling my colleagues that that is where we get the impression that some of these things are being done on a partisan basis rather than on a nonpartisan, independent kind of an investigation.

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

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

Mr. CONYERS. The gentlemam has served with great distinction on the Commitee on Government Operations himself, knows that personally I have reviewed these matters as carefully as I can, not only in my subcommittee, but with all the subcommittees in the Commitee on Government Operations. I have never had any complaint lodged in my memory, not only in the Committee on Government Operations, but from any Member in the Congress, and that is why I say to the gentleman in the well that the hearings will be the more appropriate place to really develop this. I cannot develop it on this hearsay.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS]. He just had a complaint lodged, and it is a very specific complaint, and I would ask the gentleman to look into it.

Mr. CONYERS. I would be happy to do so.

Mr. JACOBS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe it is accurate to say that in the years I have served in the Congress I have very rarely ever voted against an amendment to reduce the legislative appropriations. I shall cast my constituents' vote in opposition to this amendment to reduce the legislative appropriations.

□ 1700

Those who were here at the time can tell us that I was the only Member of the U.S. House of Representatives who voted against an appropriation to give the beloved John McCormack special office space in Boston when he retired. I loved him, but my duty was to the taxpayers, and I had to do something that was actually obnoxious to me. If they had passed the hat, I would have put some money in it, but I did not think the taxpayers should be required to do that.

They say that now and then a person's thinking will be messed up by facts, and when we have our thinking messed up, we do not like facts. But to impugn the reputation of the finest agency in the Federal Government, the U.S. General Accounting Office, is going way, way too far. There are so few things today, so few public institutions in which we can have faith. I personally requested investigations by the GAO which disproved my original suspicion. I messed up my thinking with facts. In court they call that filing a motion to amend the facts.

Mr. Chairman, I think that passing this amendment would be as grievous a mistake, perhaps even a more grievous mistake than the horrible mistake that was made in the 1980's by reducing the auditors' activities among the S&L's in the United States.

Mr. Chairman, I hope that this amendment, therefore, will be rejected.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will be brief. I am not a Republican and I am not a Democract. I am the only Independent in the House, so I am not going to get involved in the partisan aspects of the discussion, but this is what I do want to say: I do not claim expertise on the GAO, but I find it interesting that this discussion surfaces 2 days after the GAO published what I believe to be one of the most important reports this Congress has ever seen, and that is a comparison of the Canadian health care system to the American health care system. I think that what we are hearing today is an attempt to shoot the messenger because some people do not like the message that the GAO faithfully brought forth.

What did the GAO report say that is so odious to some people? They said that in Canada all people receive comprehensive health care without out-of-pocket expense. By God, is that not terrible?

They said that in Canada they are able to control health care inflation better than we are in the United States. Oh, that is terrible.

And they said that in Canada they have a lower infant mortality rate than we do, and they said that in Canada people live longer than our people do.

This report also said—and this is very terrible—that the American people should not be allowed to get this information, that despite all the advances of the Canadian system, they are spending 30 percent less per capita on health care than we are, and if we moved toward a single payer, with the Canadian style health care system, we could save $67 billion a year. Now, is that not a terrible thing to learn?

So my suggestion is that if there are people who do not like the concept of national health care or a single payer system, let us debate that issue, but let us not shoot the messenger for bringing forth an important message.

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

Mr. SANDERS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding.

The point, though, in the GAO study was not a comparison of the two systems and the relative merits of the two systems but only the fact that under the Canadian system we could save possibly $67 billion in administrative costs, and that goes to the point that the gentleman from Texas was bringing up earlier. They are comparing only administrative costs. We are putting a record out there for the American people, and part of the data base of information out there is inaccurate, because we are only presenting a very small part of a very large issue.

That is the point the gentleman from Texas was making, and the point here is that we are not talking about saving $67 billion in that system; we are only looking at administrative costs.

Another point I bring up is the point we had in agriculture where on the Export Guarantee Program we had some Members politically motivated who do not want to give credits to the Soviets.

Mr. SANDERS. Mr. Chairman, if I can get my time back, I would simply say in response that the gentleman is right, that the GAO suggested we could save $67 billion in administrative costs. The gentleman is aware, I am sure, that there are many medical economists who will argue that that is a conservative number, that in fact if we move toward a single payer system, we could save over $100 billion.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I am happy to yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I think it is terribly important, since that is a perfect example in a sense of the damage the GAO is capable of doing by examining too narrow a portion of a point, to remind the body as well as those listening that the reason administrative costs are different in Canada than they are in the United States is because the systems are very different and they reimburse many, many fewer specialists than we do in America. And that has consequences for both access and quality.

Mr. SANDERS. Mr. Chairman, I would simply say that we are presented in this body with a national health care system. I do not want to get into that debate right now. That is a good debate to get into, but let us not criticize the GAO because they stimulated this debate.

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

Mr. Chairman, we are hoping to wrap this up soon. Just before I yield to the gentleman from California [Mr. COX], the sponsor of this amendment, let me say that in past years there were two fiscal conservatives, Everett Dirksen and H.R. Gross, who served in this House and who were noted for their fiscal restraint. They must be smiling in their graves. I heard earlier some Member stand up and say that the GAO must be saving us tens of millions of dollars. Then I heard one Member—I think it was the gentleman from Florida, Mr. LARRY SMITH—stand up and say, "No, that is wrong; they are saving us $15 billion." Then I heard my friend, the gentleman from Michigan, Mr. JOHN DINGELL, stand up and say, "No, they are saving us hundreds of millions of dollars—no, I mean hundreds of billions of dollars."

Let me just tell the Members something. We talk about hospital care, and right now in the veterans' health care facilities across this country, in every one of our districts, there is right now a shortfall. American veterans are going without medical care services. Medical care alone in the VA hospital care system is short $154 million. In addition to that, VA medical research is short $33 million. Major construction in our VA hospitals in all of our districts is short $68 million. The National Cemetery System for our dying veterans is short $11 million. And the procurement of medical equipment in VA hospitals in our districts is short $80 million.

Mr. Chairman, if this amendment saves $177 million, I think it is money well saved.

Mr. Chairman, I now yield to the gentleman from California [Mr. COX].

The CHAIRMAN. The Chair would ask that the gentleman from New York remain on his feet while he yields to the gentleman from California.

Mr. COX of California. Mr. Chairman, I thank the gentleman from New York for yielding.

More than anyone else, I am anxious to wrap this up, because while I listened to the debate and I enjoyed it and the rhetoric was outstanding, I noted that we got very far off the track. This is my amendment, and let me tell the Members why I brought it here. It has nothing to do with most of the reasons I heard advanced. It certainly is not meant to impugn anyone's integrity in the General Accounting Office, which I think is doing a great job in a number of respects.

The purpose of my amendment is to get at our very serious problem of runaway deficit spending. The purpose of my amendment is to say that if you believe the General Accounting Office is doing a great job, if you believe we need this adjunct congressional staff now running over 4,000 people, let us fund it at an amount not to exceed one-third of a billion dollars.

□ 1710

Frankly, I am comfortable going back to California and telling my constituents that we can fund this one part of our congressional staff at one-third of a billion dollars. That is what this is all about.

Now, I heard a couple of things during debate that I think we ought to get clear. First, that the Comptroller General is appointed by a Republican President. All this political stuff is off the wall, because President Reagan appointed this person.

Well, President Reagan appointed this person under legislation established by Congress, from a list of people presented to him by the Congress. Even though I did not raise any political issues in my own remarks introducing this cost-cutting amendment, I will say that it is the New York Times that we can rely upon. We do not have to rely upon Republicans or Democrats to tell us whether there is politics involved.

The New York Times quoted Harry S. Havens, 1 of the 11 Assistant Comptroller Generals, who acknowledged, "Close ties between the GAO and Congressinal committees which often use the agency's research for partisan political ends, could pose significant risks to credibility for the watchdog agency."

It is tough to cut spending around here, but our deficit next year is going to run, we are told, over $400 billion. I do not want to cut spending on Medicare, I do not want to cut it on food stamps, cancer research, nor veterans. None of you does either. But we can cut our own staff, and that is what we are talking about here. Let us limit it to one-third of a billion dollars. I think that is plenty enough.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COX of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 294, not voting 7, as follows:

[Roll No. 136]

AYES—130

Allard	Grandy	Pursell
Archer	Gunderson	Quillen
Armey	Hancock	Ramstad
Baker	Hansen	Regula
Barrett	Hastert	Rhodes
Barton	Hefley	Riggs
Bennett	Henry	Rinaldo
Bentley	Herger	Roberts
Bereuter	Holloway	Rogers
Bilirakis	Hopkins	Rohrabacher
Boehner	Houghton	Ros-Lehtinen
Broomfield	Hunter	Roukema
Bunning	Hyde	Santorum
Burton	Inhofe	Saxton
Callahan	James	Schiff
Camp	Johnson (CT)	Schulze
Campbell (CA)	Johnson (TX)	Sensenbrenner
Campbell (CO)	Klug	Shaw
Chandler	Kolbe	Shuster
Coble	Kyl	Skeen
Coleman (MO)	Lagomarsino	Slaughter (VA)
Combest	Leach	Smith (NJ)
Cox (CA)	Lightfoot	Smith (OR)
Crane	Livingston	Smith (TX)
Cunningham	Lowery (CA)	Solomon
Dannemeyer	Machtley	Spence
DeLay	Marlenee	Stearns
Dickinson	Martin	Stump
Doolittle	McCandless	Sundquist
Dornan (CA)	McCollum	Taylor (NC)
Dreier	McCrery	Thomas (CA)
Duncan	McEwen	Thomas (WY)
Edwards (OK)	McGrath	Upton
Emerson	Miller (OH)	Vander Jagt
Fawell	Miller (WA)	Vucanovich
Franks (CT)	Molinari	Walker
Gallegly	Moorhead	Walsh
Gekas	Myers	Weber
Gilchrest	Nichols	Weldon
Gillmor	Nussle	Wylie
Gingrich	Packard	Zeliff
Goodling	Paxon	Zimmer
Goss	Petri	
Gradison	Porter	

NOES—294

Abercrombie	AuCoin	Borski
Ackerman	Bacchus	Boucher
Alexander	Ballenger	Boxer
Anderson	Barnard	Brewster
Andrews (ME)	Bateman	Brooks
Andrews (NJ)	Beilenson	Browder
Andrews (TX)	Berman	Brown
Annunzio	Bevill	Bruce
Anthony	Bilbray	Bryant
Applegate	Bliley	Bustamante
Aspin	Boehlert	Byron
Atkins	Bonior	Cardin

Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—7

Collins (IL)
Ford (TN)
Gephardt
Lehman (FL)
Matsui
Sisisky
Thomas (GA)

□ 1729

Mr. MOODY changed his vote from "aye" to "no".

Mr. PORTER changed his vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SOLOMON

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

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 40, after line 21, insert the following new section:

"SEC. 313. (a) Each House of Congress, and each other entity within the legislative branch, shall establish and implement a random controlled substances testing program for employees and officers, whether appointed or otherwise, within their respective bodies.

(b) For the purpose of this section, the term "controlled substance" has the meaning given such term by section 102 of the Controlled Substances Act.

Mr. FAZIO. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order.

Mr. SOLOMON. Mr. Chairman, I will be very brief. We are ending this bill very shortly, and I do not want to take up much time.

But let me just say that I would not be offering an amendment to an appropriations bill under ordinary circumstances. Because I am the ranking Republican on the Committee on Rules. I try very hard to obey the rules of the House. I urge all Member to do so.

But the truth is there is no authorization bill out there right now for the legislative branch. This bill is the only opportunity that I have. You all know that I have been offering amendments on bills for every department and agency and bureau of the Federal Government which would require random drug testing of Federal employees. It is only fair to them that we treat ourselves and our staff the same as we would hope to treat them. That is why I offer the amendment today.

Mr. Chairman, I do not mean to impugn the character or the integrity of any Member of this House or any Member of the legislative branch. Nor do I believe that any Member of this House does use illegal drugs, nor do I believe their staffs do. However, we do know that we have a terrible problem in the country, and we know that there is rampant drug use throughout America by many of our citizens.

Unfortunately, 75 percent of all the illegal drug use that takes place in the country today is used by casual drug users, usually those coming from the middle-class or from the upper-middle-class. That means that many people just like you and I, as Members of Congress from that same echelon, and many people on your staffs come from that same middle- or upper-middle-class constituency.

Therefore, I offer the amendment in hopes that we could set the example for not only the other Federal employees but for the private sector as well that we want to stop casual drug use in America. Let's lick this terrible problem that is facing us.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the gentleman's amendment if it is made in order.

I have introduced legislation, H.R. 17, that would require random drug testing of Members of Congress. It does not relate to the staff drug testing that is also in the amendment offered by the gentleman from New York.

My legislation has been referred to the Committee on House Administration on January 3, which was the first day that we could introduce legislation. There has been no hearing yet set on the legislation, and to my knowledge they are not planning any hearings. So this may be the only opportunity to get an amendment considered, and I personally think, as Members of Congress, we should set an example for the rest of the country.

We have a serious drug problem. We should be in the forefront of trying to help solve that problem, and the amendment offered by the gentleman from New York would certainly give us credibility in our efforts to get the rest of the country to help fight and win the war against drugs.

Mr. SOLOMON. Mr. Chairman, before yielding back the balance of my time, let me just say that I introduced a bill to try to get this amendment on the floor in the 101st Congress. It was pending before the Committee on House Administration for those years. I have now introduced it in this Congress. It is H.R. 2420.

Even though a point of order lies against the amendment, I would hope that the gentleman would allow a vote on this measure just to show the American people we are as sincere as they are in trying to do something about this terrible problem.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on his reservation of a point of order?

Mr. FAZIO. Mr. Chairman, I would simply say that the House does feel very deeply about the problem of drug abuse. We have a policy which has been promulgated by our Speaker, put into effect on October 2, 1990. I will place that in the RECORD:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1990.

DEAR COLLEAGUE: Substance abuse is a serious problem affecting many Americans

throughout our Nation. The House of Representatives, as a governmental institution employing several thousand individuals, is committed to providing our employees, and those we serve, with a drug-free workplace. This statement is intended to articulate the policy designed to meet that goal.

The unauthorized possession, use, or distribution of controlled substances in the offices of the House of Representatives is violative of applicable laws. Furthermore, if such violations occur in the offices of the House of Representatives, it does not reflect creditably on the House of Representatives. Each employing authority in the House shall take appropriate action which may include termination or other properly available employment action, when such use, possession, or distribution occurs, depending upon the specific facts and circumstances of any such instance. It is fundamental to the employer-employee relationship that any policy concerning remedies with respect to possession or use of controlled substances in the workplace be administered in a humanitarian fashion. Therefore, in the administration of this drug-free workplace policy, remedial measures, such as counselling and rehabilitation, as well as the full range of properly available employment actions, may be and should be considered. With respect to counselling and rehabilitative services the Employee Assistance Program which is being established under the auspices of the Clerk of the House will provide one internally available resource for such services.

This policy is designed to ensure that workplaces in the House of Representatives be, in a manner consistent with law, free from the illegal use, possession, or distribution of controlled substances (as defined by the Controlled Substances Act) by the Members, officers, and employees of the House of Representatives.

Sincerely,

THOMAS S. FOLEY,
Speaker.

But at this point, I cannot accept the authorization language on this appropriation bill.

Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violated clause 2 of rule XXI.

Mr. SOLOMON. Mr. Chairman, as I said before, I recognized that a point of order legitimately lies against the amendment, and rather than appeal to the Chair on something I know is correct, why, I am going to accept the ruling of the Chair.

The CHAIRMAN (Mr. DONNELLY). The Chair will rule that, for the reason stated by the gentleman from California [Mr. FAZIO], the point of order is sustained.

AMENDMENT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of California: Page 33, line 2, insert after "Congress" the following: ": *Provided further*, That none of the funds appropriated in this Act may be used for any assignment or detail of an officer or employee of the General Accounting Office to a committee of the House of Representatives for a period in excess of the period permitted under section 734 of title 31, United States Code".

Mr. FAZIO. Mr. Chairman, I reserve a point of order against the amendment offered by the gentleman from California [Mr. LEWIS].

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order.

Mr. LEWIS of California. Mr. Chairman and my colleagues, the dialogue that I expected we might have on this amendment has largely taken place when we discussed detailees during debates on the earlier amendment cutting the appropriation to the GAO. Nonetheless, I think it is important that we highlight and bring to the attention of the Members a problem that is very significant in terms of the pattern and the fashion that detailees from GAO are used within our committees in the House.

The chart that I have before me makes a very significant point, and while it addresses only four committees in the House, it makes the point that Members on our side of the aisle are attempting to make. There is a pattern in the House of staffing within GAO that is becoming of great concern to those of us who have supported that agency because its purpose is to provide unbiased analysis of the work of the administration, reflecting the interests and concerns of Members on both sides of the aisle.

Currently we have in the House a circumstance that is very disconcerting to this Member, that is, that there is an imblance within our committee system in terms of staffing ratios that distinctly impact in a negative fashion the ability of the minority to be heard in the committee process.

To illustrate the point, in the Committee on Energy and Commerce, a committee we discussed earlier, there are 33 GAO detailees this year. Of the Energy and Commerce total investigative staffs, the majority has 92 staffers, the minority 13, a pattern of 88 percent of the staff going to the majority. You then add to that ratio the impact of detailees, and the staff ratios become 91 percent of the staff for the majority and 9 percent for the minority.

If the Members will peruse this chart, they can see the pattern continues, and it is creating a very significant pattern.

GAO DETAILEES IN 1990

Committee	Number of detailees	Investigative staff		Staff ratio		Staff ratio with detailees	
		Number majority	Number minority	Percent majority	Percent minority	Percent majority	Percent minority
Energy and Commerce	33	92	13	88	12	91	9
Government Operations	27	51	6	89	11	93	7
Banking	17	69	11	86	14	89	11
Judiciary	8	43	4	91	9	93	7

Source: Supplement to the Comptroller General's 1990 Annual Report 1990 Committee Budget Reqests.

□ 1740

My own Members are very concerned that the GAO detailees that are coming to our committee, at the direction of the chairman, rarely in the employ of a ranking member. Those detailees in some cases carry on professional work with a bias.

It is very important for Members to know that this growing pattern is the reason for the slant of the debate today from our side of the aisle—a growing concern where GAO details would take the important work of the House.

These detailees are professionals who, under the existing law, can work on a specific project for a committee up to a year. The law literally says they cannot extend beyond 1 year, but the fact is that going through the Committee on House Administration, a chairman often extends those detailees beyond a year or two, and those are the people that my amendment specifically concerns. To have a detailee of very intense professional background, serving a year in one of our committees or subcommittees, and then automatically to be available to the same committee, the same subcommittee, or another subcommittee of that full committee, for a second or a third year, creates, to say the least, a very difficult circumstance for the minority.

My amendment today essentially says that no funds will be expended for such detailees.

It has been suggested by some that the reason that the minority has relatively few detailees assigned to them is because we do not ask for them. The fact is, the chairmen of the committees ask for them on behalf of other people. The reality is that the minority finds itself in a circumstance where if they were to ask for such employees they do not have the space to put them in. So as a practical fact of life, the majority continues to dominate.

It is that concern that I am here to bring to the attention of the House, and I urge Members to support my amendment to eliminate this practice, which is part of the pattern of the way the committees are being staffed in the House.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to continue his reservation?

Mr. FAZIO. Mr. Chairman, I do not need to be heard on the reservation. I will move at some point, but I want to allow the gentleman from North Carolina [Mr. ROSE] and the gentleman from California [Mr. THOMAS], who wish to comment on this, to be heard before I offer my point of order. However, I would like to continue my reservation.

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

I intend to support the gentleman from California [Mr. LEWIS]. I voted against the last amendment because I know the value of the General Ac-

counting Office. I was one of those, in my leadership role, responsible for Mr. Boucher's appointment in the first place. He is a good personal friend of mine, and one who I served for many years on the Committee on Appropriations. That was natural to utilize to a great extent, the great work that is done by the General Accounting Office in supplying the Committee on Appropriations which I serve, the kind of documentation and voluminous reports over a long period of time.

Therefore, I know the value, and I just caught a few of the words of the gentleman from North Carolina in the earlier dialog that took place. He is eminently correct, but I think what is happening here, there has been a pattern that has evolved here that ought to be corrected. I am a leader on our side. I have a certain measure of power, certainly nothing that compares to the power of the Speaker. There is nothing wrong with that disparity, either. Each of the committee chairmen wield a great deal of power in this body; ranking members, a fraction of what power is. I would like to think all Members who have any measure of power to wield, that we would be fair and would not abuse that power.

I think the thing that rankles this Member, in the past there has been a pattern evolving here where one tends to get the feeling that these GAO people, and it is an arm of the people, are the handmaidens of just certain people, and all the information is privy only to that one individual, and ought to be disseminated either to the ranking member as a minority member or other members of the committee. I think that is unfair, and I am not altogether sure it is a good practice around here.

Therefore, all I am asking, and the distinguished gentleman from Michigan and I have had a conversation several times about it over a period of time, because he utilizes the GAO to a great extent. We have tremendous debates in this House on funding of committees and who gets how much staff and how much investigating staff, and the wide disparity between what Members on the majority side and what the minority gets on our side, so what we are raising, this was not raised because of the doggone report on the Canadian Health Plan, this is something that has been going on for quite sometime, and has nothing to do with the good work that GAO does. However, the process and the procedure in this House by which we utilize those people, that is what we are getting at here. I think there has to be some correction made, because otherwise we are going to continue to raise the question.

Now, the distinguished gentleman talks about the billions of dollars that are saved, and I agree with that. May be a little bit magnified, but when, for example, the last flap we had over investigating, what happened in the October surprise back in 1980 had nothing to do with dollars and cents. So I asked the Comptroller General in a letter dated May 20, I guess it was, how did this all come about, who authorized it? Who asked for it? When was it done? Well, it so happens I get a reply back that said they undertook the inquiry at the request of the chairman of the Committee on Government Operations, I guess at that time back in July 1990. I asked, what happened to the report? Well, we will put that all in the RECORD. The point being, it was not shared with any Member other than simply the chairman.

Now, I happen to think that in a matter of that concern that the ranking member of the Committee on Government Operations would certainly be entitled to at least ask, "Hey, what did you-all find out? Are we entitled to that?" They are an arm of the Congress, not an arm of one individual or one committee chairman. We would like to think we have a shared role in the responsibility of running this House in an orderly fashion. That is what our gritch is. It is not what the GAO does, or the number of employees they have doing whatever they do. They are good people and pursue their work. However, let Members face it, as an arm of the Congress, when they are asked by a man of influence in this body, they are going to have to respond.

My view, and my only point that I am trying to underscore, it seems to me that it ought to be done more on a bipartisan basis. Quite frankly, there are plenty of staff people on a partisan basis that can do it if it has to be done, playing it close to the belt or the vest, where they would be sure that the information were held only to the one side of the aisle or the other. Let Members face it, in some of our committees, we have minority staff, it is true. During my long tenure on the Committee on Appropriations I never thought in terms of a partisan staff. Shucks, we never had a point about it because we all worked in a very bipartisan way.

The other legislative committees admittedly tend to get minority/majority, and that is part of the process. All we are trying to underscore here, and I appreciate the gentleman from California raising the issue one more time, gentleman, it has been thoroughly aired and debated early on, I think, but we wanted to make the point abundantly clear what the real core and substance of our complaint was.

Mr. ROSE. Mr. Chairman, I move to strike the last word, and I will be very brief.

I would like to engage my colleague from California [Mr. THOMAS], the ranking member on the Committee on House Administration for just a few brief words. I have heard and listened with great interest to everything that has been said here. I understand the concerns that have been expressed and the explanations that have been given. The law states that the detailees from the General Accounting Office, before they can be authorized, must have the approval of the Committee on House Administration.

In other words, our committee is responsible for authorizing these positions. I want to pledge to the gentleman from California [Mr. LEWIS] and to Members of his side of the aisle that our committee will endeavor in the future to take a very close look at this process to see that the detailees are fairly authorized, and that some of the concerns the gentleman expressed, are looked into and met.

□ 1750

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

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

Mr. THOMAS of California. Mr. Chairman, as folks know, the Accounts Subcommittee of the House Administration Committee determines the investigative committee funding. Over the last several years, Republicans, as the leader indicated, have been concerned about the question of reasonable fairness in ratios.

In addition to that, although it is not under the jurisdiction of House Administration, there has been a concern about space. Everybody is concerned about space. We are concerned about a fair share allocation of space.

As the chairman correctly indicated, the underlying statute says that no one can have a detailee, and we have been focusing on the GAO here, but of course the Government Printing Office and a number of other agencies provide detailees as well; but no committee can have a detailee without written permission of House Administration.

It seems to me that if the gentleman from North Carolina, the chairman of the committee, is willing to work with the ranking member from California, we can set up a procedure somewhat akin to the investigative budget procedure in which the minority can be assured of some input on the decision on detailees. If that is what the gentleman is indicating, I think we can resolve the problem from our side of the aisle through the underlying statute portion of House Administration signing off.

Mr. ROSE. Mr. Chairman, I think the House knows and the gentleman from California knows that we have worked very hard this year at cooperation and making this place work smoothly and better.

I endorse the procedure that the gentleman has outlined in his comments and we will work together to see that this no longer becomes a problem to anybody.

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

Mr. ROSE. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, as the gentleman knows, this Member is very concerned about the pattern that has begun to develop relative to the detailees and their assignment in the House.

Between the years 1987 and 1990, the time that we have been able to get this information about numbers of detailees, starting in 1987 detailees in numbers of 119 have risen through 1990 to the number of 172, with a pattern of increase at levels of 17, 20, and 23 percent.

Having said that, those detailees carry on responsibilities in committees that very much appear to be developing a partisan slant.

It is my concern that both sides of the aisle have a chance to sign off on those kinds of assignments initially, and if that is what the gentleman is telling me that he is willing to do, then that changes the picture, at least for the short term considerably.

Mr. ROSE. Mr. Chairman, I am telling the gentleman that the gentleman from California [Mr. THOMAS] and I will agree on a system that will see that this is not a problem for the gentleman's side of the aisle, that will allow the work of the detailees to go forward, but just with the usual kind of way in which the gentleman from California [Mr. THOMAS] and I work together, I think the gentleman's concerns will be met.

Mr. Chairman, I yield to the gentleman from Kansas [Mr. ROBERTS], a member of my committee.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding to me.

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

Mr. Chairman, I rise in support of Congressman JERRY LEWIS's amendment to better control the use of Government Accounting Office detailees in the House.

During fiscal year 1990, the Congress utilized the talents and skills of 130 GAO detailees. This service cost the GAO $5.3 million—in fiscal year 1990.

While I wish not to directly criticize the work these detailees provide—it is undoubtedly beneficial—I share my colleagues concern with their growing use in the House without cost accountability.

As explained by Congressman LEWIS, GAO detailees are brought to the House at the request of committees. They are responsible to investigate and retrieve information for the benefit of the committee. They play the role of committee staff with expertise in certain areas. Why shouldn't committee be expected to pay for their services?

The Lewis amendment is willing to allow committees to request and work GAO detailees for up to 1 year without having to pay their salaries—a generous compromise. It is offered to place financial burden-sharing on committee budgets and prevent abuse of the current system.

The Lewis amendment does not forbid, prevent, or hinder the use of GAO detailees. It corrects inequities and returns the system back to the intent of the law.

I urge my colleagues to support this amendment.

Mr. THOMAS of California. Mr. Chairman, if the gentleman will yield further, based upon this colloquy, is the gentleman interested in pursuing his amendment?

Mr. LEWIS of California. Mr. Chairman, will either of these gentleman yield?

Mr. ROSE. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, assuming that I understand our understanding, recognizing that we will be watching very closely in the near term, with that understanding I will withdraw my amendment.

Mr. ROSE. Mr. Chairman, I thank the gentleman. We will work together.

Mr. PORTER. Mr. Chairman, I want to commend my subcommittee chairman, the gentleman from California [Mr. FAZIO], and my ranking member also, the gentleman from California [Mr. LEWIS], and members of the committee for the fine job that they have done in bringing the bill together. I want to point out to the Members that this legislation contains some important environmental provisions that they ought to be aware of.

First, Mr. Chairman, we put in funding for the expansion of the office waste recycling program that is going forward in the House of Representatives, and we have also put in money for a comprehensive review of the lighting systems in the House, Senate, Capitol, and the Library of Congress. The review will be used to determine a schedule for retrofitting all of the systems with efficient lighting technology and work toward the goal of saving substantial amounts of money in that account.

Mr. Chairman, the bill also contains provisions regarding recycled paper, and we love to pat ourselves on the back and say that we use recycled paper in our work in the Congress. As a matter of fact, however, most of the paper that is used here is not really recycled paper. It is not paper that contains postconsumer waste paper: That is paper that has been used once and removed from the waste stream to be recycled.

Mr. Chairman, the Federal Government is the single largest user of paper in the world, using over 2 percent of all the paper used in the United States. There are many applications of paper that do not require highly reflective white paper, but paper that could contain postconsumer waste and may have a slightly gray hue to it. The Moore Business Forms Co., the largest purveyor of business forms in the world, has begun a process whereby it is using a great deal of postconsumer waste paper in its operations. It seems to me that the Government ought to take the lead as well, particularly in the use of forms within the Congress or forms within agencies like the Internal Revenue Service where we can stop the need to cut down virgin timber and create the same paper by using paper that has been truly recycled; that is, postconsumer waste paper.

Mr. Chairman, this would eventually, if we follow our good principles, create an entire new industry and make our society, our economy, a more dynamic one. It is a fine provision for conservation, and the bill contains extensive language requesting the Government Printing Office to report to the Congress a list of printing jobs that can be printed on real recycled paper. It suggests innovative uses of recycled paper for such bulky items as IRS tax documents.

Mr. Chairman, I commend the members of the committee for including these environmentally sound provisions in the bill.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from California [Mr. LEWIS] is withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Legislative Branch Appropriations Act, 1992".

Mr. FAZIO. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DONNELLY, 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. 2506) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

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

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

Mr. WALKER. 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 308, nays 110, not voting 13, as follows:

[Roll No. 137]

YEAS—308

Abercrombie	Andrews (TX)	AuCoin
Ackerman	Annunzio	Bacchus
Alexander	Anthony	Baker
Anderson	Applegate	Barnard
Andrews (ME)	Aspin	Bateman
Andrews (NJ)	Atkins	Bellenson

Bennett
Bentley
Berman
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NAYS—110

Allard
Archer
Armey
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Glickman
Goss
Gradison
Grandy
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
McCandless
McCollum
McEwen
Meyers
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Packard
Pallone
Paxon
Petri
Pursell
Ramstad
Ravenel
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Roth
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Walker
Weber
Weldon
Wylie
Zeliff
Zimmer

NOT VOTING—13

Bevill
Byron
Collins (IL)
Fish
Ford (TN)
Gephardt
Gingrich
Lehman (FL)
Matsui
Sharp
Sisisky
Thomas (GA)
Torricelli

□ 1815

Mr. DORNAN of California changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATION BILL FOR FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-98) on the resolution (H. Res. 165) waiving certain points of order during consideration of the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2519, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATION BILL, FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-99) on the resolution (H. Res. 166) waiving certain points of order during consideration of the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PEDIATRIC AIDS AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 91) designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I take this time to yield to our colleague, the gentleman from New York [Mr. SERRANO], the chief sponsor of this joint resolution.

Mr. SERRANO. Mr. Speaker, I am very proud and pleased to have introduced the first resolution ever specifically directed to the alarming and increasing number of fatal cases of AIDs among our children.

House Joint Resolution 91 focuses attention on a tragic development affecting our most precious possession, the Nation's children.

The April 1991 statistics reported to the centers for disease control reveal 3,028 cases of pediatric AIDS resulting in 1,581 deaths. The alarming rate at which pediatric AIDS cases are being diagnosed indicates that by the end of 1992, the number of children infected with human immunal deficiency virus [HIV] will have doubled.

The highest numbers of pediatric AIDS cases as reported by the CDC in metropolitan cities include: New York 779 cases, Miami 171, Newark, 146, San Juan 111, Los Angeles 94, Washington 73, Boston 57, Philadelphia 56, Chicago

55, Baltimore 53, Houston 51, Atlanta 30, New Haven 28 and Detroit 25.

Mr. Speaker, my congressional district in the South Bronx is home to a large number of the economically and socially disadvantaged of New York City and the Nation. Is is the poorest district in the Nation, and it is bearing much of the brunt of the AIDS assault. Bronx newborns have the highest incidence of HIV seropositivity in New York City. As of March 1991 the New York City AIDS surveillance reported 189 pediatric cases in the Bronx. That is 27 percent of the total for all of New York City. The Bronx alone has 10 percent of the entire Nation's pediatric AIDS cases.

Ninety-one percent of all pediatric AIDS cases in New York City are African-American or Latino and from my district, the figure is 94 percent. New York City has 26 percent of national total reported pediatric AIDS cases. The tragic statistic that AIDS is the leading cause of death of children ages 1 to 4 in New York City is an indication of the dimension of the problem.

Mr. Speaker, these figures are alarming, but what is really frightening is that, for every child born or diagnosed with the AIDS virus disease there is another who is also infected, and a father, who also carries the disease.

□ 1820

Unprecedented numbers of newborn are at risk of abandonment as the maternal drug use continues to escalate. According to CDC statistics for April 1991 84 percent of pediatric aids cases reported resulted from mothers with HIV or at risk of HIV and intravenous drug use.

Mr. Speaker, House Joint Resolution 91 enjoys the strong bipartisan support of 220 Members of Congress and several national organizations each of which merits commendation here. They are Sunburst National AIDS project; the National Association of Children's Hospitals and related institutions; the Pediatric AIDS Foundation; Hostos AIDS task force; the National Puerto Rican Coalition; the National Black Child Development Institute; Child Welfare League; the National Coalition of Hispanic Health and Human Services Organization; the AIDS Interfaith Network; the National Minority AIDS Council; National Parents Council on AIDS; the Pediatric AIDS coalition; Northern Lights Alternative, New York.

Mr. Speaker, I would like very much to thank the members of the committee for giving me this opportunity to put forth this message, a message which I hope will alert our Nation and alert this House to the fact that this is a very serious problem. When we think of AIDS in this society, we think of older people. We do not think of children. Yet the children who day after day suffer in this society, now find themselves with something new to have to deal with.

Mr. Speaker, children who are born afflicted with AIDS are not wanted in this society. Children who are born suffering from AIDS are not being taken care of by parents who are also ill. Children who born with AIDS are looked upon as individuals with no rights in this society.

Mr. Speaker, I realize, having presented this as my first resolution, that resolutions like these simply call attention to matters. But it is my hope that the attention we call will make us think, think and realize, that the children have to be given an opportunity to grow up, and that we need to do whatever we can to help these little people in our society who have no one to defend them.

Mr. Speaker, my district is the poorest district in the Nation. On top of all the homelessness problems and the education problems and crime problems, we now find ourselves with children that no one really wants to deal with. I hope that this resolution will give us the opportunity to dedicate more of our efforts to helping the children.

Mr. Speaker, I urge Members to join me next week in raising awareness of HIV-infected children.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from New York [Mr. SERRANO] for his sponsorship of this very important resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 91

Whereas more than 157,525 individuals in the United States have been diagnosed with acquired immunodeficiency syndrome (commonly known as AIDS) and 98,530 have died from the disease;

Whereas the Public Health Service has estimated that there will be 365,000 cases of AIDS by the end of 1992 and that there are currently between 1,000,000 to 1,500,000 persons in the United States infected with the human immunodeficiency virus (commonly known as HIV) which causes AIDS;

Whereas heterosexual AIDS is not a myth as evidenced by the fact that the proportion of females with AIDS continues to rise, as does the number of pediatric AIDS cases of children infected perinatally;

Whereas pediatric AIDS refers to AIDS patients under the age of 13 at the time of being diagnosed with the disease;

Whereas the Centers for Disease Control has reported 2,734 cases of pediatric AIDS resulting in 1,423 deaths as of November 1990;

Whereas approximately 75 percent of teenagers in the United States have had sexual intercourse by the age of 19;

Whereas among the 25,000,000 adolescents between the ages of 13 and 19 there are subgroups who either have intercourse at an earlier age or whose patterns of sexual behavior put them at risk of becoming infected with HIV;

Whereas HIV-infected women can transmit the virus to their infants during pregnancy or at birth;

Whereas more than 80 percent of children with AIDS have a parent with, or at risk for, HIV infection;

Whereas 27 percent of reported pediatric AIDS cases in the United States have occurred in New York City and 74 percent of those are related to drug use by a parent or unprotected sexual activity;

Whereas 70 percent of women who are HIV-infected and 78 percent of children with pediatric AIDS are African-American or Latino, many of whom have experienced social and economic discrimination;

Whereas there have been 157 cases of pediatric AIDS reported to the Centers for Disease Control in Miami, Florida; 123 cases in Newark, New Jersey; 106 cases in San Juan, Puerto Rico; 90 cases in Los Angeles, California; 64 cases in Washington, District of Columbia; 53 cases in West Palm Beach, Florida; 53 cases in Philadelphia, Pennsylvania; 51 cases in Boston, Massachusetts; 50 cases in Chicago, Illinois; 49 cases in Baltimore, Maryland; and 45 cases in Houston, Texas;

Whereas schools across the Nation continue to discriminate against AIDS and HIV-infected children and their families;

Whereas there are increasing numbers of HIV-infected children and it is important that the people of the United States diligently seek preventative measures and better solutions to care for HIV-infected pregnant women, including helping them gain access to new delaying and preventative therapies to allow time for biomedical progress;

Whereas early intervention and educational resources must be made available to all citizens, especially adolescents, women who are drug abusers, and other high-risk groups to make them more aware of AIDS and the risks associated with engaging in unprotected sexual activity;

Whereas the Health Care Financing Administration and the Public Health Service should work with appropriate State officials to help design optimal care packages needed for children with AIDS or HIV infection; and

Whereas States and localities should recognize relatives as an appropriate source of foster care for children with AIDS whose parents can no longer care for them, subject to the same review and afforded the same benefits as other foster parents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 10 through 16, 1991, is designated as "Pediatric AIDS Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. SAWYER. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 219) to

designate the second week in June, as "National Scleroderma Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from New Jersey [Mr. DWYER], who was the chief sponsor of this joint resolution.

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to thank my colleagues for their help in ensuring the passage of House Joint Resolution 219, which will designate next week as "National Scleroderma Awareness Week."

Scleroderma affects the lives of 300,000 Americans. It is a chronic orphan disease of unknown origin and with no cure. It causes thickening and hardening of the skin due to a build up of collagen. Indeed, the word scleroderma means stone skin. In its most severe form, the hardening process spreads to the joints, causing decreased mobility, and to the body organs, causing functional impairment.

While scleroderma does strike both sexes, it predominantly occurs in otherwise healthy women between the ages of 25 and 55 years old. In fact, scleroderma occurs four times more frequently in women than men.

As in any other disease, early diagnosis is very important in treating scleroderma. While there is no cure for scleroderma, early diagnosis and treatment can slow the progression of the disease—but not always. Even with treatment, the prognosis for scleroderma patients varies widely; some experience remission, some have minor symptoms, while others develop life-threatening symptoms. In severe cases, sufferers develop kidney malfunction, respiratory weakness, heart spasms, digestive and intestinal problems.

Activities and events have been organized around the country to heighten public knowledge about scleroderma as well as make sufferers aware of presence of local scleroderma support groups. It is my hope that additional public interest and education in this disease will also mean additional interest in scleroderma by the scientific research community.

Despite the fact that 300,000 Americans suffer from this disease, the Federal commitment to eradicating this disease has been small. In fiscal year 1990, the National Institutes of Health [NIH] allocated $3.348 million for scleroderma. NIH further estimates that it will spend $3.8 million and $4.006 million, respectively, in fiscal years 1991 and 1992. The bulk of research into scleroderma is conducted by the National Institute of Arthritis, Musculoskeletal, and Skin Diseases [NIAMS]. NIAMS is supporting basic research into the vascular bed and the causes of scleroderma, what causes the body to make excess scar tissue, and potential environmental causes of scleroderma. The National Institute of Allergy and Infectious Diseases [NIAID] is studying the autoimmune nature of scleroderma. Additional research and research support on scleroderma is conducted by the National Institute for Dental Research and the National Center for Research Resources.

The Scleroderma Federation has also been providing scientists with vital research dollars. In 1989 and 1990, private fundraisinig efforts raised $650,000 and $750,000 respectively for scleroderma research.

Finally, I wish to thank the membership of the various scleroderma State and national societies for all their work on House Joint Resolution 219. Special thanks and acknowledgement must be given to Heidi Fox of the New Jersey Scleroderma Society for her untiring efforts and enthusiasm.

Mr. HAYES of Illinois. Mr. Speaker, as I considered adding my name as a sponsor to House Joint Resolution 219, which designates June 9–15, 1991 as "National Scleroderma Awareness Week," one of the interns working in my office this summer relayed to me her personal experience with the disease. Not only did her story encourage me to sponsor this measure, it also sensitized me to the need to educate the Nation about this potentially fatal disease. I would like to share Roni R. Little's personal comments with you today:

At 11 years of age my mother was diagnosed as having lupus. It began with a bruise that would never go away, then there were mood swings, exhaustion and finally, shortness of breath. No doctor seemed to know what caused these problems. They thought it may be psychological. It definitely was not. No medical professional was sympathetic, no one seemed to really care. Now I know it was not that they were unsympathetic, they were merely ignorant of the symptoms of a potentially fatal disease.

After a while, the medical specialists decided she was not suffering from Lupus, but it was another similar, incurable disease called Scleroderma. It took 2 years for the doctors to finally label the disease.

Scleroderma is a rare and incurable disease resulting in hardening of the skin and organs. This disease is recognized as a horrible solidification of body tissue. Scleroderma is life threatening. The disease occurs four times as much in women as it does in men. It has an unknown origin and is often fatal. Translated literally, Scleroderma means hard skin. Scleros, meaning hard and Derma meaning skin.

There was no medication to permanently stop my mother's back pains, her headaches or arthritis. Research was rare for this disease and still there is no cure.

Eventually, the doctor said she would die. They informed my family my mother only had a few months to live. Perhaps there was peace for her in her death because she was always so tired, so completely lifeless during her illness.

I desperately wanted someone to stop her pain. The doctors called it a common case, but where was the help, where was the wonder drug? Why didn't someone save my mother's life? It certainly was not common for our family as we struggled to deal with this crisis.

As the years went by, my mother's will to live died. Within the last 4 months of her life her lungs hardened so she couldn't breath on her own. An oxygen tank was to be carted around with her both night and day. Work was impossible because she could barely move her hands or her legs.

In the 2 years of my mother's illness she was not the only one in pain. Her children, her mother, and her friends were hurting, not physically, but emotionally.

Scleroderma in any of its forms, whether it be life threatening or not, is more common than Muscular Dystrophy. Yet, scleroderma has less funding and is little known. The public should be more aware of those 400,000 Americans who suffer from a disease that has them encased in their own skin like mummies.

As attention is slowly being drawn to the need to provide funding for research, the importance of designating a week to raise the public's awareness is greatly needed. I thank Congressman Dwyer for introducing this measure, and Congressman Hayes for lending his support. I encourage other members to do the same so those who suffer from scleroderma may not have to suffer as my mother did.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 219

Whereas scleroderma is a disease caused by the excess production of collagen, the main fibrous component of connective tissue, the affects of which are hardening of the skin and/or internal organs such as the esophagus, lungs, kidney, or heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma with women of childbearing age outnumbering men three to one;

Whereas scleroderma a painful, crippling and disfiguring disease is most often progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable which can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease which requires intensive research to improve treatment as well as find the cause and cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week June 9, 1991 is designated as "National Scleroderma Awareness Week", and the President of the United States is upon the people of the United States to observe the week with the appropriate ceremonies and activities.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SAWYER: Strike all after the resolving clause and insert the following:

That the week beginning June 9, 1991, is designated as "National Scleroderma Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SAWYER].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. SAWYER: strike the preamble and insert the following:

Whereas scleroderma is a disease caused by excessive production of collagen, the main fibrous component of connective tissue, the effects of which are hardening of the skin and internal organs, such as the esophagus, lungs, kidney, and heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma, and women of childbearing years suffer from the disease 3 times more frequently than men;

Whereas scleroderma, a painful, crippling, and disfiguring disease, is often progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable and therefore complicate and confuse diagnosis of the disease;

Whereas the cause of and cure for scleroderma are unknown; and

Whereas scleroderma is an orphan disease that requires intensive research to improve treatment and to discover its cause and cure: Now, therefore, be it

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Ohio [Mr. SAWYER].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "To designate the week beginning June 9, 1991, as 'National Scleroderma Awareness Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 91 and House Joint Resolution 219, the two joint resolutions just passed.

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

There was no objection.

SUPPORT NATIONAL FEDERATION OF INDEPENDENT BUSINESS

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

Mr. IRELAND. Mr. Speaker, this week more than 500 small business owners have been here in Washington to participate in a leadership forum of the National Federation of Independent Business.

Yesterday, I had the pleasure of meeting with a constituent who is here attending the NFIB forum. Jean Stinson, her mother and two of her sisters own R.W. Summer, a small contracting company in Bartow, FL, that repairs railroad track.

Jean and the other NFIB members I visited with talked about the difficulty and responsibility involved in meeting a payroll, complying with contradictory and confusing regulations and laws, the threat of costly lawsuits, and finding affordable heatlh care for themselves and their employees.

Jean Stinson and other small business owners share one common characteristic: they are all bottom-line oriented. They have to be.

What does that mean to all of us here in Congress?

My colleagues, it means that it is easy to say you're for small business. But your small business constituents aren't going to measure your performance by what you say alone. It is how you vote that really counts.

DISTRICT OF COLUMBIA GOVERNMENT'S 1992 BUDGET REQUEST AND 1991 BUDGET SUPPLEMENTAL REQUEST—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–95)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, June 5, 1991.)

ON AID TO YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, the political crisis in Yugoslavia intensifies daily. As the four democratic Republics take steps toward sovereignty, the dominant Communist Republic of Serbia tightens its grip on the nation. The chasm between the Republics is growing, and I fear the likelihood of full-scale civil war in Yugoslavia is growing with it.

In the midst of the crisis, the administration decided last week to lift a ban on aid to Yugoslavia. I can only shake my head at this decision. Aid was automatically cut off on May 5 because of a stipulation in last fall's Foreign Operations Appropriations Act that Yugoslavia meet human rights standards. I was surprised and disappointed when Secretary Baker reinstated aid the following week. Yugoslavia—and specifically Serbia—is trampling Croatia's right to self-determination.

Serbia is engaged in a systematic effort to undermine Croatia's economic and political reforms and to control the smaller Republics future. This dispute, which began more than a year ago with the election of Western-oriented reformers in Croatia and Communists in Serbia, grows more bloody and more bitter by the day. In the last 2 months, violence between Croatian police and Serbian separatists living in Croatia has claimed dozens of lives. Croats see the uprising as a sign of Serbian ambition to dominate the nation and believe the Serbian Government is supplying arms to the separatists. Serbian calls for intervention by the Yugoslav Army are seen as a thinly disguised ploy to allow the Serbian-dominated Yugoslav Army to occupy and intimidate Croatia.

The bloody battles in the streets of Croatia are matched by the heavy-handed actions of the Serbian leadership in the staterooms. Just 2 weeks ago, Serbia and its allies blocked the rotation of the Federal Presidency to Croatia. This was in direct defiance of Yugoslavia's Constitution, which mandates a yearly rotation of the Presidency to a leader from each Republic. With the rotation still stalemated, Yugoslavia has no head of state and no commander in chief of its Armed Forces. In the words of the Slovenian Republic's President, Serbia had "staged a camouflaged coup d'etat."

Croatia will not sit idly by while its freedoms are crushed by its powerful neighbor. Croatian President Franjo Tudjman has publicly stated that Croatia will not stay in a united, Federal Yugoslavia. In a referendum on May 20, more than 90 percent of the Croatian people demonstrated their support for this position. In the wake of the overwhelming vote for independence, last week Croatia declared itself a sovereign, independent state.

With Croatian sovereignty being challenged by the Serbian coup, I question the wisdom of a United States policy that continues aid to Yugoslavia. I realize the $5 million designated for fiscal year 1991 is not monetarily significant, but sending even this small amount sends a loud and clear message to Serbia. It says to Serbia that you can do what you want within Yugoslavia. It's your business. We won't interfere in your internal matters.

This is exactly the wrong message we should be sending. After throwing off 45 years of inept Communist rule, Croatia's bold efforts to reform its economy and entrench democracy deserve our support. We must send a clear message to Croatia that the United States does not and will not support its oppressors. And we must stand solidly behind Croatia as it leads its neighboring Republics in the transformation to free-market democracy.

□ 1830

SEXUAL HARASSMENT AT THE PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

The SPEAKER pro tempore (Mr. ORTON). Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 60 minutes.

Mr. LIVINGSTON. Mr. Speaker, it's time to set the record straight. It's time to clear the good name and reputation of a dedicated public servant. And it's time to expose a villain and a sexual harasser who has tried to make a name for himself by defaming others.

Tonight, Mr. Speaker, I am going to tell you and the American people the facts concerning a small Federal organization within the executive branch called the President's Commission on Executive Exchange, the PCEE. This is not a pretty story, Mr. Speaker. It concerns a pattern of harassment of women and abusive behavior by a lone employee who thought he could bully his way to the top.

That, in one of itself, is an abominable situation. However, what has made the PCEE controversy so terribly unique is the degree to which the rules and regulations that are supposed to protect Government employees have been abused in a concerted effort to obscure the truth and to defame a lady who has tried to uphold these same regulations.

Unfortunately, the President's Commission on Executive Exchange has now been abolished. However, the issues raised in this controversy are still very much with us and will remain with us for a long time to come.

In brief, this is the true story of a PCEE employee named Gordon Hamel, who, for the better part of a year, continually harassed and abused his female coworkers and his boss, who was also a female. Hamel's boss, Betty Heitman, issued repeated warnings to him, nearly all of which went unheeded. On the verge of being fired, Gordon Hamel went to the Office of Personnel Management, accused PCEE of fraud and mismanagement, and proclaimed himself a whistleblower, thus immune from discipline.

In the months that followed, he seized on every opportunity to attack viciously and contemptuously his coworkers and Mrs. Heitman. It is, indeed, a sad story, but it holds lessons for all of us.

To start at the beginning, Mr. Speaker: The President's Commission on Executive Exchange [PCEE] was founded in 1969 for the purpose of placing corporation executives within the Federal Government for 1-year stints. In turn, Federal employees would spend a year in the private sector.

Each would learn a little about how the other side operates. Hopefully, a more harmonious, more efficient relationship between Government and industry would result.

In 1989, a fine lady named Betty Heitman took control of the Commission. I have known Betty Heitman for over 20 years. I knew her when she was an articulate spokeswomen in Louisiana politics. I watched as she ascended to ever-higher positions of national prominence, including becoming chairwoman of the National Federation of Republican Women and then cochair of the Republican National Committee.

A more honest and decent person there could not be. Her reputation was impeccable and for that reason, in 1989, newly elected President George Bush selected her to run PCEE.

One would hope and expect that in an operation the size of the President's Commission on Executive Exchange—10 people who worked out of a townhouse across Pennsylvania Avenue from the White House—that there would be a certain collegiality, a certain sense of teamwork.

Well, you would expect that, but that was not the case. Mr. Gordon Hamel, the Director of Personnel at the Commission, did not see himself as a team player. Instead, he saw himself as a one-man show. Early on in his tenure, he determined that, in his own eyes, he was better than everyone else at the Commission; that he could do as he pleased; and that his coworkers—particularly his female coworkers—were objects to be alternatively toyed with and then cut off at the knees at his discretion.

Do I exaggerate? Mr. Speaker, at this point, I would like to read into the RECORD a statement of facts prepared by the U.S. Justice Department concerning Gordon Hamel. It is—in its entirety—based on statements of Mr. Hamel's coworkers—statements made under oath and under penalty of perjury.

This statement of facts paints a portrait of a man with a raging combination of insecurity and paranoia.

I designate this as exhibit A which I will read in its entirety.

EXHIBIT A

STATEMENT OF FACTS

Shortly after starting work as Director of Placement at the President's Commission on Executive Exchange, Mr. Gordon Hamel began having confrontations with his supervisors and other staff members of the PCEE. At first, these incidents took the form of verbal harangues by appellant against the female employees of the PCEE. As the frequency and seriousness of these encounters increased, appellant increasingly employed sexually explicit language and sexual innuendo. Mr. Hamel was also immediately at odds with his immediate supervisor, Mr. Jack Finberg, and frequently complained of him to Mrs. Heitman (Heitman Decl. ¶¶12–16; Finberg Decl. ¶¶7–8; 10–13; Farrel Decl. ¶¶3–4; Fader Decl. ¶¶2–8).

By February 1990, the PCEE had contacted OPM for guidance in dealing with the disruptive conduct of appellant (Brooks Decl. ¶3). At this time, Mrs. Heitman counselled appellant twice in order to inform him that his conduct was unacceptable (Heitman Decl. ¶16). However, Mr. Hamel's abusive conduct towards his female co-workers continued unabated.

Throughout March and April of 1990, the PCEE was in constant contact with OPM concerning the conduct of appellant, and in April, with the help of OPM, Mrs. Heitman began drafting a counseling memorandum to him (Heitman Decl. ¶17; Brooks Decl. ¶¶4–5; Ramon Decl. ¶¶2–3; Finberg Decl. ¶¶14–15; Fader Decl. ¶9).

During Spring 1990, appellant frequently claimed to Mrs. Heitman and Mr. Finberg that he was in possession of documentation evidencing mismanagement at the PCEE. But each time his supervisors asked him to provide them with this information so that they could take any necessary corrective action, appellant refused to cooperate (Heitman Decl. ¶¶13; Finberg Decl. ¶¶18–19).

On May 3, 1990, Mr. Hamel indicated that he felt the PCEE was about to take adverse action against him (Agency File, Tab 2). On May 7, 1990, appellant disclosed his allegations of mismanagement to officials at OPM (Phillips Decl. ¶2). At this point, appellant claims to have become a "whistleblower", entitled to the protections of the Whistleblower Protection Act. Upon learning of these disclosures, Mrs. Heitman immediately requested that OPM perform a management audit of the PCEE (Agency File, Tab 4).

During Summer 1990, Mr. Hamel began contacting executives who had participated in the PCEE's programs. During his conversations with these executives, Mr. Hamel spoke derogatorily of the PCEE and its Chief of Staff. In addition, he solicited negative comments about the PCEE from the executives. Several of these executives contacted Mrs. Heitman to express their opinion that Mr. Hamel had conducted himself in an unprofessional and inappropriate fashion. They also felt that the incidents reflected poorly on the PCEE (Heitman Decl. ¶¶28–33, 42; Gallogly Decl. ¶5; Somers Decl. ¶¶6–8; Phelps Decl. ¶4; Walther Decl. ¶¶4, 6; Hogan Decl. ¶4; *See* Agency File, Tabs 11–15).

At the same time, appellant continued to engage in abusive conduct and sexual harassment, including one incident involving a college student working at the PCEE (Decl. ¶¶5–10). In July 1990, two female employees of the PCEE sent Mrs. Heitman formal complaints of sexual harassment by appellant (Agency File, Tabs 8–9).

Mr. Hamel continued to claim that he had a "thick file" of information documenting improper practices at the PCEE. Once again, however, he continued to withhold this information, and during one incident, he claimed to be doing so on the advice of counsel (Heitman Decl. ¶¶35–36; Finberg Decl. ¶19). Also, on several occasions, appellant offered to surrender his file to Mrs. Heitman in exchange for various favors including an "outstanding" performance rating and assistance in finding a job at another agency (Heitman Decl. ¶37; Finberg Decl. ¶19). Mrs. Heitman, however, refused to trade favors for information, and reminded Mr. Hamel that it was his obligation to provide his supervisor with any information in his possession about mismanagement at the PCEE. Appellant remained unswayed, preferring to keep his information to himself. *Id.*

By August 1990, as a result of appellant's misconduct, the situation at the PCEE had deteriorated to the point where it was determined necessary to place him on administrative leave (Heitman Decl. ¶¶39–41). Because of the seriousness of appellant's misconduct

and his inability to respond to counseling, the PCEE felt it had no choice other than to issue a notice of proposed removal of Mr. Hamel (Heitman Decl. ¶¶43, 45; Agency File, Tab 1).

Soon thereafter, this matter became the subject of Congressional hearings. In addition, appellant has contacted the Office of Special Counsel, which is currently conducting an investigation of this incident. Furthermore, appellant is challenging the notice of proposed removal, which is currently pending before Mrs. Mae Sue Talley, the Deciding Official. In addition to all these other proceedings, appellant has also filed an appeal before the Board to seek review of the PCEE's actions regarding him.

□ 1840

One wishes this were it, Mr. Speaker. Unfortunately, the statement of facts does not convey the true despicable nature of what Mr. Hamel did at the commission. The statement reads like a dispassionate, lawyerly brief—which, in fact, it is. But to capture the true nature of what work must have been like at the Commission, I will now read from the prepared testimony that the Commission's director, Betty Heitman, delivered before a Congressional subcommittee on 10 December 1990:

Ms. Heitman testified that:

From the very outset of Mr. Hamel's arrival at the Commission, his relationship with the staff in general and me as his supervisor in particular has gone downhill. I had placed enough faith in Mr. Hamel when I had worked with him previously to offer him the position of chief of staff upon my taking on the position of Executive Director. My faith in Mr. Hamel has been diminished, not because he has attempted to claim himself a whistleblower but because he has repeatedly denied the responsibilities of his misconduct while at the Commission.

All individuals employed in the Federal and private sectors deserve to work in an environment without disruption, without references to sexual innuendo, and without cause for intimidation.

Just as critical, management of any organization, whether large or small, and in our case we have only ten staff members, requires that there be a line of authority which supervisors must have in maintaining the conduct of business. In the case of Mr. Hamel, it was his insubordination that I have called into question. His abusive language, his outburst of rage, and his methods of sowing seeds of discontent among my staff are legend.

In phone call after phone call, Mr. Chairman, Gordon Hamel sought to discredit his superiors and to gain the confidence of the executives towards his own vicious efforts. His references to sexual innuendo with one of our executives factually documents Mr. Hamel's poor judgement. His references in wishing to take over his bosses' position because Gordon Hamel thought he could do a better job is insubordination through and through. But his crass and rude remarks to one of the executives and to one of our corporate sponsors cuts against all means of integrity and loyalty.

She goes on to say:

But most of all, most critical to my concerns about Mr. Hamel's misconduct with regards to our internal operations has been his treatment of women. To use the phrase D—— H—— consistently and to demean women in our office by calling them C—— in front of their superiors or fellow staff members is not only inappropriate behavior for a profesional but it is inappropriate on a staff comprised nearly all of women. We do not have on our commission an office of EEOC * * * We can only turn to the advice of the Office of Personnel Management. Sexual harrassment in the workplace, as Congress has just recently reviewed and debated, is an injustice to all women. Mr. Hamel's repeated use of phrases such as D—— H—— and C—— was an issue that I visited with him and warned him about such behavior. It is obvious that my warnings required written followup. * * * But in my experience when a supervisor warns a staff member about sexual harrassment the message should have gotten through.

She then summarizes her testimony, again, marked exhibit B, with the following:

Mr. Hamel may wish to paint a picture that his world shows him as the hero, a man whose interest is the taxpayer and the integrity of the Federal employee. Mr. Hamel is a disruptive and manipulating individual who in one minute is concerned about management practices of the Commission and in the next minute is conducting a vicious smear tactic with the very executives with whom our mission is to build trust and support for the Federal process. You cannot have it both ways, saint-and-sinner, and Mr. Hamel wants it both ways.

EXHIBIT B

TESTIMONY OF BETTY HEITMAN, EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

Chairman Lantos and subcommittee staff, thank you for this opportunity to discuss at the outset the Commission on Executive Exchange and my service as Excutive Director. While a public hearing is not the arena to discuss the circumstances of a personnel action between an employee and his employer, I am prepared to respond to the questions of the subcommittee relevant to the decision to propose an adverse action and the activities leading up to this decision.

As I outlined in my meeting, Mr. Chairman, with Mr. Weisburg and Ms. Nelson, my service in the Federal Government has been limited to my current position. I have had a wide array of managerial experiences in my life, but I do not have the long-standing experience Mr. Hamel has had in personnel issues and the guidelines available to respond to an individual's misconduct while in the employ of the Federal Government.

It would appear that my lack of personnel experience has been complicated by factors involving the ability of Mr. Hamel to move much faster in his actions than in my ability to correctly dicipline him for his misconduct. And it would appear that in the case of Mr. Hamel's actions, a best defense when you know that your conduct is coming into question is to go on the offensive.

From the very outset of Mr. Hamel's arrival at the Commission, his relationship with the staff in general and me as his supervisor in particular has gone downhill. I had placed enough faith in Mr. Hamel when I had worked with him previously to offer him the position of chief of staff upon my taking on the position of Executive Director. My faith in Mr. Hamel has been diminished, not because he has attempted to claim himself a whistleblower but because he has repeatedly denied the responsibilities of his misconduct while at the Commission.

All individuals employed in the Federal and private sectors deserve to work in an environment without disruption, without references to sexual innuendo, and without cause for intimidation.

Just as critical, management of any organization, whether large or small, and in our case we have only ten staff members, requires that there be a line of authority which supervisors must have in maintaining the conduct of business. In the case of Mr. Hamel, it was his insubordination that I have called into question. His abusive language, his outburst of rage, and his methods of sowing seeds of discontent among my staff are legend.

In phone call after phone call, Mr. Chairman, Gordon Hamel sought to discredit his superiors and to gain the confidence of the executive towards his own vicious efforts. His references to sexual innuendo with one of our executives factually documents Mr. Hamel's poor judgement. His references in wishing to take over his bosses' position because Gordon Hamel thought he could do a better job is insubordination through and through. But his crass and rude remarks to one of the executives and to one of our corporate sponsors cuts against all means of integrity and loyalty.

Let's discuss Mr. Hamel's allegations of waste, mismanagement, fraud and abuse. Are these the allegations that on two occasions I asked Mr. Hamel to present to me so that I could make appropriate changes? Are these the unsubstantiated allegations on those two occasions that Mr. Hamel said he would present to me, his superior, and for which he responded that his attorney told him to not share them with me? Are these the same allegations that Mr. Hamel to this very date has not presented to me in either oral or written form but continues to tell me he has a file that he is building to prove his points?

And are these the same unsubstantiated allegations, Mr. Chairman, that I called upon the Office of Personnel Management to investigate and for which the Parker management audit was conducted? Are these the same unspoken allegations that I called upon the inspector general of OPM to conduct a full investigation?

Mr. Chairman, I come from Louisiana and we have a belief down there that you have to question the rooster who believes that because of his crowing the sun rises in the morning.

No one can dispute the fact that the 1986 OPM general counsel opinion which basically give the Commission the okay to use the revolving funds or funds we collect from fees was wrong. This is the same opinion that stayed on the books until late April, early May of this year. I did not know we were in conflict with existing present day regulations and both the Parker Report and the inspector general's report verify that. But it was one of my other staff members and not Mr. Hamel who caused the Commission to seek out the General Accounting Office and the OPM general counsel's office review of the old 1986 opinion. As a result of the newly issued, May 1990 opinion, the Commission is presently conducting its business in line with all current Federal acquisition regulations and policies. And I immediately asked the Commission staff to implement that practice upon receiving the new OPM opinion in May of this year.

Does my decision to propose Mr. Hamel's removal from Federal service do an injustice to the whistleblower protections provided under the act of 1989? If the subcommittee is truly interested in both sides of the Gordon

Hamel story then I think no one can refute two vital facts about this case:

First, my decision and all of the documents and the timing of this decision are purely based on the charges of misconduct by Mr. Hamel. I should have known and called into question my judgement of Mr. Hamel when way back in early February when Mr. Hamel could not obtain White House clearance. It was then that he demonstrated his conniving behavior, asking me to gain his clearance based on my good word of his character, seeking my loyalty.

Second, does the subcommittee think for one minute that I would take an adverse action to remove Mr. Hamel from his current position lightly knowing full well that the Commission carries both the title of the President and the White House with it?

But more importantly, I have asked for deliberative review of all legislation and law to ensure impartiality in deciding Mr. Hamel's fate. The subcommittee obviously calls into question both the Justice Department's involvement in this case and determination of selecting one of our Commission appointees as the deciding official for Mr. Hamel's proposed removal.

But most of all, most critical to my concerns about Mr. Hamel's misconduct with regards to our internal operations has been his treatment of women. To use the phrase "d - - - h - - -" consistently and to demean women in our office by calling them "c - - - -" in front of their superiors or fellow staff members is not only inappropriate behavior for a professional but it is inappropriate on a staff comprised nearly all of women. We do not have on our Commission an office of EEOC. We can only turn to the advice of the Office of Personnel Management. Sexual harrassment in the workplace, as Congress has just recently reviewed and debated, is an injustice to all women. Mr. Hamel's repeated use of phrases such as "d - - - h - - -" and "c - - -" was an issue that I visited with him and warned him about such behavior. It is obvious that my warnings required written followup. But in my experience when a supervisor warns a staff member about sexual harrassment the message should have gotten through.

Those who wish to skim the surface of the concerns to be discussed today believe that this is a debate about retaliation against a whistleblower. That is Mr. Hamel's position. It has been my position all along that Mr. Hamel has desired nothing more than to coerce and threaten me into providing him with the things he requested as a trade off for not going to the IG, or not going to the special counsel. On no less than three occasions, Mr. Hamel stated either to me directly or through one of my staff members of his willingness to drop his actions with the IG or other investigative bodies in return for me providing the college course he wanted, an outstanding performance rating, or for me to find him another GM 15 position at another agency in the Federal Government. Mr. Hamel wanted the Commission to pay for college courses that he knew would lead towards his finally gaining a college degree. The Commission was not then and still is not now in a position to pay for his college courses as long as those courses did not relate to his training for the purposes of his carrying out his functions.

While the subcommittee has an interest in discussing our actions against Mr. Hamel for his alleged whistleblowing, I maintain that the whole story needs airing. I have provided to the subcommittee viz and viz this presentation the letters from members of last year's Executive Exchange Program. These letters were generated after I received numerous calls from almost every executive in last year's group. I asked them to document for the record in their own words the calls they had received from Mr. Hamel; calls that were inappropriate, full of mean-spiritedness, and with a desire on Mr. Hamel's part to do damage to the reputation of the Commission. When Mr. Hamel learned that he would not be placed in charge of the Commission while I was away and that another person with another rank would be in charge, I believe he decided then to hurt the Commission and embarrass me.

The subcommittee knows that because of the status of this case, and as long as there is a pending personnel action, it is inappropriate for me to discuss the advice I was given under client privilege and I have asked Mr. Ramon, general counsel of OPM to stay within those parameters in his testimony today.

One last critical question seems to be the timing of all events surrounding this case. And again I must point out that I alone have no background in personnel issues and personnel disciplinary actions. What was I as a manager to do?

I must call upon those who have the knowledge to advise me in my deliberations and directions. I thought I was doing the right thing in discussing Mr. Hamel's sexual harassment and inappropriate contact with our executives with Mr. Hamel directly first. And as a side note, Mr. Chairman, let me point out Mr. Hamel has still continued to contact our executives inappropriately.

Mr. Hamel may wish to paint a picture that his world shows him as the hero, a man whose interest is the taxpayer and the integrity of the Federal employee. Mr. Hamel is a disruptive and manipulating individual who in one minute is concerned about management practices of the Commission and in the next minute is conducting a vicious smear tactic with the very executives with whom our mission is to build trust and support for the Federal process. You cannot have it both ways, saint and sinner, and Mr. Hamel wants it both ways.

This sort of behavior—crude sexual harassment, verbal abuse, insubordination—was quickly earning Mr. Hamel a one-way ticket to the unemployment line he so richly deserved. Unfortunately, Hamel had his own bag of tricks.

Timing is critical, Mr. Speaker, and so I want to give a chronology of the events surrounding Mr. Hamel's departure from the PCEE. Some of this was in the statement of facts which I earlier read into the RECORD, but I think it is worth going over again:

In February and March 1990, PCEE staffers approached OPM about Gordon Hamel's repeated pattern of insubordination, harassment and abuse of female coworkers.

On May 3, 1990, OPM investigators went to PCEE to follow up these charges. This we know from OPM, but conveniently enough, we also have a memo to file from Gordon Hamel himself, dated May 3, 1990. Mr. Speaker, I'd like to read this memo, which I'll call exhibit G, into the RECORD. This memo states unequivocally,

Mr. Brooke (black gentleman) and female associate came to office 12:00 to see Jackie Feder and Jack [a reference to chief of staff Jack Finberg] both of them went behind closed doors. I don't know what's up and I really don't care, but I expect that they are still trying to find a way to get rid of me.

EXHIBIT G

MEMO TO FILE FROM GORDON HAMEL

I spoke to Jack this a.m. re: the calls that must be made to [illegible]. During the course of the conversation in which I told him I thought he had mishandled the legislation, he got angry and stated that the reason he had been [illegible] toward me was because I had told Betty that I felt Jack had mishandled the U.S.A. Jack further stated [illegible].

Mr. Brooke (black gentleman) and female associate came to office 12:00 to see Jackie Feder & Jack both of them went behind closed doors. I don't know what's up and I really don't care but I expect that they are still trying to find a way to get rid of me.

Again, timing is everything. This was May 3, 1990. Gordon Hamel knew he has gone too far in his harassment of female employees and his insubordination and abuse of Betty Heitman. He knew his deeds were catching up with him. So what does he do:

On May 7, 1990—4 days after the OPM investigators went to the Commission—Hamel himself went to OPM, threw out some allegations of mismanagement, and subsequently declared himself a whistleblower in an attempt to gain protection under the Whistleblower Protection Act of 1989.

Mr. Speaker, do you remember the old line about the true definition of gall? It's a child who kills his parents and then pleads with the court for clemency on the grounds that he is an orphan.

That is precisely the sort of cynical manipulation of well-intentioned public law that has become Gordon Hamel's hallmark. Let me be clear, Mr. Speaker. It is vital to the functioning of Government that workers are allowed to speak their mind, in particular, when they perceive problems. The Whistleblower Protection Act is designed to protect them. The act is emphatically not designed to provide a cover—a shield—for Federal employees who simply cannot work within the Government's system. Yet that is exactly what Gordon Hamel was trying—indeed, is still trying—to do.

On August 2, 1990, PCEE director Betty Heitman could take no more of Hamel's repeated pattern of sexual harassment and abuse. She placed Gordon Hamel on administrative leave and had him escorted from the building—terminated with pay.

LIST OF GOVERNMENT INVESTIGATIONS SPAWNED BY GORDON HAMEL

(1) Two separate, distinct investigations were done by the Office of Personnel Management, Inspector General.

(2) The Office of Special Counsel (an independent agency) investigated whether Hamel was protected under the Whistleblower Protection Act.

(3) The Government Accounting Office is preparing an audit report on the PCEE. (this

will be released at the Lantos hearing for the first time)

(4) The Merit Systems Protection Board was considering the adverse personnel actions taken against Hamel by the PCEE.

(5) One hearing has been held by the Committee on Government Operations Subcommittee on Employment and Housing and a second is scheduled for Monday, June 10.

□ 1850

Unfortunately for Betty Heitman—and for anyone else who believes in truth and fair play—that action threw her into a modern-day, 10-month-long Kafka trial. During that time, she saw press reports of selectively leaked information designed to make her seem the villain. She has had to watch Gordon Hamel make wild charges against her, knowing that she cannot respond because of Federal statutes. She has even had to endure a congressional subcommittee investigation—supposedly a dispassionate investigation into the facts—in which the subcommitte chairman interrupted her nearly 40 times during her answers.

In short, Mr. Speaker, to paraphrase Shakespeare, "Fair became foul and foul became fair." Let me cite a few examples:

Hamel enthusiastically cooperated with the syndicated TV show, "Hard Copy," feeding them through crocodile tears his imaginative yarn about his supposedly heroic whistleblower attempts. He posed for photos and video footage; he openly discussed both his public and personal lives; he taunted the very people he formerly abused.

I cite the following quotes from Hamel that appeared on that TV show, "Hard Copy." On Betty Heitman, he said:

> I thought she was a very pleasant person who had a lot of responsibilities and duties and was a little bit confused about how she was going to accomplish what she had to.

On the executives at PCEE, including Mrs. Heitman, he said:

> My personal feeling is that they wanted to run it like one of the political parties around town and just let one party in.

On himself, Saint Gordon modestly admits:

> I think I'm acerbic at times. I don't pull punches.

What a guy.

On Heitman's charges against him, Hamel declared:

> It was very difficult for me to understand exactly what Mrs. Heitman was accusing me of. She keeps alluding to numerous instances of all kinds of things happening, but she's not specific about anything.

That, Mr. Speaker, is an outright, demonstrable, provable lie as Gordon Hamel knows full-well. More about that in a moment.

In addition to the Hard Copy report, there was a Jack Anderson column on March 18, 1991, that also swallowed Hamel's distortions hook, line, and sinker.

Gordon Hamel was thus clearly showboating for the media. But he very deviously refused to sign a waiver to the Federal Privacy Act—as was his right. His refusal to sign meant that while Betty Heitman and her good name and reputation had to endure repeated slings and arrows from Hamel, she was not allowed to divulge even the most basic substantiation of her charges. Had she done so, she would have been in violation of Federal law.

Fortunately, Mr. Speaker, I have seen depositions made by Mr. Hamel's coworkers—not only at the Commission, but also at the General Services Administration, where he worked prior to PCEE. Contained in these depositions—and I emphasize that they are legal documents made under oath and under threat of perjury—is a remarkable amount of information that is very revealing about this character's true nature.

Let me read some of the more interesting items; and these items are from exhibit C as follows:

EXHIBIT C

SYNOPSIS PREPARED BY BOB LIVINGSTON OF SWORN DECLARATIONS OF WITNESSES TO GORDON HAMEL'S ACTIONS

(1) Hamel was having trouble while at GSA getting promoted to GS-15. (Heitman p. 2/3)

(2) Hamel was unable to obtain White House Security Clearance due to past misconduct. (Heitman p. 3)

(3) Hamel denigrated Mr. Finberg, his superior, behind his back and to Betty but would not offer corroborating evidence when asked. (Heitman p. 3/4, Gallogly p. 2, Walther p. 2, Somers p. 2)

(4) A number of female PCEE employees complained about Hamel's unprofessional language, sexual innuendo, and abusive attitude towards females in general. (Heitman p. 4, Finberg p. 3, see also Brooks p. 2, Ramon p. 1, Laflam p. 2)

(5) Specific allegations of abusive behavior and sexual harassment are made by Jackie Fader, a PCEE employee, to Betty about Hamel. (Heitman p. 4)

(6) Specific allegations of abusive behavior and sexual harassment are made by Trish Farrell, a PCEE employee, about Hamel. (Heitman p. 5, Finberg p. 3)

(7) Hamel disregarded Betty's instructions not to confront Ms. Farrell about the above sexual harassment allegations and did so in a hostile manner. (Heitman p. 6)

(8) Hamel went to lunch with Betty during which he repeatedly criticized Finberg and alleged mismanagement. At this time, he told Betty that he had talked with Bill Phillips, Deputy Director of OPM and alleged mismanagement at PCEE. Hamel had yet to bring specific criticisms to Betty so that she could attempt to correct any problems. (Heitman p. 7)

(9) Hamel abusively derided Betty about her performance at PCEE in her office in a loud tone overheard by other staff members. (Heitman p. 8)

(10) Hamel obtained possession of PCEE employee timecards although he had no legitimate access to them. (Heitman P. 9)

(11) Hamel rudely treated Ms. Sandra Arangio, a corporate executive with the John Hancock Co. resulting in a phone call from her to Betty about Hamel's abusive behavior. (Heitman p. 9/10)

(12) Hamel again loudly yelled at Betty in her office and this time refused to leave when asked. Betty was forced to leave her own office to terminate an encounter she felt was threatening and distasteful. (Heitman p. 10)

(13) Hamel unilaterally contacted various corporate executives who had participated in PCEE programs and attempted to solicit negative comments about PCEE employees and programs. These contacts resulted in complaints by the executives to Betty about Hamel's inappropriate behavior. Among those contacted who found Hamel's conduct offensive are: Ivan Somers, Jim Gallogly (a federal executive), Andrew Phelps, Larry Walther, and Alice Hogan. (Heitman p. 10-13, Gallogly p. 1/2, Walther p. 2, Hogan p. 2, Somers p. 2)

(14) July 13, 1990—Hamel gave a memo addressed to Betty and dated June 15, 1990 to Jack Finberg which alleged a conflict of interest on the part of a participating executive which possibly could have created some irregularities in the PCEE procurement process. Hamel would not name the executive nor would he provide further details when asked. Betty had not seen the memo before this time. (Heitman p. 13)

(15) Hamel offered to drop all charges he had levied against the PCEE including those made to the Inspector General (IG) if Betty would give him a outstanding rating (which results in a bonus), pay for his college courses (so that he could finally obtain a college degree), and allow him to hire an assistant of his choice OR if Betty would get him a GS-15 job at another agency. Hamel made a similar offer to Finberg. (Heitman p. 14, Finberg p. 5, see also Brooks p. 2)

(16) A 20 year old college intern, Brigid Raczynski, is brought to tears at the prospect of working alone in the office with Hamel. (Heitman p. 15, Raczynski p. 2, Finberg p. 3)

(17) Other female staff members tell Betty that they are afraid of Hamel. (Heitman p. 15)

(18) Hamel caressed the shoulders of a 20 year old college intern working at the PCEE causing her to move away from him. (Raczynski p. 2, Heitman p. 19, Finberg p. 3)

(19) Betty is contacted by Ms. Joan Rodney of General Motors who states that someone had phoned her claiming to be Betty's superior at PCEE. This male misrepresented facts and used high pressure tactics in an attempt to force GM to provide an assignment for a public sector executive. Betty felt that this phone call could only have come from Hamel as placement of Federal executives was one of his primary responsibilities. (Heitman p. 16)

(20) Hamel used language such as "c——" and "b——" when referring to female coworkers . (Finberg p. 4)

(21) Gary Brooks, a Labor Relations Specialist at OPM, was contacted by the PCEE in February 1990 about Hamel's conduct at work and inability to follow the direction of his supervisors. (Brooks p. 1/2) Jamie Ramon, General Counsel for OPM is contacted about same problems in April. (Ramon p. 1)

(22) Numerous instances of misconduct are cited by Hamel's former supervisor at GSA, including an instance where Hamel arranged a meeting during work hours between himself, business associates, and a Capitol Hill staffer to discuss a contract for provide gain. (Barnett p. 1/2)

(23) Hamel threatened to sue Barnett, his supervisor at GSA, unless Barnett would give him an "outstanding" performance rating and the $5000 bonus which accompanies such a rating. (Barnett p. 2)

(24) Hamel is again reprimanded while at GSA for his increasingly disruptive conduct in the office. (Barnett p. 2)

(25) Hamel's conduct at GSA is criticized by a co-worker as extremely disruptive. (Laflam p. 1)

(26) Hamel often sexually harassed female employees at GSA. (Laflam p. 2, Arnade p. 2)

(27) Hamel told a former co-worker at GSA that he was going to talk to Capitol Hill about what was going on in the GSA. (Laflam p. 2)

(28) While at GSA, Hamel threatened to throw a colleague out of the "G——D—— window" if he didn't "shut the f—— up" and stop giving him "s——". (Arnade p. 1/2)

Mr. Speaker, I emphasize again that these statements have been made under oath—in marked contrast to Gordon Hamel's statement to the media. Every person involved here was fully cognizant of the consequences of perjury.

Unfortunately, Betty Heitman could not release any of that information. For 10 months, she endured continued verbal shots from newspaper columns, TV shows, and Gordon Hamel, who was secure in the knowledge that because he didn't sign a Privacy Act waiver, Betty Heitman was prohibited—by law—from responding.

Well, now the story can be told. An exhaustive study by the inspector general of OPM has just been released and his conclusions, to be charitable, blow Gordon Hamel out of the water. This report demolishes his original charges against Betty Heitman and the Commission, thus debunking the canard that is some sort of heroic whistleblower.

The inspector general's report is two-tiered. The first part focuses on Gordon Hamel's 43 allegations against Betty Heitman and the President's Commission on Executive Exchange. The second deals with the allegations against Gordon Hamel.

Regarding the allegations against Gordon Hamel—allegations of abusive and insulting behavior toward his superiors and his female coworkers—the inspector general concluded:

> It was determined by the inspector general that the formal charges brought against Mr. Hamel were generally substantiated. Let me read that again, Mr. Speaker: It was detemined by the Inspector-General that the formal charges brought against Mr. Hamel were generally substantiated.

□ 1900

Referring specifically to the Commission's co-workers' charges against Gordon Hamel, the IG continues:

> Although small in absolute numbers, the charges . . . reflect complaints from just under half of the employees who worked with Mr. Hamel at the PCEE. If there had been only one or two of the less offensive remarks substantiated, then these might have been dismissed as thoughtless but unintentional misstatement. However, taken in the aggregate, the cumulative effect did illustrate a continuing pattern of offensive behavior bordering on sexual harassment insofar as it pertained to the female employees with whom Mr. Hamel came in contact.

Mr. Speaker, I have compiled a synopsis of both the charges against Mr. Hamel and the findings of the inspector general. I'd like that synopsis to be included in its entirety in the RECORD—Exhibit D.

EXHIBIT D

BRIEF PREPARED BY CONGRESSMAN BOB LIVINGSTON OF THE OFFICE OF PERSONNEL MANAGEMENT, INSPECTOR GENERAL'S REPORT ON THE CHARGES MADE AGAINST GORDON HAMEL BY THE PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

The IG's report addresses the 12 formal charges listed in the November 29, 1990 "Notice of Proposed Adverse Action" (notice that the PCEE wanted to fire Hamel) sent to Gordon Hamel along with a separate section listing 3 additional issues/complaints of questionable conduct that were presented only in the affidavits of certain participants in the investigation.

Note on Hamel's status—The Merit Systems Protection Board issued a stay of Hamel's dismissal and all adverse actions against Hamel were rescinded May 13, 1991 by OPM. Thus, Hamel was never actually fired by the PCEE. Instead, he has been on Administrative leave with pay since August 2, 1990. Now that the PCEE has been abolished this status will end.

The charges against Gordon Hamel can be delineated into four main categories.

First, improper conduct directed toward undermining the mission of the PCEE;

Second, disrespectful and abusive behavior toward private sector executives participating in the PCEE executive exchange program and toward potential participants;

Third, disrespectful and abusive behavior toward Betty Heitman as his immediate supervisor; and

Fourth, disrespectful, abusive, and insulting behavior toward other coworkers, particularly female employees.

The general conclusion of the IG as to the validity of the formal charges brought against Gordon Hamel is that they were generally substantiated.

CHARGE 1

You have intentionally engaged in unauthorized and improper conduct and sought to disrupt and undermine the mission and functioning of the Commission. You have called a number of the Commission's participating executives and had highly improper conversations about other executives participating in the program, the program itself, and other Commission employees. Through these actions, you have seriously derogated the Commission's mission and functions as well as damaged its reputation with participating executives and private sector corporations. Some examples of your improper conduct are as follows:

1(a) Hamel contacted Jim Gallogly, a federal executive, and attempted to solicit negative comments about the Commission, Jack Finberg (Betty Heitman's Administrative Assistant), and the 1990 International Seminar.

IG Findings: Both a July 23, 1990 letter by Gallogly to Betty Heitman and details of a January 25, 1991 interview of Gallogly by an IG special agent corroborate this charge. Hamel denies the charge.

1(b) Hamel contacted Ivan Somers, a participating executive, and attempted to solicit negative comments about Jack Finberg and the International seminar.

Findings: This charge is corroborated by a July 25, 1991 letter by Somers to Betty Heitman and a February 14, 1991 interview by the IG. Interestingly, Somers contacted the PCEE as the unofficial spokesman of a "round-table" of participating executives who had been contacted by Hamel and found his actions demeaning and unprofessional. Somers also stated that Hamel had referred to the Secretaries at the PCEE as "b—es". Hamel denies the charge.

1(c) Hamel made improper phone calls to Andrew Phelps, one of the participating corporate executives, wherein Hamel suggested that he (Hamel) should replace Finberg and that the Commission employees did not like Phelps.

Findings: The charge is corroborated by a July 26, 1990 letter by Phelps to Betty Heitman and from a January 30, 1991 interview with an IG special agent. Phelps said that Hamel threatened to expose him to his employer for some minor mistake he had made while participating in the program unless he helped Hamel "get" the info on Betty Heitman and Jack Finberg. Hamel also told Phelps that PCEE employees didn't like Phelps in an effort to provoke him into making negative comments about the commission. Phelps said that Hamel made crude, graphic comments about his desire to have sex with a female exchange executive. Hamel admits that he talked to people about his displeasure with Finberg but denies making sexual comments.

1(d) Hamel contacted Larry Walther, a participating corporate executive, and criticized the performance of Jack Finberg and the Commission in general bringing into question the program, the staff, and participating executives.

Findings: Corroborated by a August 2, 1990 letter to Betty Heitman from Larry Walther and a January 30, 1991 interview with a OSC special agent. Hamel admits he may have been critical of Finberg.

1(e) Hamel contacted Alice Hogan, a participating corporate executive, to solicit negative comments about the Commission. He asked Ms. Hogan to provide an unsigned, undated report of her complaints against the program.

Findings: Corroborated by a August 8, 1990 letter to Betty Heitman from Alice Hogan and a January 25, 1991, interview with a OSC special agent. Hamel admits that this charge is as close to the truth as any of the charges are but denies he only tried to solicit negative info.

CHARGE 2

You have also engaged in improper conduct during two other phone conversations to private sector corporate executives in which you were disrespectful and abusive. The details of these conversations are as follows:

2(a) During a June 10, 1990, phone conversation with Sandra Arangio, a corporate executive with the John Hancock company, Hamel rudely and abruptly stated that she had to take any assignment that the PCEE gave her. This resulted in a call to Betty Heitman from Ms. Arangio about the incident and an oral reprimand from Heitman to Hamel.

Findings: Corroborated by a December 7, 1990, letter to Betty Heitman from Sandra Arangio, and numerous interviews with other PCEE employees including Iretha Tate who was a party to the phone conversation between Hamel and Arangio. Hamel tried to force Arangio to take a job with the Navy she did not want. Both became upset and Hamel eventually put Arangio on hold and would not return to the phone. Hamel agrees that a three-way phone conversation occurred but claims it took place on June 14, 1990, not June 10, as indicated in the charge. He denies that Heitman ever reprimanded him for his actions in the matter.

2(b) On August 3, 1990, Betty Heitman received a letter from Joan Rodney, a General Director at General Motors. Ms. Rodney stated that she has received a phone call from someone at the PCEE who represented himself as Heitman's superior and used high pressure tactics to attempt to force GM to provide an assignment for public sector executives. This phone call could only have come from Gordon Hamel as he was the Director of Placement. Further, the caller told Ms. Rodney that the Chairman of GM had previously committed to the program, a fact that could not be verified.

Findings: Corroborated by a January 31, 1991, interview with a OSC special agent and the August 3, 1990, letter mentioned in the charge. While Ms. Rodney could not originally remember the male caller's name, when the name Gordon Hamel was mentioned to her she indicated that he was the man who had called her. Hamel admits talking to Ms. Rodney but denies misrepresenting himself or using high pressure tactics. The charge against Hamel indicates that the letter was received August 3, 1990, but Heitman's affidavit states that it was received August 30, 1990. Hamel maintains that since he was put on Administrative leave August 2, 1990, and the letter from Ms. Rodney states that the incident occurred several weeks earlier, he could not be the person described in the letter as he was no longer working at the PCEE.

CHARGE 3

Your Misconduct has not been limited to dealings with persons outside our office. One numerous occasions, beginning almost from the time you started working at the Commission, you have engaged in misconduct consisting of disrespectful and abusive actions, attitude and statements towards myself as your supervisor.

3(a) On or about May 7, 1990, Hamel confronted Betty Heitman in her office in a loud, disrespectful and abusive manner concerning complaints about the Commission Hamel had raised with officials at OPM.

Findings: While both Heitman and Hamel agree that a conversation took place, they disagree as to the severity of the affair. Arlene Davenport, a PCEE employee, does recall hearing Hamel yell at Heitman on one occasion but does not recall the date.

3(b) On or about June 12, 1990, Hamel again became highly agitated at Heitman when she orally reprimanded him about his conduct during a phone conversation with Ms. Arangio. Hamel yelled at Heitman and would not leave her office when asked causing Heitman to leave her own office to terminate the confrontation.

Findings: Both Hamel and Heitman agree that the conversation took place although they disagree as to the date and severity of the conversation. Heitman's version is corroborated by the sworn testimony of Jackie Fader, Iretha Tate, and to a lesser extent Jack Finberg, all of whom are PCEE employees. The conversation was initiated over a disagreement about Hamel's conduct on the phone and Heitman's decision to limit Hamel's contact with corporate participants. Hamel denies yelling or acting abusive.

3(c) On or about August 3, 1990, when Hamel was given notice that Betty Heitman was placing him on excused absence status, Hamel became highly abusive and insulting towards Heitman.

Findings: This charge is simply not corroborated by anyone. The special Agent interviewed 6 people present the day Hamel was removed and none recall Hamel being abusive and insulting towards Betty Heitman. Betty claims Hamel told her that she should go home to LA and find out how much money her husband had because she was going to need it. Hamel denies the charge.

CHARGE 4

From almost the inception of your employment with the Commission, you have acted in a disrespectful, abusive and insulting manner to other staff members, particularly to female employees. This behavior constituted a serious disruption to our office, and caused employees morale to plummet. The details of some of your abusive actions are as follows:

4(a) In February Hamel made a series of sexual innuendos and comments to Trish Farrell, a female PCEE employee. Hamel told Ms. Farrell that he enjoyed when she worked on his computer because it gave them the opportunity to "cuddle-up together" and that it would be fun for them to head over to the fitness center and take off all their clothes together. These incidents resulted in Betty Heitman orally reprimanding Gordon Hamel.

Findings: The Charge is corroborated by statements of other PCEE employees who claim to have heard about the incidents. Also the charge is supported by the target of the abuse, Trish Farrell. Hamel absolutely denies the incidents ever occurred and further denies that Betty Heitman reprimanded him for his actions.

4(b) Throughout Gorden Hamel's employment at the PCEE he was abusive and disrespectful towards Jacki Fader, Betty Heitman's female assistant. Hamel criticized her work performance even though he was not her supervisor and subjected her to his fits of rage and sexual innuendo. Hamel told Ms. Fader that the only thing on her mind was sex and that he would help her with that when he had time. He also called her a "c———" at one point, used the term "d———h———" in her presence, and generally continued to use off color language around Ms. Fader even after being told not to by Betty Heitman.

Findings: Hamel denies all of the points raised in this charge, although he does admit to having a conversation with Jack Finberg about Jacki Fader's poor job performance and he does vaguely remember Betty Heitman saying something to him about an off color remark made by him to Ms. Fader. The victim of Hamel's conduct, Jacki Fader, confirms the charge against Hamel. A third party, Jack Finberg corroborates that Hamel called Ms. Fader a c——t. An OPM employee confirms that the PCEE had been in contact with OPM as early as February 1990 about the conduct of an unnamed PCEE employee. During a May 3, 1990 meeting between OPM staff and PCEE employees concerning Gordon Hamel's conduct, the topic of Hamel's threat to go public was brought up. The term blackmail was used.

Other Issues of Questionable Conduct:

(1) Hamel filed charges of waste and mismanagement at the PCEE with the IG in order to coerce Betty Heitman into giving him preferential treatment including:

—an outstanding rating,

—payment for college courses unrelated to Hamel's duties at the PCEE, or

—in the alternative, a GS-15 position in another agency.

Findings: Hamel denies that he filed the charges against the PCEE in order to coerce Betty Heitman into doing anything contained in the charge. Jack Finberg confirms that Hamel requested that the PCEE pay for his college courses and that the amount requested approximated what would be the entire training budget for an agency the size of the PCEE. Alice Taussig, a PCEE employee, verified that Hamel told her that he would stay at the PCEE if he could have his own secretary or that he would leave if Heitman got him a job in another federal agency.

(2) Betty Heitman reported in her affidavit of February 19, 1991 that Gordon Hamel had offensively touched Brigid Raczynski, a 20 year old summer intern who worked at the PCEE.

Findings: Brigid Raczynski in a January 31, 1991 interview with a OSC special agent stated she had never heard Gordon Hamel use vulgar language, conduct himself in a vulgar manner, or sexually harass any PCEE employee. She did remember one incident where Hamel put his hands on her back which made her feel very uncomfortable. Also she recalled complaining to Jack Finberg about her desire not to be alone in the office with Gordon Hamel. She provided the Merit Systems Protection Board (MSPB) with a sworn statement that she cried at the prospect of working alone with Hamel. Nonetheless, Ms. Raczynski's statements largely discount this charge.

(3) It was rumored that Gordon Hamel was involved in sexual harassment while employed at GSA. This subject was raised in two sworn statements submitted to the MSPB (Tim Arnade and Joan Laflam's statements). They declared that they witnessed Gordon Hamel sexually harass female employees while he was employed at GSA. Mr. Arnade specifically identified GSA employee Laura Hermsmeyer as a victim of sexual harassment.

Findings: The OSC special agent was not able to corroborate this charge. In fact, the alleged victim of Gordon Hamel's sexual harassment commented that she had never been harassed by Gordon Hamel.

Finally, Mr. Speaker, I would also like included into the RECORD the executive summaries of both the IG's report on the charges against Gordon Hamel and his report on the charges against the PCEE and Betty Heitman—exhibits E and F.

EXHIBIT E

OFFICE OF PERSONNEL MANAGEMENT INSPECTOR GENERAL'S REPORT ON HAMEL'S ALLEGATIONS AGAINST THE PCEE

EXECUTIVE SUMMARY

The investigative report which follows is the product of an investigation which commenced in Washington, D.C., on December 10, 1990, at the request of Inspector General Patrick E. McFarland, Office of Personnel Management (OPM). It addresses allegations of illegal, improper, and wasteful practices on the part of the President's Commission on Executive Exchange (PCEE) made by Gordon R. Hamel, who was Director of Placement from December 3, 1989, until he was placed on

administrative leave from this position on August 2, 1990. It followed an earlier report on these allegations that was flawed and incomplete, which was the basis of hearings held by the Employment and Housing Subcommittee of the House Government Operations Committee on December 10, 1990.

The PCEE was created in 1969 by Executive Order No. 11451, and was abolished by Executive Order No. 12760 on May 2, 1991. It was a small agency, under the administrative guidance and support of OPM, which had been established to promote better understanding between the private sector and government through an exchange program, including corporate and other business executives and senior governmental officials within the Federal Government.

As a result of the investigation of Mr. Hamel's 28 allegations, the Inspector General has concluded that 5 of the allegations could be substantiated and in 9 cases, corollary, additional findings were made. Twenty-three of the allegations could not be substantiated. Following, by category, is a summary of the allegations and the report's conclusions.

Administrative—Allegations relating to such matters as the legality of the placement of Jeffrey Brown in the Overseas Private Investment Corporation (OPIC) under the Voluntary Services Exchange program, attempts to pressure Mr. Hamel to use his influence with the GSA Administrator to obtain a job for Betty Heitman's son, and that Mrs. Heitman attempted to pay an illegal honorarium could not be substantiated as having occurred. Other allegations, such as use of a sign-in log, use of a clerk to drive Mrs. Heitman to official functions during work hours and use of temporary employees, were found to have occurred but were not improper or illegal. The only allegation relating to the administration of the PCEE that could be supported as improper was the reimbursement by OPIC to the Pepsi-Cola Corporation of the participation fee of its employee in the PCEE executive exchange program. Also, many expenditures were improperly made in reliance on a 1986 OPM General Counsel's opinion that determined PCEE's private funds were not subject to Federal appropriations limitations, which subsequently was revoked as incorrect. It could not be determined that the increased costs from such expenditures were the cause of an increase in the participation fee.

Conflict-of-Interest—The relationship that John Healy had with the printer he selected to publish a PCEE brochure was found to be too tenuous to constitute a conflict-of-interest. An allegation that PCEE employee Susan Levine improperly used PCEE letterhead was substantiated, but she was found to have been counseled and terminated the practice. Another allegation involving receipt of compensation by Ms. Levine from her former employer was found to be without substance.

Procurement—An allegation concerning the purchase of jewelry by the PCEE for its employees was substantiated and found to be improper. Other allegations concerning leasing of a parking space for a PCEE employee from a private contractor and use of an outside consultant to develop a position description were not found to be improper.

Travel—Allegations concerning the impropriety of the manner in which travel services were procured for a 1990 foreign trip were substantiated and found contrary to Federal travel and procurement regulations. While payment of taxicab fares for Mrs. Heitman's after-hours trips from her home to official functions in the District of Columbia should not have been made, the report would not characterize this as creating an inflated travel voucher as alleged. Other allegations concerning submission of false local travel vouchers by Alice Taussig and exaggerating the length of a Canadian trip could not be substantiated.

Time and Attendance—An allegation that Jacki Fader and Iretha Tate used official time to travel to Mrs. Heitman's residence to pay her maid could not be substantiated. However, it was found that these employees exceeded their lunch period to pick up clothing and other personal items to take to Mrs. Heitman at the hospital. This would not qualify as permissible, administratively excused absence. Another allegation concerning time and attendance abuses by Jacki Fader could not be substantiated.

Miscellaneous—An allegation concerning use of a Diners Club Card issued to the Federal Government for purchase of airline tickets for personal travel by Jacki Fader was substantiated but was not found to have been done to defraud the government inasmuch as her ex-husband did not inform her that it was for government use, and the bill was paid when received. Other allegations concerning refusal of Jack Finberg to supply Mr. Hamel with details about the PCEE program budget and that Ivan Somers, a private sector exchange executive, played computer games on office equipment while at PCEE, could not be substantiated.

BACKGROUND

This investigation examined 28 formal allegations brought to the attention of the Office of the Inspector General, Office of Personnel Management (OPM), by Gordon R. Hamel, Director of Placement, President's Commission on Executive Exchange (PCEE). These allegations were made over a period of time, beginning with a meeting held at his request with a member of the OIG staff on July 25, 1990, and concluding with him signing a formal compilation of allegations on January 17, 1991.

In a separate action, Mr. Hamel was formally charged by Mrs. Heitman in her capacity as Executive Director at the PCEE with misconduct, insubordination, and other unprofessional actions. Mr. Hamel's allegations pertain to illegal, improper, and wasteful practices on the part of PCEE management.

With respect to the PCEE as a governmental entity, this small agency was established in 1969 by Executive Order No. 11451 to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE offices formerly were located at 744 Jackson Place, N.W., Washington, D.C. The PCEE was recently abolished by Executive Order No. 12760, signed on May 2, 1991, by President Bush.

Also of interest is the fact that all adverse actions against Gordon Hamel were rescinded by OPM on May 13, 1991. The Merit System Protection Board, which is hearing Gordon Hamel's appeal, is considering whether his case is now moot and should be dismissed. The Office of Special Counsel has decided not to reach a decision on Mr. Hamel's charge that the PCEE's earlier adverse actions against him constituted retaliation under the Whistleblower's Protection Act of 1989. As a result of the PCEE's demise, Gordon Hamel's supervisor, Betty Heitman, no longer has her position. In light of these unusual circumstances, some explanation appears necessary as to why and how this report was prepared and why the Inspector General believes, pursuant to his responsibilities under the Inspector General Act of 1978, as amended, it is still necessary and relevant.

At the outset, it should be noted that this investigation is also unusual in the degree of public scrutiny and notoriety it and the underlying controversies it reports have received. In attempting to resolve controversies and promote institutional reform, an investigative report, as contrasted with a program audit, should be a relatively confidential document. Insofar as proper and justified by the circumstances, the privacy and reputations of investigated persons, who may have committed no actionable wrong, should be protected to the fullest extent possible. In those circumstances involving possible criminal referrals, prejudicial publicity must be avoided to protect the integrity of the criminal justice process. Because the case has been aired publicly in the press, television expose programs, and newscasts, and was the subject of a Congressional hearing, these interests are of less concern here. However, the Inspector General is limiting initial distribution of this report to the Director of the Office of Personnel Management, the immediate parties, and the relevant Congressional oversight committees.

The Office of Inspector General (OIG) involvement in this case began with a meeting held at Gordon Hamel's request with a member of the OIG staff on July 25, 1990. Betty Heitman conferred on her case with OPM Inspector General Patrick E. McFarland on August 14, 1990. Mr. Hamel was then Director of Placement for the PCEE. As mentioned, Mr. Hamel made allegations of illegal, improper, and wasteful practices on the part of PCEE management, which became the basis of this and an earlier investigation. Separate meetings had already been held by Mr. Hamel and Mrs. Heitman at which accusations were exchanged. Mr. Hamel met on or about March 15, 1990, with OPM General Counsel Jaime Ramon to discuss PCEE administrative problems and concerns, including alleged improper contracting procedures. PCEE Executive Director Heitman claimed to have been consulting with other OPM officials at about the same time concerning allegations of Mr. Hamel's misconduct. General Counsel Ramon told the OIG that Mrs. Heitman and PCEE Chief of Staff Jack Finberg met with him in April 1990 and that OPM Chief of Labor Relations Gary Brooks then began work with them on counselling memorandum concerning the charges against Mr. Hamel.

Mr. Hamel carried his concerns regarding alleged mismanagement of the PCEE on May 7, 1990, to OPM Deputy Director Bill Phillips. Mrs. Heitman followed this action by writing a letter to OPM Director Constance Berry Newman requesting a review of procedures and policies at the PCEE. These requests led to issuance on June 14, 1990, of a report by the OPM Director's Counselor Vernon Parker with recommendations concerning changes in policies and procedures at the PCEE. This report formed a partial basis for the OIG's original investigation.

The Parker report and the present OIG investigation have found that many of the problems relating to the PCEE's misuse of appropriated funds related to a memorandum sent to its contracting officer by OPM Acting General Counsel James S. Green, dated July 25, 1986. It contained a conclusion that the Federal Acquisition Regulation was inapplicable to the purchase of goods and services by the PCEE when funds from private sources were used and was based on the as-

sumption, subsequently found to be erroneous, that such funds would be categorized as non-appropriated funds.

In a letter dated June 8, 1990, rescinding the 1986 opinion, OPM General Counsel Jaime Ramon found that the participant fees used to fund much of the PCEE's activities, which was the private funding at issue, were required by 5 U.S.C. 4109(d) to be credited to OPM's revolving fund. That fund, created by 5 U.S.C. 1304, was expressly made available to the PCEE for education and related travel, for printing, and for entertainment expenses but only in the amounts specified in OPM's appropriation. The General Counsel's decision also relied on Comptroller General decisions finding that even if revolving funds were totally financed by private contributions, they are still appropriated funds and under 31 U.S.C. 1301(a) could be used only for the purposes for which they have been made. [35 Comp. Gen. 436 (1953); 63 Comp. Gen. 110 (1983).]

Mr. Hamel was placed on administrative leave by PCEE Executive Director Betty Heitman on August 2, 1990. On the same day, Mrs. Heitman wrote to the newly appointed OPM Inspector General Patrick McFarland requesting him to conduct a "full investigation of possible abuse by Mr. Hamel of his position and professional responsibilities as well as any matters that he may have brought to your office's attention." In effect, her letter supported Mr. Hamel's earlier request for OIG involvement.

The OIG report on its original investigation was issued on October 1, 1990, less than two months after Inspector General McFarland assumed office. By the time hearings to review the report were held by the Subcommittee on Employment and Housing, House Committee on Government Operations, on December 10, the Inspector General was aware that a completely new investigation was necessary to correct certain deficiencies in that report. In his testimony, Inspector General McFarland told the subcommittee that he would assign new investigators to handle the case and would conduct a new investigation of Mr. Hamel's allegations concerning mismanagement and abuses at the PCEE. This report is the result of that promise.

Mrs. Heitman issued a Notice of Proposed Adverse Action to Mr. Hamel on November 29, 1990. Because of his concern that the OIG's earlier investigation had been instrumental in her decision, the Inspector General wrote to Mrs. Heitman and urged her to rescind her dismissal, suggesting that administrative leave with pay would be "a personnel action best suited to the circumstance of a new investigation." In her reply dated December 18, 1990, Mrs. Heitman advised that the OIG report was not used as the basis for the propsoed adverse action against Gordon Hamel. The Merit System Protection Board subsequently issued an order to stay Mr. Hamel's dismissal.

METHODOLOGY OF THIS INVESTIGATION

Every possible effort has been made by this Office to conduct an investigation of Mr. Hamel's allegations that would be completely independent from earlier investigations and would in no way be biased by earlier findings. Completely new personnel were assigned to the task. The OIG's only senior criminal investigator was assigned to begin a review of Mr. Hamel's allegations of illegal, improper, and wasteful practices by the PCEE. Because the OIG was only beginning to staff its criminal investigations section, a criminal investigator was detailed from the Department of Housing and Urban Development to assist in the early stages of the investigation. All persons involved in management of the PCEE or in any way concerned with the charges, were interviewed, many for the first time.

In the interests of fairness, a separate investigation was begun concerning Mrs. Heitman's charges against Mr. Hamel, which is resulting in a second report that is being issued in conjunction with this one. A senior criminal investigator on loan from the Department of Labor conducted that investigation. The decision to launch a separate investigation to consider the charges being directed against Mr. Hamel was made after it was determined that three investigating agencies were considering charges against the PCEE (the General Accounting Office was preparing an audit report or testimony on the PCEE: the Special Counsel had agreed to consider Mr. Hamel's charges of retaliation under the Whistleblower Protection Act of 1989; and the Merit System Protection Board was considering the adverse personnel actions taken against Mr. Hamel). No one, however, was directly concerned with Mrs. Heitman's charges against Mr. Hamel.

In further interests of fairness, the OIG has attempted to conduct an open and cooperative investigation. We have, where appropriate, shared investigative leads and have sought to informally coordinate with jurisdictional responsibilities of the Department of Justice, the Office of Special Counsel and the General Accounting Office to avoid unnecessary duplication of effort and taxpayer expense. A forum has been provided to any person wanting to provide information, and all sides of the issues have been thoroughly explored.

Although the PCEE has been abolished, the OIG believes that, under the Inspector General Act of 1978, it has a clear responsibility to OPM, as the agency providing administrative guidance to the PCEE while it was in existence, to determine errors that were made and assist OPM in formulating corrective measures to prevent future abuses and correct systemic flaws. The OIG also has a clear responsibility to complete the reporting process on this case to Congress to assist the legislative branch in its oversight role.

EXHIBIT F

OFFICE OF PERSONNEL MANAGEMENT INSPECTOR GENERAL'S REPORT ON THE PCEE'S ALLEGATIONS AGAINST HAMEL

EXECUTIVE SUMMARY

The investigative report which follows is the product of an investigation which commenced in Washington, D.C., on January 2, 1991, at the request of Inspector General Patrick E. McFarland, Office of Personnel Management (OPM). It addresses charges of misconduct, insubordination, and other unprofessional actions levied against Gordon E. Hamel while he was Director of Placement at the President's Commission on Executive Exchange (PCEE) from December 3, 1989, until August 2, 1990, when he was placed on administrative leave.

The President's Commission on Executive Exchange was created in 1969 through Executive Order No. 11451, and was recently abolished through Executive Order No. 12760, which was signed on May 2, 1991, by President Bush.

This small agency was established to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE conducted business out of its offices located at 744 Jackson Place, N.W., Washington, D.C.

The charges against Mr. Hamel were contained in a Notice of Proposed Adverse Action dated November 29, 1990, addressed to him by Mrs. Betty Heitman, who was then Executive Director of the President's Commission on Executive Exchange. The Inspector General concluded that Mrs. Heitman was not placed under any undue pressure by the Office of Personnel Management or anyone to take the action she did in bringing these charges against Mr. Hamel.

This report addresses the 12 formal charges listed in the Notice of Proposed Adverse Action along with a separate section listing three additional issues/complaints of questionable conduct that were presented only in the affidavits of certain participants in the investigation.

A reading of these charges and complaints reveals four major categories relating to misconduct and other unprofessinal actions. These are summarized as follows:

Category 1: improper conduct directed toward the undermining of the mission of the President's Commission on Executive Exchange;

Catetory 2: disrespectful and abusive behavior toward private sector executives participating in the PCEE executive exchange program and toward potential participants;

Category 3: disrespectful and abusive behavior toward Betty Heitman personally as his immediate supervisor; and

Category 4: disrespectful, abusive, and insulting behavior toward other co-workers, particularly female employees.

At the conclusion of this investigation, it was determined by the Inspector General that the formal charges brought against Mr. Hamel were generally substantiated. One specific exception, however, was the charge in which Mrs. Heitman stated that Mr. Hamel became highly abusive and insulting toward her parents in front of other PCEE staff members on or about August 2, 1990, which was the time Mr. Hamel. was placed on administrative leave at the PCEE.

Attention should be called to the various charges falling under Category 4, *supra*. Although small in absolute numbers, the charges therein reflect complaints from just under half of the employees who worked with Mr. Hamel at the PCEE. If there had been only one or two of the less offensive remarks substantiated, then these may have been dismissed as thoughtless but unintentional misstatements. However, taken in the aggregate, the cumulative effect did illustrate a continuing pattern of offensive behavior bordering on sexual harassment insofar as it pertained to the female employees with whom Mr. Hamel came in contact. It should also be noted that the prohibition against sexual harassment is directed not only to an individual's acts but to the hostile working environment that can be created by offensive behavior directed toward a person because of his or her gender. [See *Meritor Savings Bank, FSB* v. *Vinson*, 447 U.S.C. 57 (1986)] It is the possibility of the cumulative effect that this continual behavior may have had on the PCEE work environment that makes these charges serious.

With respect to the preceding charges and complaints relating to offensive behavior, the countervailing force is the failure of PCEE management to take contemporaneous action at the time of these reported personnel problems.

The report herein reflects the findings and conclusions drawn to substantiate and/or deny those charges, and any portions there-

of, which were brought to the attention of the Inspector General.

BACKGROUND

This investigation addresses 12 formal charges of misconduct, insubordination, and other unprofessional actions brought against Mr. Gordon R. Hamel in his capacity as Director of Placement at the President's Commission on Executive Exchange (PCEE) by Mrs. Betty Heitman, his supervisor and Executive Director at the PCEE. Mrs. Heitman conferred on her case with Inspector General Patrick E. McFarland, Office of Personnel Management (OPM) on August 14, 1990, after writing to him on August 2, requesting him to conduct an investigation into these charges. Mrs. Heitman also placed Mr. Hamel on administrative leave on the same day.

In a separate action, Mr. Hamel, presented allegations pertaining to illegal, improper, and wasteful practices on the part of PCEE management to the Office of the Inspector General, Office of Personnel Management (OPM), beginning on July 25, 1990. The Inspector General requested an investigation, and a separate report is being issued in coordination with the release of this report.

With respect to the PCEE as a governmental entity, this small agency was established in 1969 by Executive Order No. 11451 to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE offices formerly were located at 744 Jackson Place, N.W., Washington, DC. The PCEE was recently abolished by Executive Order No. 12760, signed on May 2, 1991, by President Bush.

Also of interest is the fact that all adverse actions against Gordon Hamel were rescinded by OPM on May 13, 1991. The Merit System Protection Board, which is hearing Gordon Hamel's appeal, is considering whether his case is now moot and should be dismissed. The Office of Special Counsel has decided not to reach a decision on Mr. Hamel's charge that the PCEE's earlier adverse actions against him constituted retaliation under the Whistleblowers' Protection Act of 1989. As a result of the PCEE's demise, Gordon Hamel's supervisor, Betty Heitman, no longer has her position. In light of these unusual circumstances, some explanation appears necessary as to why and how this report was prepared and why the Inspector General Act of 1978, as amended, it is still necessary and relevant.

At the outset, it should be noted that this investigation is also unusual in the degree of public scrutiny and notoriety it and the underlying controversies it reports have received. In attempting to resolve controversies and promote institutional reform, an investigative report, as contrasted with a program audit, should be a relatively confidential document. Insofar as proper and justified by the circumstances, the privacy and reputations of investigated persons, who may have committed no actionable wrong, should be protected to the fullest extent possible. In those circumstances involving possible criminal referrals, prejudicial publicity must be avoided to protect the integrity of the criminal justice process. Because the case has been aired publicly in the press, television expose programs, newscasts, and was the subject of a Congressional hearing, these interests are of less concern here. However, the Inspector General is limiting initial distribution of this report to the Director of the Office of Personnel Management, the immediate parties, and the relevant Congressional oversight committees.

As mentioned, Mr. Hamel made allegations of illegal, improper, and wasteful practices on the part of PCEE management. Separate meetings had already been held by Mr. Hamel and Mrs. Heitman at which accusations were exchanged. Mr. Hamel met on or about March 15, 1990, with OPM General Counsel Jaime Ramon to discuss PCEE administrative problems and concerns, including alleged improper contracting procedures. PCEE Executive Director Heitman claimed to have been consulting with other OPM officials at about the same time concerning allegations of Mr. Hamel's misconduct. General Counsel Ramon told the OIG that Mrs. Heitman and PCEE Chief of Staff Jack Finberg met with him in April 1990 and that OPM Chief of Labor Relations Gary Brooks then began work with them on a counseling memorandum concerning the charges against Mr. Hamel.

Mr. Hamel carried his concerns regarding alleged mismanagement of the PCEE on May 7, 1990, to OPM Deputy Director Bill Phillips. Mrs. Hamel followed this action by writing a letter to OPM Director Constance Berry Newman requesting a review of procedures and policies at the PCEE.

As previously stated, Mr. Hamel was placed on administrative leave by PCEE Executive Director Betty Heitman on August 2, 1990, the same day, Mrs. Heitman wrote to newly appointed OPM Inspector General Patrick McFarland requesting him to conduct a "full investigation of possible abuse by Mr. Hamel of his position and professional responsibilities as well as any matters that he may have brought to your office's attention." In effect, her letter supported Mr. Hamel's earlier request for OIG involvement.

Mrs. Heitman issued a Notice of Proposed Adverse Action to Mr. Hamel on November 29, 1990. Because of his concern that the OIG's earlier investigation had been instrumental in her decision, the Inspector General wrote to Mrs. Heitman and urged her to rescind her dismissal, suggesting that administrative leave with pay would be "a personnel action best suited to the circumstance of a new investigation." In her reply dated December 18, 1990, Mrs. Heitman advised that the OIG report was not used as the basis for the proposed adverse action against Gordon Hamel. The Merit System Protection Board subsequently issued an order to stay Mr. Hamel's dismissal.

METHODOLOGY OF THIS INVESTIGATION

In the interests of fairness, a separate investigation also was begun concerning Mrs. Heitman's charges against Mr. Hamel, which is the basis for this report being released at this time. A senior criminal investigator on loan from the Department of Labor conducted that investigation. The decision to launch a separate investigation to consider the charges being directed against Mr. Hamel was made after it was determined that three investigating agencies were considering charges against the PCEE (the General Accounting Office was preparing an audit report or testimony on the PCEE; the Special Counsel had agreed to consider Mr. Hamel's charges of retaliation under the Whistleblower Protection Act of 1989; and the Merit System Protection Board was considering the adverse personnel actions taken against Mr. Hamel). No one, however, was directly concerned with Mrs. Heitman's charges against Mr. Hamel.

Every possible effort has been by this office (OIG) to conduct an investigation of Mr. Hamel's allegations that would be competely independent from earlier investigations and would in no way be biased by earlier findings. Completely new personnel were assigned to the task. The OIG's only senior criminal investigator was assigned to begin a review of Mr. Hamel's allegations of illegal, improper, and wasteful practices by the PCEE. Because the OIG was only beginning to staff its criminal investigations section, a criminal investigator was detailed from The Department of Housing and Urban Development to assist in the early stages of the investigation. All persons involved in management of the PCEE or in any way concerned with the charges, were interviewed, many for the first time.

In further interests of fairness, the OIG has attempted to conduct an open and cooperative investigation. We have, where appropriate, shared investigative leads and have sought to informally coordinate with jurisdictional responsibilities of the Department of Justice, the Office of Special Counsel and the General Accounting Office to avoid unnecessary duplication of effort and taxpayer expense. A forum has been provided to any person wanting to provide information, and all sides of the issues have been thoroughly explored.

Mr. Speaker, regarding the second prong of OPM's investigation—the original, supposedly whistleblowing charges by Hamel against the Commission—the results are no less conclusive. In late April, in an oral briefing by the inspector general himself, I and three other Members of this body were told that Hamel lodged 43 separate charges against PCEE and Mrs. Heitman. These were consolidated into 28 formal charges.

By my count, 23 of Hamel's 28 allegations were thrown out by the inspector general. Only 5 of the 28 charges were substantiated, and—importantly—none of them were the result of anything malicious or circumspect on Betty Heitman's part. We have one violation, for example, where an employee sent out five personal letters on Commission stationery—but using her own stamps. Now, it is true that this is a violation, but it's also true that the cost to the Government was probably about 30 cents.

About the only substantive charge of the five was the question of an $18,000 participation fee reimbursement to the Pepsi-Cola Corp. This is a complicated situation that is fully described in the OPM inspector general's report. It involves not only PCEE, but also the Overseas Private Investment Corporation [OPIC]. While the IG did find fault with the reimbursement, I think it's worth noting that the evidence demonstrates that the Federal officials involved consulted with their in-house counsels prior to making any decisions.

This internal legal advice was subsequently overturned by OPM's General Counsel; however, we should remember that it was given in good faith to officials within PCEE who, it should be emphasized, in seeking in-house legal advice were trying to be very careful in the way they managed funds.

On that note, Mr. Speaker, I would add that the officials at PCEE were obviously more careful in the way they handled public funds than Gordon Hamel was in the way he made up charges. Every one of the serious fraud and mismanagement charges Hamel launched were tossed aside by the inspector general.

Mr. Speaker, the sum total of the few violations substantiated at PCEE amounts to virtually nothing when compared with the costs of the various investigations into PCEE. At that same meeting in April, the Inspector-General estimated to me his cost for this investigation to be between $100,000 to $150,000.

One could reasonably assume that the ongoing GAO investigation into the Commission will cost around the same amount as did the OPM investigation. Also, throw in the costs of the Office of Special Counsel investigation, which looked into whether Mr. Hamel was, in fact, a whistleblower and the costs of the House subcommittee on Employment and Housing has incurred in its one hearing last December, as well as its second hearing to be held next Monday.

All that adds up, Mr. Speaker, to a sum of money that so completely outstrips any possibly improper expenditures at PCEE, that one would be tempted to laugh, if the situation were not so pathetic—and, I should add, an affront to the taxpayer. It is likewise an embarrassment to those, including some Members of this body, who saw in Gordon Hamel a cheap political shill to be used for partisan gain.

Fortunately, in the end, the truth came out. Betty Heitman's actions were proven to be in good faith and, in virtually all circumstances, correct. Gordon Hamel has had his veneer of white knighthood stripped away—revealing an abusive, nasty sexual harasser.

PCEE may have been a minor cog in the Federal wheel. With only 10 employees, it certainly was one of the smallest operations. But the people who worked in PCEE, especially Betty Heitman, have professional reputations just the same as those of us here in Congress. When their reputations are besmirched, all of us should stand up and take notice.

There is an outrage here, Mr. Speaker. A fine and upstanding woman was shafted—if only temporarily. Likewise, a sexually harassing bully could temporarily claim to be public-minded whistleblower. This was a rotten play, Mr. Speaker, and the taxpayers paid for all of it.

My special order here tonight may not fully take away the hurt and the defamation inflicted on Betty Heitman over the last 10 months. It does, however, set the record straight as to who is at fault and who is not.

THE GROWING PANDEMIC OF AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will not take the entire 60 minutes. I know it is getting late in the day and everybody wants to get out of here, but I think there is some very important information that needs to be disseminated to my colleagues, and I hope they are going to be paying attention.

One of the biggest problems facing America now and in the foreseeable future is the pandemic called AIDS. Literally millions of Americans are likely to die from this disease in the next decade or so.

As a matter of fact, up until April 1991, 2 months ago, 175,000 Americans are either infected with active AIDS or are dead from it. That means 175,000 Americans are dead or dying of AIDS as of last April.

By the end of this year, there will be over 203,000 Americans dead or dying of AIDS, and another 5 to 6 million are probably infected, and over the next 5 to 6 years they will die of AIDS.

The projections of a conservative nature are that by 1996 over 1 million Americans will be dead or dying of AIDS, 1 million; 1 out of every 240 Americans will be dead or dying of AIDS by 1996.

Now, that is a very sad state of affairs.

Now, what is even sadder, Mr. Speaker, is that we are getting a lot of misinformation through the media, on television, on the radio, and through the newspapers.

Now, I am not sure a lot of it is intentional. Many people who are giving this misinformation out to the public simply do not know what they are talking about, and yet they sound like experts on TV.

One of problems we have with television, Mr. Speaker, is that people watch it and they assume that the person on the other end of that tube really has some expertise and many times they do not, and they do a real disservice to this country, especially in the case of AIDS, because they give that information out through the airways and people gain a false sense of security. They feel like they are not likely to get the disease.

Now, a case in point is a television show that took place this past Sunday called "Off the Record" on Fox TV.

□ 1910

This TV show was hosted by a fellow whom I have debated previously on the program "Crossfire" and other programs over the years, Bob, his name is Bob Beckel, he was Jimmy Carter's 1980 campaign manager. Other participants in the program were Jim Glassman of Roll Call magazine, which we all read around here, Michael Barone of U.S. News & World Report, Dan Goodgame of Time magazine, and Congresswoman SUSAN MOLINARI of New York, one of my colleagues.

I want to read to you some of the quotes from that program and I want to correct the misinformation that may have been given to the American people, so that they will know the facts and be able to protect themselves. Not all of the quotes on the program were misinforming the people. There were some real accurate statements and also some misinformation.

First of all, they interviewed me for 35 minutes approximately, in my office, and out of this 35-minute interview they took about a minute of quotes. And the quotes they took were the ones that were the most earth-shaking, that would garner the most controversy so that the people would be hooked and watch the television show.

Well, that is all right, I understand that. But the fact of the matter is the substantive comments that I made to them regarding how people get AIDS, where it is spreading, how rapidly it is spreading, and so forth, were not included in the program. I was very concerned about that.

Here is the quote they took from me: "We need to find out who has the AIDS virus so we can tell them to stop their irresponsible behavior so we can stop the epidemic from becoming worse." The reason I said that was because people carry the AIDS virus anywhere from 2 to 10 years before they even know they have it. All the time they are carrying the AIDS virus they have the capability of infecting other human beings. A person who has the AIDS virus and does not know it is a walking time bomb. If the person goes out and meets a person, they look perfectly healthy, they fall in love, they have sexual contact with them, and another person has been condemned to death because they caught the AIDS virus unknowingly. Even the person who gave it to them did not know it.

So it is important that people know they have the AIDS virus so they can stop irresponsible behavior, that is having contact with other human beings to whom they will be giving the death sentence.

I want on to say, "I think we need to do something to constrain that person. Persons who know they have the AIDS virus and continue to act irresponsibly. I think that means maybe even putting them in a sanitorium." The reason I said that was because if a person goes out with a gun and holds up a supermarket and they shoot the person, the cashier from whom they are stealing the money, we assume in society that they ought to be removed from society to protect people from being shot at by them in the future.

If a man or a woman shoots somebody once, we can assume they may do it again. They pay a penalty for that. We try to stop them from spreading that kind of mayhem in the public sector time and again.

Now, if a person has AIDS, active AIDS, and they know they have it and they know that if they have sexual contact with somebody else they are more than likely going to infect them and ultimately kill them, we do not do anything about that.

So I think, and still feel very strongly, that if a person has AIDS and knows they have AIDS and they go out and knowingly infect other people and expose them to that disease, they ought to be constrained in some way. Society must be protected from a person who is going to give someone a death sentence, whether it is from a gun or from a sexually transmitted disease that they know will kill them. That is why I said that. But that was not covered in detail in this interview.

Well, it was, but they did not put it on television.

Now, they had, after I made that statement, a person from the AIDS Action Council, whose name was Jeff Levi; he said,

> People like Congressman Burton are not willing to put more resources into preventing the spread of this disease by educating people about how they can protect themselves. They would rather identify and stigmatize those who are already infected.

That could not be further from the truth. I believe we need to appropriate more money for AIDS education, more money for a comprehensive program to deal with the problem. We need to have education, we need to have testing to find out who has it so they will know and they will know better than to go out and spread it to someone else.

Those who are tested and found positive we need to give them psychological assistance so they will be able to cope with that problem. We need to tell them about AZT and other drugs so that they can protect themselves and prolong their life. But we also need to tell them that they can no longer go out and have sexual contact with people outside the AIDS community because they are going to kill them.

So we need a comprehensive program, education, testing, contact tracing so that people who have the AIDS virus, after they know it continue to spread it so that we can stop them from doing that, constrain them. We need to have the psychological assistance for them and for those who continue to act irresponsibly after they know they have the disease and are spreading it to other people, those people need to be constrained in some way. That would include, in my opinion, even putting them in a sanitorium if they go on killing other people by spreading this disease.

In fiscal 1991 we allocated $400 million for AIDS prevention and much of that was used for education. So we are appropriating money to educate the population. We do not know how it is spreading.

There are those who say you can only get it through sexual contact or through needles by using drugs or through a blood transfusion. The fact of the matter is there are many more ways that we suspect it can be found, and I will talk about those in just a moment.

Studies have found "among heterosexual couples in which one partner carries the virus between 16 and 24 percent of the uninfected partners contracted the virus despite the use of sexual preventative measures such as condoms." In other words, people we have seen on television, that if a person uses a condom you cannot transmit the AIDS virus. That is just simply not the case. We know for a fact that according to the Hudson Institute study that was conducted last year, 16 to 24 percent of the people who used condoms still transmit the disease.

Education is not nearly as effective unless it is done in conjunction with a comprehensive program of testing. People do not change their behavior, many times, when they know they are infected.

Another quote used on the show was by the moderator himself, Bob Beckel. He said, "I never agree with DAN BURTON on anything." Well, Bob, my good friend, I think we have argued on more than one occasion. I remember that on Crossfire we did have some agreements. So I think that kind of categorical statement is not correct. But he does not agree with me very much, I will give him that.

He went on to say, "I do think there are lots of categories of people who should be tested. Health care workers ought to be tested. Anybody who goes around the business of curing people ought not to be infected with this disease. It is ravaging America. It is no longer just a gay disease. It has spread into the heterosexual community. One of these days if we are smart we are going to get everyone to take a test." Bob, we do agree on that. I think universal testing is going to have to be in the future for America because we cannot have people carrying a lethal disease not even knowing they have it, for 7 to 10 years, thus infecting other human beings.

The teen-age population in America is very sexually active. We know that. We know the college-age crowd in America is very sexually active. If we do not let them know whether or not their sexual partner has AIDS or whether or not they have AIDS, it is going to continue to spread rapidly through the future of America, that is the teen-age and college students of today.

Jim Glassman of Roll Call magazine said on the program, "I am not for testing anybody unless they want to be tested." Well, unless we test people, they are not going to know they have the AIDS virus. A voluntary testing program simply will not work because you are not going to have a large enough segment of the population being tested. So you are still going to have literally 4 to 5 million people, in my opinion, out there without the knowledge of their disease, going about their business, having sexual contact with other human beings, spreading the disease. It will spread in an exponential manner if we are not very careful.

He went on to say, "It is very clear there are only three ways to get AIDS. One is sexually, one is through using contaminated needles, and one is through a blood transfusion."

Mr. Glassman, I would say, is incorrect there. I want to set the record straight for anybody in America, and my colleagues who want to have this information.

A dentist in Florida, Dr. Acer, infected at least three of his patients during a medical procedure. That is not one of the three ways that Mr. Glassman talked about. The Federal Centers for Disease Control is funding a study right now to determine whether the virus can be transmittted in an infected aerosol form. In other words, they are saying that doctors and people who are working with another human being using saws and so forth or dentists using a drill and it turns into a miss, there is some concern that it is being spread that way. That dentist down in Florida may have given the AIDS virus to other people because of the aerosol transmission of it. We do not know.

So the Centers for Disease Control rightly is running tests right now to find out, funding a study right now to find out if AIDS can be spread as an aerosol, through the air, through spray and so forth.

A 24-year-old Italian soccer player apparently contracted the AIDS virus as a result of colliding, running into another player during a game. That was not through needles, that was not through sexual contact, that was not through a blood transfusion; that was from running into another person who had the AIDS virus and probably cutting themselves.

□ 1920

An American tourist caught the AIDS virus when splased with blood. It was not any cut. It just went through his pores. An American tourist caught the AIDS virus when blood was splased on him during a bus accident, according to the New York Post, March 22, 1989 article. Six cases of AIDS being spread through breast milk were reported at the Fourth International

Conference on AIDS. This was an AP story dated June 18, 1988. During breast feeding four mothers then contracted the AIDS virus from their babies through small cracks in the women's nipples. The baby was nursing and gave the mothers the AIDS virus. That was not through needles. That was not through blood-to-blood contact, not through sexual contact. Before people did not believe that was possible. We now know it is.

So Mr. Glassman is incorrect there. Mr. Glassman went on to say, "By requiring these test, you are going to do two things. One is the drive a lot of doctors out of the field and the other is to scare a lot of people unnecessarily." I have to take issue with that. What is better to keep everybody in the dark by not letting people know they have the AIDs virus, or to have a testing program that lets people know they have the AIDS virus and they have to change their behavior so they do not spread it to their husbands or wives or children or loved ones? People need to know, so we can do something about it. We need to know how AIDS is spreading, where it is spreading, who is spreading it and how rapidly. And to do that we need a comprehensive program, including testing of everyone in the sexually active age group. With successive confirmatory tests, false/positive rates can now be reduced to one in millions at relatively low cost. If we tested everybody in the country, it would cost under $5 per person. And the total cost of that is something that is acceptable, as far as the health of this Nation is concerned. I will get into that in a moment because many people say that is going to cost over $1 billion a year. Wait until you find out how much it is going to cost to threat AIDS patients, what it is going to do to the health care system and what it is going to do as far as health professionals are concerned.

He went on to say, "I would test people being admitted to hospitals patients, and I think almost all of them are now. Otherwise, absolutely no mandatory testing."

Once again, Mr. Glassman is incorrect. A UCLA survey found that only 15 percent of the hospitals in this country reported that they test some or all of the patients for infection at the time of admission, and 25 percent did not require threat patients be told if they tested positive. As a matter of fact, in the State of California, if you have the AIDS virus and a doctor finds out about it, he not only cannot report that to the State health agencies, as he has to do with any other sexually transmitted disease, he cannot even tell your wife or your husband because he will be in jeopardy of being sued and could be driven out of business because he would lose everything he has. So the fact of the matter is, hospitals to not test on a routine basis, very few do. And they do not even tell the patients that they do test if they are testing positive.

Michael Barone said on this program, "The experience we have had so far with testing low-risk populations has not been positive."

That is incorrect. The military has been testing 2 million military personnel per year for some time with great success. The incidence of AIDS in the military is very, very low. These people are in a very sexually active age, the young men and women who fought in Desert Storm, and they have been able to keep the military relatively free from the AIDS virus because of this routine testing program. And because of the testing program, they have been able to get those that tested positive on AZT quicker. The military program dispels that myth cheaply and accurately, according to Dr. Redfield, who ran the U.S. military program. Mr. Barone said that there has not been much success in this area. Dr. Redfield, the expert from the military, disagrees with that. Successive confirmatory tests on those testing positive can reduce the false/positive rate to 1 million at a relatively low cost, according to the Hudson Institute report which was put out in October 1989.

My colleague, the gentlewoman from New York [Ms. MOLINARI] said the majority of Americans are not going to be in favor of or for mandatory testing. The fact of the matter is, a nationwide poll found that nearly two-thirds of all Americans, 65.5 percent, would find Government-imposed testing acceptable.

In addition to that study, the Journal of the American Medical Association found that 93 percent of the homosexual men would be tested if tests were confidential, and 88 percent would take mandatory AIDS tests if they were protected by antidiscrimination laws. And we passed one last year, the Americans With Disabilities Act, that protects them. So there is no reason not to have a mandatory test program to test the entire population to protect them, because they are protected under that civil rights bill we passed last year, the ADA bill.

And the American people will accept it because they are concerned about their husbands, their wives, and their children and the future health of this Nation.

The cost to test everybody in America on a yearly basis is $1.24 billion, one and a quarter billion. That would test everybody. If you only tested the people in the age groups between 12 and 60, which is the sexually active age group, most people would agree, it would be $620 million or less than half of that; $620 million to find out who has the AIDS virus and how it is spreading, where it is spreading. We could really get a lot of information.

That is a relatively small addition to the $150 billion Federal health bill that we have every year, $150 billion is spent on Federal health care every year. It would cost $620 million to test the people of this sexually active age group once a year. That is not much money considering the AIDS epidemic will cost the country $44 billion a year in direct health costs in the year 2002.

Little over 10 years from now it is going to cost $44 billion a year to take care of the AIDS patients and the related health costs dealing with them, and we can eliminate a lot of that cost if we would start a testing program right away, not to mention the people whose lives we would save. It would cost $620 million a year, the total cost of medical care for the people with AIDS or HIV infection in New York State alone. I wish the gentlewoman from New York [Ms. MOLINARI] was here to hear this tonight. The total cost of medical care for people with AIDS or HIV infection in New York State alone was estimated at $1.3 billion last year, and is expected to double in less than 2 years to $2.6 billion. That State, New York, is one of the hardest hit in the country and testing would really help long term the health care problems of that State. And that is one of the reasons we need it.

That quote I just used was from the American Hospital Association News, February 26, 1990.

In New York State, hospitals will need an additional 7,000 nurses during the next 4 years just to take care of AIDS patients. Seven thousand additional nurses in one State alone to take care of AIDS patients in the next 4 years, and yet we do not have a testing program to find out who has it, to stop the spread of unknowing people. Remember, the people who have the AIDS virus do not even know they have it. And for the next 2 to 7 years before they get active AIDS, they look just like anybody else. They can be an athlete, a cheerleader, a basketball star in the NBA, whatever it happens to be. And all that time they are having contact with other human beings, sexual contact or maybe even other contact. We do not know. They could be spreading that disease.

That is why it is important that we test, find out, and then start a routine program, a comprehensive program to deal with this problem.

That quote was from the American Hospital Association News, February 26, 1990.

Due to the AIDS epidemic, the size of the labor force may be reduced by slightly more than 1 percent during the 1990's alone, just think what that means to the gross national product and the productivity of this country. One percent of the producing people in this country will be reduced from the labor force in the next decade because of the AIDS virus, and we do not have

even a program to deal with it. We do not have a comprehensive program to deal with it. We sit here and poke fingers in the air and years go by and more people are infected, destined to die, and they are spreading to other people, and we are not doing anything about it.

I first started talking about this in 1986 and 1987, when I came down to the well. And I went into this in a lot of detail. I started talking to experts from all over the world, doctors and scientists from London, from Lancet Medical Journal, from the New England Medical Journal, from people from Harvard, all over the world, scientists and doctors who had expertise in this area.

When I first started talking about it, they estimated we had 1.5 million people infected, and it was doubling every year. That was in 1986–87. Here we are in 1991, halfway through the year, and they are still telling us there are only 1.5 million people infected.

The fact of the matter is, many experts believe we have more like 5 to 6 million people infected, all of whom will get active AIDS eventually, all of whom have potentially been spreading that to other human beings, and 95, 96, 97 percent of them, we are not sure how many, but we know it is a high percentage, do not even know they have it. They are going on day in and day out, conducting business as usual and spreading it to other human beings.

□ 1930

Now I want to talk about Dr. Everett Koop, who has his own television show. I saw it the other night, and it was a pretty good show. I want to talk about some of the things he said about the AIDS virus, just a couple of short years ago.

Dr. Koop said, in a report to everybody in this country,

There is no danger of AIDS virus infections from visiting a doctor, a dentist, a hospital, a hairdresser, or a beautician. You may have wondered why your dentist wears gloves and perhaps a mask when treating you. This does not mean that he has AIDS or that he thinks you do. He is protecting you and himself from hepatitis, common colds, and so forth.

But he said you cannot get it from your doctor or your dentist.

Refutation is,

A definition danger exists of AIDS infection from any health care provider engaging in invasive procedures.

On November 15, 1985, and again on April 11, 1988, the Centers for Disease Control, the CDC, in Atlanta, issued recommendations for preventing transmission of AIDS between dentists and their patients, including the wearing of gloves and masks. These recommendations have been widely adopted. So that refutes what Dr. Koop said.

We also know he said you could not get it from a doctor or a dentist. We also know that people have gotten it from doctors and have gotten it from dentists. They have been infected and are going to die because the doctor or dentist had it. They have given it to them through the course of their surgery or their profession.

I would like to read a couple of other quotes here.

Federal health officials yesterday reported evidence suggesting that for the first time a health professional with AIDS has transmitted the virus to a patient.

I talked about that. That was Dr. Acer in Florida.

"The CDC has found evidence to strongly suggest he," Dr. Acer, "infected at least two other patients."

We now know there were others.

Doctors and dentists infected with the AIDS virus should stop doing surgery or tell their patients about their condition, the American Medical Association and the American Dental Association said Thursday.

That was in USA Today in January 1991.

Yet, just a couple of short years ago we got a report that went all over this country saying you could not get it from doctors. Dr. Koop should not have made those categorical statements without knowing what he was talking about, but he did. And that is what I was talking about a little while ago, when I said these television shows that have people on that appear to be experts, and they give this false information to people, maybe not knowing that they are doing it, and it gives the American people misinformation, it gives them a false sense of security, and they do not protect themselves or their families, and they are at risk of getting the AIDS virus.

The Washington Times, February 15, 1991, Dr. Jewett, a professor of orthopedic surgery at the University of California, conducted a study that showed that aerosols containing HIV-infected blood were produced during orthopedic surgery. He found that these particles were small enough to penetrate a surgical mask. That meant that during surgery, when he was running a saw, spray went into the air. He has a mask on. He looked at these particles being sprayed into the air from the person that had the AIDS virus, and they were small enough to penetrate the mask he was wearing. That meant they could get onto his face and into his lungs. And that is why this test is being conducted, this study is being conducted, by CDC right now in Atlanta to find out if you can get the AIDS virus from an aerosol, from a spray in the air.

Two hundred thirty million AIDS viruses will fit on a period at the end of a sentence. Is it any wonder that people have had blood splashed on their skin and got the AIDS virus? Because their pores are so much bigger than the virus itself, the virus can penetrate their pores, even though there are not cuts.

That is why we need to have a comprehensive program.

The AIDS virus is hard to get and is easily avoided. Coughing or sneezing will not transmit the AIDS virus.

Dr. Koop said that.

Well, I just told you that they are doing a study right now to find out if it is an aerosol, if it can be spread that way, because CDC has now come to the conclusion that they really do not know.

But Dr. Koop a few short years ago said you cannot get it that way. Just like he said you cannot get it from a doctor or a dentist, which we now know to be false.

Doctors and dentists, the Surgeon General of the United States should not be making categorical statements without factual evidence. They need to be conducting a comprehensive program, a comprehensive study, across this Nation to find out how it is being spread, who is spreading it, how rapidly it is being spread, and what can be done to curtail the disease.

I told you a while ago about the soccer player who collided, the American tourist who caught AIDS when the blood was splashed on him during a bus accident, the man who said he spent 6 years beating up gay males and may have contracted the AIDS virus from the blood of his victims when he hit them.

Dr. Koop went on to say, "An infected woman can give the AIDS virus to her baby before it is born or during birth," but he did not include the fact that you can get it after birth.

Six cases of AIDS being spread through breast milk were reported at the Fourth International Conference on AIDS which I talked about a few moments ago.

Dr. Koop said you will not get AIDS from saliva, sweat, tears, urine, or a bowel movement.

The Washington Post, January 29, 1989, during breast feeding, four mothers then contracted the AIDS virus from the babies nursing.

The New England Journal of Medicine, transmission of HIV infection from a woman to a man by oral sex has been documented. This case report suggests that oral sex alone, you can transmit HIV, even when there is no coincident exchange of blood.

So you can get it without a blood transfusion.

New Dimensions, March of 1990. Anyone who would tell you categorically that AIDS is not contracted by saliva is not telling you the truth. AIDS may in fact be transmissable by tears, saliva, bodily fluids, and mosquito bites. That is a quote from Dr. William Haseltine, a Harvard AIDS researcher.

So we really do not know all the ways it is being spread. That is why this body and this Government and the Centers for Disease Control and the Surgeon General and the head of HHS—Health and Human Services—need to get down to brass tacks and come up

with a program that will deal with this in a responsible way.

We need to have a program of education. We need to have a program of testing. We need to have contact tracing. We need to have penalties for those who have the AIDS virus and know that they are spreading it to other human beings. And we need to give them psychological training. We need a comprehensive program.

We need to also make sure that those who have the AIDS virus, regardless of their sexual preference, are not discriminated against.

I feel very confident that with the Americans with Disabilities Act last year, that hurdle has been reached. There are parts of that bill that I think went way too far. Nevertheless, the civil rights of those people are protected, and we must get on to the business of protecting the vast majority of Americans who may or may not get the AIDS virus.

Mr. Speaker, most recently the New England Journal of Medicine came out with a new view of the AIDS virus and how we ought to deal with it. I would like to read an editorial by Dr. Marcie Angell, the concluding part of her editorial.

Here is what she says:

> I believe that on balance systematic tracing and notification of the sexual partners of HIV-infected persons and screening of pregnant women, newborns, hospitalized patients, and health care professionals, are warranted. These populations are, after all, relatively accessible to the health care system and at some special risk. Attempting to screen the entire population would simply be impractical. On the other hand, targeting only high risk groups would be unworkable, in part because it would entail making distinctions that are often impossible, as well as invidious.

I would like to say I disagree with her on that. I think that ultimately, I really truly believe in my heart of hearts, ultimately we are going to have a comprehensive, routine testing program, for all Americans, like we did in years past for syphilis, for tuberculosis, and other diseases that threatened the health of the Nation.

The problem is, how long are we going to wait? Are we going to wait until we have another 6 or 8 million people infected, who are destined to die? I sincerely hope not.

She went on to say,

> With any increase in screening, however, the specter of discrimination arises once a person is known to be infected. Only if such discrimination, at least in its more tangible expressions, is countered by statute, and if those with HIV infection are assured of receiving all the medical care they need, can we pursue the basic elements of infection control more resolutely, and so spare others the tragedy of this disease.

We need to do that. We need to protect those who have the AIDS virus from discrimination. But at the same time we need to get on with a comprehensive program to protect the vast number of people in this country.

Some Members want to allow anybody to come into this country who has the AIDS virus. They think we should not have any barriers.

That may sound all right on the surface, but the average cost of taking care of an AIDS patient from the time they come down with the disease to the time they die is between $100,000 and $150,000.

Multiply that times the number of people who are coming into the country that might carry the AIDS virus. Multiply that times the number of people in this country that already have the AIDS virus, that are going to come down with it. You get astronomical figures.

So we need to start dealing with this in a realistic manner. We need to come up with a program that is going to deal with the problem, control the problem, give us a guide as to where the AIDS epidemic or pandemic is going in the years to come, and then get on with protecting the majority of the people of this country.

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The only way to do that, in my view, is to have this comprehensive program I have talked about. To do less, in my view, is a tragic mistake.

In closing, I just would like to say to the people who are doing television broadcasts, Mr. Speaker, and I tell my colleagues this, those who are doing television broadcasts about the AIDS pandemic really ought to do their homework. They should not be making off-the-cuff remarks that are going to mislead the American people. I am sure they do not do it intentionally, but the fact of the matter is when they make these irresponsible remarks they give people a false sense of security, and then many of these people will go out and get infected with AIDS because of this misinformation.

I would just challenge anyone talking about this to do their homework, to talk to the experts, to read the journals, to read the medical journals, the Lancet, the New England Journal of Medicine, the AMA Journal on this so that when they go on television, or the radio, or in the newspapers and start expounding about this pandemic that they really are giving the straight facts. And if they do not know, they should say, "Well, I don't know about that: we'll have to check."

We are talking about something that is very, very serious, very serious, because once you get the AIDS virus you are a dead person. It is just a matter of how long you are going to live, and we need to protect the American people from this pandemic.

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

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1991

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1991.

This is the fifth report of the first session of the 102d Congress. This report is based on the revised budget aggregates and allocations for fiscal year 1991 as authorized in section 12 of House Concurrent Resolution 121 and as submitted to the House on May 29, 1991.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington DC, June 5, 1991.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Section 12 of House Concurrent Resolution 121, the Fiscal Year 1992 Budget Resolution, outlined procedures for revising the Fiscal Year 1991 budget aggregates and allocations. That section, applicable only to the House of Representatives, permits the aggregate levels and committee allocations for fiscal year 1991 to be revised to make them consistent with the discretionary caps and pay-as-you-go provisions of the Budget Enforcement Act of 1990.

The 302(a) allocations to House Committees made pursuant to section 12 of H. Con. Res. 121 were printed in the Congressional Record on May 29, 1991, page H. 3698. The new aggregates and committee allocations set all direct spending and revenues exactly at current baseline levels using Congressional Budget Office (CBO) estimates. For discretionary appropriations, the new allocation exactly equals the sum of the existing discretionary caps.

As specified in section 12, Committees are not required to subdivide the Fiscal Year 1991 amounts allocated to them, and enforcement of the allocations will be based on the total amounts allocated to a committee.

In order to facilitate enforcement under section 302 and 311 of the Congressional Budget Act, I am herewith transmitting the status report for fiscal year 1991 reflecting the changes in budget aggregates and allocations as authorized by section 12.

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary new budget authority, new entitlement authority, new direct loan obli-

gations and new primary loan guarantee commitments.

Sincerely,

LEON E. PANETTA,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1991 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 310 AS REVISED PURSUANT TO SEC. 12 OF HOUSE CONCURRENT RESOLUTION 121

REFLECTING COMPLETED ACTION AS OF JUNE 4, 1991

[On-budget amounts, in millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,187,800	1,155,800	793,000
Current level	1,187,563	1,155,200	793,000
Amount under ceilings	237	600	
Amount over ceilings			
Amount over floor			

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $237 million in budget authority for fiscal year 1991, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $600 million in outlays for fiscal 1991, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal year 1991, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 310, as revised.

FISCAL YEAR 1991 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE, PURSUANT TO SEC. 302

[In millions of dollars]

House committee	Current level		
	Budget authority	Direct loans	Primary loan guarantees
Agriculture	0	0	0
Appropriations	−237	0	0
Armed Services	0	0	0
Banking, Finance, and Urban Affairs	0	0	0
District of Columbia	0	0	0
Education and Labor	0	0	0
Energy and Commerce	0	0	0
Foreign Affairs	0	0	0
Government Operations	0	0	0
House Administration	0	0	0
Interior and Insular Affairs	0	0	0
Judiciary	0	0	0
Merchant Marine and Fisheries	0	0	0
Post Office and Civil Service	0	0	0
Public Works and Transportation	0	0	0
Science, Space and Technology	0	0	0
Veterans' Affairs	0	0	0
Ways and Means	0	0	0

Note: Committees are over (+) or under (−) their 302(a) allocation for "discretionary action."

FISCAL YEAR 1991—ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Reported [1]	Enacted [2]	Enacted over (+)/under (−) allocation
Agriculture	0	0	0	0
Appropriations	0	0	0	0
Armed Services	0	0	0	0
Banking, Finance, and Urban Affairs	0	0	0	0
District of Columbia	0	0	0	0
Education and Labor	0	0	0	0
Energy and Commerce	0	0	0	0
Foreign Affairs	0	0	0	0
Government Operations	0	0	0	0
House Administration	0	0	0	0
Interior and Insular Affairs	0	0	0	0
Judiciary	0	0	0	0
Merchant Marine and Fisheries	0	0	0	0
Post Office and Civil Service	0	0	0	0
Public Works and Transportation	0	0	0	0
Science, Space and Technology	0	0	0	0
Veterans' Affairs	0	0	0	0
Ways and Means	0	0	0	0

[1] These figures are used for 401(b)(2) of the Budget Act.
[2] These figures are used for 302(f) points of order.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 1991.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels. These estimates are consistent with the technical and economic assumptions in the Concurrent Resolution on the Budget agreed to on May 22, 1991 and are compared to the revised 1991 budget aggregates pursuant to section 12 of House Concurrent Resolution 121. This report, for fiscal year 1991, is tabulated as of close of business June 4, 1991 and is summarized in the following table (in millions of dollars).

	On-budget current level	Revised on-budget aggregates	Current level +/− aggregates
Budget authority	1,187,563	1,187,800	−237
Outlays	1,155,200	1,155,800	−600
Revenues	793,000	793,000	—
Direct loans	18,355	18,355	—
Guaranteed loans	109,767	109,767	—

Since my last report, dated May 1, 1991, the Congress has cleared for the President's signature H.R. 2251, the Emergency Supplemental for Humanitarian Assistance. The current level of spending has also been adjusted to reflect the within-session OMB sequester of $2.4 million in budget authority and $1.4 million in outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 102D CONGRESS, 1ST SESSION, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS JUNE 4, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	—	—	793,001
Permanent appropriations and trust funds	740,762	683,281	—
Other legislation	668,128	695,667	—
Offsetting receipts	−225,151	−225,151	—
Total enacted in previous sessions	1,183,740	1,153,797	793,001
II. Enacted this session:			
Extending IRS deadline for Desert Storm Troops (P.L. 102–2)	—	—	−1
Veterans' education, employment and training amendments (P.L. 101–16)	(1)	(1)	—
Dire emergency supplemental appropriations, 1991 (P.L. 102–27)	3,823	1,401	—
Higher education technical amendments (P.L. 102–26)	3	3	—
OMB discretionary sequester	−2	−1	—
Total enacted this session	3,824	1,403	−1
III. Continuing resolution authority	—	—	—
IV. Conference agreements ratified by both Houses:			
Emergency supplemental for humanitarian assistance (H.R. 2251)	(1)	—	—
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	—	—	—
On-budget current level	1,187,563	1,155,200	793,000
Revised on-budget aggregates	1,187,800	1,155,800	793,000
Amount remaining:			
Over budget resolution	—	—	—
Under budget resolution	237	600	—

[1] Less than $500,000.
Note: Detail may not add due to rounding.

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. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, on June 6.

Mr. BURTON of Indiana, for 60 minutes each day, on June 18, 19, and 20.

Mr. DUNCAN, for 5 minutes today.

Mr. WELDON, for 60 minutes, on June 6.

Mrs. BENTLEY, for 60 minutes each day, on June 14, 17, 18, 19, 20, 21, 24, 25, 26, and 27.

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, on June 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. CAMPBELL of California in two instances.
Mr. GRADISON.
Mr. CUNNINGHAM.
Mr. OXLEY.
Mr. CAMP in two instances.
Mrs. ROS-LEHTINEN.
Mr. LAGOMARSINO.
Mr. MCEWEN in two instances.
Mr. LEWIS of Florida.
Mr. YOUNG of Alaska.
Mr. FIELDS.
Mr. MICHEL.

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. SKELTON.
Mr. MCMILLEN of Maryland.
Mr. TAUZIN.
Mr. HAMILTON.
Mr. PETERSON of Florida.
Mr. REED in two instances.
Mr. CLAY.
Mr. RANGEL in two instances.
Mr. KOSTMAYER.
Mr. NEAL of Massachusetts.
Mrs. LOWEY of New York.
Mr. MARKEY in two instances.
Mr. BONIOR.
Mr. SWETT.
Mr. SANDERS.
Mr. DWYER of New Jersey.
Mr. BOUCHER.
Mr. ROYBAL.
Mr. LIPINSKI.
Ms. NORTON.
Mr. SHARP.
Mr. KILDEE in three instances.
Mr. STUDDS.
Mr. ERDREICH.
Mr. DELLUMS.
Ms. SLAUGHTER of New York.

ENROLLED BILL SIGNED

Mr. ROSE, 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. 971. An act to designate the facility of the United States Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office."

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.) the House adjourned until tomorrow, Thursday, June 6, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1471. A letter from the Department of Defense, transmitting notification that a study has been conducted with respect to converting the transient aircraft maintenance function at McChord Air Force Base, Washington, and a decision has been made that performance under contract is the most cost-effective method of accomplishment, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

1472. Acting Under Secretary of Defense, transmitting the Department's report on financial analysis methodology for return on investment studies, pursuant to Public Law 100-456, section 801 (102 Stat. 2007); to the Committee on Armed Services.

1473. A letter from the President, Resolution Trust Corporation, transmitting the Corporation's report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

1474. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Luis Guniot, Jr., of Virginia, Ambassadors-designate and members and his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1475. A letter from the Department of State, transmitting a report on the status of secondment with the United Nations by the Soviet Union and Soviet-bloc member nations, pursuant to Public Law 100-204, section 701(b) (101 Stat. 1385); to the Committee on Foreign Affairs.

1476. A letter from the Department of Education, transmitting the semiannual report of the Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1477. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Office of Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1478. A letter from the Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunsine Act during the calendar year 1990, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1479. A letter from the National Endowment for the Arts, transmitting the semiannual report of activities of the Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1480. A letter from the Securities and Exchange Commission, transmitting the semiannual report of activities of the Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1481. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1482. A letter from the Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled, "Foreign Agents Registration Act of 1991"; to the Committee on the Judiciary.

1483. A letter from the Department of Transportation, transmitting the annual report of activities of the Department's administration of the Deepwater Port Act, pursuant to 33 U.S.C. 20; to the Committee on Public Works and Transportation.

1484. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

1485. A letter from the Acting Secretary of the Navy, transmitting the Department's report on Naval Medical Research and Development Command's C.W. "Bill" Young Marrow Donor Recruitment and Research Program; jointly, to the Committees on Appropriations and Armed Services.

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. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1775. A bill to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal; with an amendment (Rept. 102-97). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 165. Resolution waiving certain points of order during consideration of H.R. 2521, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102-98). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 166. Resolution waiving certain points of order during consideration of H.R. 2519, a bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102-99). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X, the following action was taken by the Speaker:

H.R. 2474. Referral to the Committee on Armed Services extended for a period ending not later than June 20, 1991.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 2544. A bill to authorize the Secretary of Transportation to carry out a highway demonstration project for construction of a bridge to replace a bridge in providing motor vehicle access across the White River at DeValls Bluff, AR; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas (for himself, Mr. LENT, Mr. MOORHEAD, Mr. FIELDS, Mr. HOLLOWAY, Mr. OXLEY, and Mr. SYNAR):

H.R. 2545. A bill entitled the "Vehicular Natural Gas Act of 1991"; to the Committee on Energy and Commerce.

By Mr. BOUCHER (for himself, Mr. OXLEY, Mr. COOPER, Mr. HASTERT, Mr. FIELDS, Mr. BARTON of Texas, Mr. DOWNEY, Mr. GORDON, Mr. MCCLOSKEY, Mr. FUSTER, Mr. EVANS, Mr. OLIN, Mr. PAYNE of Virginia, Mr. FORD of Tennessee, Mr. HOCHBRUECKNER, Mr. TRAXLER, Mr. WOLPE, Mr. JACOBS, Mrs. LOWEY of New York, Mr. SPRATT, Mr. SHAYS, Mr. CHAPMAN, Mr. STALLINGS, Mr. NAGLE, Mr. LAUGHLIN, Mr. GREEN of New York, Mr. ARMEY, Mr. HAMMERSCHMIDT, Mr. HENRY, Mr. PENNY, Mr. COMBEST, Mr. MARLENEE, Mr. SKEEN, Mr. QUILLEN, Mr. TRAFICANT, Mr. ENGEL, Mr. DELAY, Mr. SMITH of Texas, Mr. LAFALCE, Mr. WISE, Mr. CLINGER, Mr. NEAL of North Carolina, and Mr. MACHTLEY):

H.R. 2546. A bill to advance the national interest by promoting and encouraging the more rapid development and deployment of a nationwide, advanced, interactive, interoperable, broadband telecommunications infrastructure on or before 2015 and by ensuring the greater availability of, access to, investment in, and use of emerging communications technologies, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DONNELLY:

H.R. 2547. A bill to amend the Communications Act of 1934 with respect to the regulation of service tiers provided by cable television systems; to the Committee on Energy and Commerce.

By Mr. DURBIN:

H.R. 2548. A bill to authorize the Secretary of the Interior to establish an Abraham Lincoln Research and Interpretive Center; to the Committee on Interior and Insular Affairs.

By Mr. FRANK of Massachusetts:

H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code; to the Committee on the Judiciary.

By Mr. GRANDY (for himself, Mr. RANGEL, Mr. HOUGHTON, and Mr. MORRISON):

H.R. 2550. A bill to amend the Internal Revenue Code of 1986 to encourage the formation of, and donation of contributions to, apprenticeship education organizations; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 2551. A bill to amend title XVI of the Social Security Act with respect to establishing minimum national standards to protect elderly and other residents of board and care facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WYDEN (for himself and Mr. ROYBAL):

H.R. 2552. A bill to provide for a National Commission on Board and Care Facility Quality to review and recommend standards for board and care facilities; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. HOBSON:

H.R. 2553. A bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

By Mr. HUBBARD:

H.R. 2554. A bill to amend chapter 3 of title 11, United States Code, to modify the compensation for private bankruptcy trustees; and for other purposes; to the Committee on the Judiciary.

By Mr. KOSTMAYER:

H.R. 2555. A bill to provide for the establishment of a summer camp program for low-income youths, and to expand the Youth Conservation Corps Program; jointly, to the Committees on Education and Labor, Interior and Insular Affairs, and Agriculture.

By Mr. LAGOMARSINO (for himself, Mr. GALLEGLY, Mr. PANETTA, and Mr. THOMAS of California):

H.R. 2556. A bill entitled "Los Padres Condor Range and River Protection Act;" jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. MCMILLEN of Maryland:

H.R. 2557. A bill to amend the Elementary and Secondary Education Act of 1965 to provide additional grants to schools eligible for grants under chapter 1 of title I of such act that require students to maintain satisfactory grades as a condition of participation in extracurricular activities; to the Committee on Education and Labor.

By Mr. MARKEY (for himself and Mr. RINALDO):

H.R. 2558. A bill to authorize appropriations for the National Telecommunications and Information Administration for fiscal years 1992 and 1993; to the Committee on Energy and Commerce.

By Mr. SCHUMER:

H.R. 2559. A bill to require that the U.S. Government hold certain discussions and report to the Congress with respect to the secondary boycott of Israel by Arab countries; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. SHARP (for himself, Mr. BRUCE, Mr. SCHEUER, Mr. BEREUTER, Mr. BERMAN, Mr. COSTELLO, Mr. JONTZ, Mr. LANCASTER, Mr. MCCLOSKEY, Mr. PORTER, and Mr. RAVENEL):

H.R. 2560. A bill to provide that for purposes of determining the minimum allocation paid to any State under section 157 of title 23, United States Code, and determining the amount of any other allocation or appointment of Federal-aid highway funds, the amount of taxes treated as paid into the Highway Trust Fund with respect to alternative sources of energy shall be determined as if such energy sources were taxed as gasoline, and for other purposes; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. WILLIAMS (for himself, Mr. GEPHARDT, Mr. HOYER, and Mr. DOWNEY):

H.R. 2561. A bill to remove the barrier to access for middle income students to Federal student financial aid programs, and for other purposes; to the Committee on Education and Labor.

By Mr. GEJDENSON (for himself, Mr. TAUZIN, Mr. DAVIS, Mr. STUDDS, Mr. FIELDS, Mr. LEHMAN of Florida, Mr. REED, Mr. HOCHBRUECKNER, Mr. PANETTA, Mr. INHOFE, Mr. BLAZ, Mr. DE LUGO, Mr. GUARINI, Mr. RAVENEL, Mr. ESPY, Mr. SPENCE, Mr. MACHTLEY, Mr. SMITH of Florida, Mr. LANCASTER, Mr. BACCHUS, Mr. DARDEN, Mr. ENGEL, Mr. RAMSTAD, Mr. OWENS of Utah, Mr. BILIRAKIS, Mr. THOMAS of Georgia, Mr. LAGOMARSINO, Mr. JOHNSON of South Dakota, and Mr. ECKART):

H. Con. Res. 163. Concurrent resolution commending the Coast Guard for its important role in the Persian Gulf conflict and urging the people of the United States to recognize such role; to the Committee on Merchant Marine and Fisheries.

By Mr. VISCLOSKY (for himself, Mr. LEVIN of Michigan, Mr. ACKERMAN, Mr. ANNUNZIO, Mr. BACCHUS, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BONIOR, Mr. BROWN, Mr. BRUCE, Mr. BRYANT, Mr. BURTON of Indiana, Mr. CARDIN, Mr. CLEMENT, Mr. CLINGER, Mr. COYNE, Mr. DAVIS, Mr. DARDEN, Mr. DELLUMS, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. ENGEL, Mr. ERDREICH, Mr. EVANS, Mr. FEIGHAN, Mr. GAYDOS, Mr. GEKAS, Mr. GUARINI, Mr. HARRIS, Mr. HERGER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LIPINSKI, Ms. LONG, Mr. MACHTLEY, Mr. MARKEY, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. MCNULTY, Mr. MFUME, Mr. MONTGOMERY, Mr. MURPHY, Ms. NORTON, Mr. NOWAK, Mr. ORTON, Mr. OWENS of Utah, Mr. PAYNE of New Jersey, Mr. PEASE, Mr. POSHARD, Mr. RAHALL, Mr. REED, Mr. RITTER, Mr. ROE, Mr. ROEMER, Mr. ROSE, Mr. RUSSO, Mr. SARPALIUS, Mr. SAXTON, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STAGGERS, Mr. STUDDS, Mr. TAYLOR of Mississippi, Mr. TOWNS, Mr. TRAFICANT, and Mr. WILSON):

H. Res. 167. Resolution expressing the sense of the House of Representatives that United States businesses engaged in the rebuilding of Kuwait should use United States subcontractors and all available United States goods and services; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

163. By the SPEAKER: Memorial of the Senate of the State of Colorado, relative to the dual banking system; to the Committee on Banking, Finance and Urban Affairs.

164. Also, memorial of the Legislature of the State of Hawaii, relative to the establishment of a comprehensive national health insurance program; to the Committee on Energy and Commerce.

165. Also, memorial of the Senate of the State of Colorado, relative to the Federal Election Campaign Act of 1971; to the Committee on House Administration.

166. Also, memorial of the Senate of the State of Colorado, relative to the new Federal tax on recreational vessels; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACCHUS:

H.R. 2562. A bill for the relief of M4 Data, Inc.; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 2563. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. NEAL of Massachusetts, Mr. GILMAN, Mr. FEIGHAN, Ms. OAKAR, Mr. CLAY, Mr. WASHINGTON, Mr. KILDEE, Mr. FROST, Mr. LEHMAN of Florida, Mr. ANDREWS of New Jersey, Ms. NORTON, and Mr. POSHARD.

H.R. 74: Mr. WASHINGTON, Mr. MARTINEZ, and Mrs. BOXER.

H.R. 116: Mr. GLICKMAN.

H.R. 134: Mr. REED, Mr. RIGGS, Mr. RITTER, Mrs. VUCANOVICH, Mr. VENTO, Mr. HEFLEY, Mr. NEAL of Massachusetts, Mr. WILLIAMS, Mr. DONNELLY, Mr. RIDGE, Mr. MINETA, Mr. MCMILLAN of North Carolina, and Mr. SCHEUER.

H.R. 194: Mr. DARDEN and Mr. KANJORSKI.

H.R. 251: Mr. BEILENSON, Mr. JONTZ, and Mr. SIKORSKI.

H.R. 252: Mr. STUDDS.

H.R. 288: Mr. ENGEL, Mr. LANCASTER, Mr. JOHNSON of South Dakota, Mr. MCHUGH, Mr. TORRES, Mr. JACOBS, Mrs. MORELLA, Mr. ESPY, Mr. OWENS of Utah, and Mrs. UNSOELD.

H.R. 299: Mr. HUNTER.

H.R. 300: Mr. KANJORSKI.

H.R. 392: Mr. MORRISON and Mr. PANETTA.

H.R. 447: Mr. EVANS.

H.R. 539: Mr. LEHMAN of Florida.

H.R. 571: Mr. MARTINEZ.

H.R. 592: Mr. ROE.

H.R. 623: Mrs. MEYERS of Kansas and Mr. MACHTLEY.

H.R. 730: Mr. ESPY.

H.R. 784: Mr. PETRI.

H.R. 830: Ms. SLAUGHTER of New York.

H.R. 843: Mr. KANJORSKI.

H.R. 852: Mr. CLAY and Mr. KENNEDY.

H.R. 945: Mr. INHOFE, Ms. MOLINARI, Mr. HOBSON, Mr. GILLMOR, and Mr. RHODES.

H.R. 1063: Mr. JONTZ, Mr. SABO, Mr. DELLUMS, Mr. HOCHBRUECKNER, Mr. HERTEL, Mr. SIKORSKI, and Mr. STUDDS.

H.R. 1077: Mr. SAXTON, Mr. PENNY, Mr. DWYER of New Jersey, Mr. ASPIN, and Mr. CRANE.

H.R. 1080: Mr. ENGEL, Mr. MACHTLEY, Mr. LEWIS of Florida, and Mr. HORTON.

H.R. 1107: Mr. APPLEGATE, Mr. BARNARD, Mr. BERMAN, Mrs. BOXER, Mr. BROWN, Mr. BRYANT, Mr. CHANDLER, Mr. CONDIT, Mr. DARDEN, Mr. DELLUMS, Mr. DURBIN, Mr. ERDREICH, Mr. EDWARDS of California, Mr. ENGEL, Mr. ESPY, Mr. EVANS, Mr. FEIGHAN, Mr. GLICKMAN, Mr. HUTTO, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mr. MILLER of Washington, Ms. NORTON, Mr. OLIN, Mr. ORTON, Mr. RICHARDSON, Mr. RITTER, Mr. SARPALIUS, Mr. SCHEUER, Mr. SIKORSKI, Mr. SMITH of Oregon, Mr. TALLON, Mr. TRAFICANT, Mrs. VUCANOVICH, Mr. WEISS, Mr. WILSON, Mr. YATRON, and Mr. ZELIFF.

H.R. 1124: Mr. FISH and Mr. MARTIN.

H.R. 1130: Mr. LUKEN.

H.R. 1200: Ms. LONG, Mr. CONDIT, Mr. MORRISON, Mr. PETERSON of Florida, Mr. VOLKMER, Mr. YATRON, and Mr. SIKORSKI.

H.R. 1246: Mr. OWENS of Utah, Mrs. KENNELLY, and Mr. RANGEL.

H.R. 1269: Mr. ENGEL.

H.R. 1368: Mr. HERTEL.

H.R. 1414: Mr. CONDIT.

H.R. 1444: Ms. NORTON.

H.R. 1454: Mr. PRICE, Mr. GRAY, Mrs. COLLINS of Illinois, Mr. WEISS, Mr. OWENS of Utah, and Mr. ANDREWS of Maine.

H.R. 1457: Mr. JONES of Georgia and Mr. JOHNSTON of Florida.

H.R. 1468: Mr. HANCOCK.

H.R. 1472: Mr. DANNEMEYER, Mr. CUNNINGHAM, Mr. RAVENEL, Mr. HAYES of Louisiana, Mr. JOHNSON of South Dakota, and Mr. ROTH.

H.R. 1514: Mr. SMITH of Oregon, Mr. HUNTER, Mr. LEWIS of California, Mr. KYL, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. HANSEN, Mr. MCCANDLESS, Mr. STUMP, Mr. RICHARDSON, and Mr. THOMAS of California.

H.R. 1633: Mr. CRAMER, Mrs. LOWEY of New York, Mr. GUNDERSON, Mr. LAFALCE, Mr. MANTON, Mr. WOLPE, Mr. SWETT, Mr. FLAKE, Mr. WHEAT, Mr. SOLARZ, Mr. JONES of Georgia, Mr. GILMAN, Mr. MCMILLEN of Maryland, Mr. FISH, Mr. RICHARDSON, Mr. CARDIN, Mr. JOHNSON of South Dakota, Ms. PELOSI, Mr. KOLBE, and Mr. JOHNSTON of Florida.

H.R. 1662: Mr. WHEAT, Mr. BRYANT, and Mr. WEISS.

H.R. 1724: Mr. KANJORSKI.

H.R. 1737: Mrs. UNSOELD, Mr. GORDON, Mrs. COLLINS of Illinois, Mr. MCDERMOTT, Mr. FEIGHAN, Mr. HUCKABY, Mrs. MINK, Mr. RANGEL, Mr. ROE, and Mr. FROST.

H.R. 1751: Mr. GILMAN and Mr. MACHTLEY.

H.R. 1782: Mr. WOLPE, Mr. RIGGS, Ms. HORN, Mrs. MORELLA, Mr. COUGHLIN, Mr. PRICE, Mr. SCHUMER, Mr. NOWAK, Mr. MFUME, Mr. BRYANT, and Mr. BOUCHER.

H.R. 1860: Mr. NAGLE, Mr. ESPY, and Mr. ANTHONY.

H.R. 1960: Mr. RANGEL, Mr. WHEAT, Ms. NORTON, and Mr. HOBSON.

H.R. 1969: Mr. BOEHLERT and Mr. RINALDO.

H.R. 2027: Mr. KOPETSKI and Mr. JOHNSTON of Florida.

H.R. 2041: Mr. BILIRAKIS.

H.R. 2046: Mr. ZELIFF and Mr. SWETT.

H.R. 2049: Mr. CUNNINGHAM.

H.R. 2056: Mr. MILLER of Washington.

H.R. 2141: Mr. BEILENSON, Mr. GUARINI, Mr. HOAGLAND, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RICHARDSON, and Mr. TOWNS.

H.R. 2199: Mr. NOWAK, Mr. FISH, Mr. UPTON, Mr. SMITH of Texas, Mrs. BYRON, Mr. MINETA, and Mr. ECKART.

H.R. 2212: Mr. WELDON, Mr. GORDON, Mr. ANDREWS of New Jersey, Mr. EDWARDS of Oklahoma, Mr. HERTEL, Mr. TRAFICANT, Mr. GONZALEZ, Mr. DOOLITTLE, Mr. HOYER, Mr. CUNNINGHAM, Mr. POSHARD, Mr. EVANS, Mr. BOUCHER, Mr. SKAGGS, Mr. MANTON, Mr. CARPER, Mr. SARPALIUS, Ms. ROS-LEHTINEN, Mr. PALLONE, Mr. GILMAN, Mr. TORRES, Mr. PRICE, Mr. HAYES of Louisiana, Mr. RANGEL, Mr. WOLPE, Mr. LEHMAN of Florida, Mr. PERKINS, Mr. MAVROULES, and Mrs. KENNELLY.

H.R. 2231: Mr. GILCHREST, Mr. ROSE, Mr. WEBER, and Mr. LANCASTER.

H.R. 2258: Mr. BUSTAMANTE, Mr. CARR, Mr. DORGAN of North Dakota, Mr. FLAKE, Mr. GILCHREST, and Mr. SYNAR.

H.R. 2279: Mr. DELLUMS.

H.R. 2291: Mr. LIPINSKI.

H.R. 2303: Mr. KOPETSKI.

H.R. 2361: Mr. NAGLE.

H.R. 2363: Mr. DWYER of New Jersey, Mr. JEFFERSON, Mr. GILMAN, Mr. HAYES of Illinois, Mr. JOHNSTON of Florida, and Mr. SIKORSKI.

H.R. 2386: Mr. WALSH, Mr. HERTEL, Mr. PAYNE of Virginia, and Mr. BURTON of Indiana.

H.R. 2448: Mr. DERRICK, Mr. HAMILTON, Mr. MARLENEE, Mr. MAZZOLI, Mr. MOORHEAD, Mr. RICHARDSON, Mr. STALLINGS, Mr. SWIFT, Mrs. PATTERSON, Mr. NEAL of North Carolina, Mr. AUCOIN, and Mr. THOMAS of Wyoming.

H.J. Res. 130: Mr. STAGGERS.

H.J. Res. 195: Mr. KOSTMAYER.

H.J. Res. 207: Mrs. COLLINS of Michigan, Ms. OAKAR, Ms. WATERS, Mr. WAXMAN, Mr. JENKINS, Mr. JONES of North Carolina, Mr. LEVIN of Michigan, Mr. SARPALIUS, Mr. ABERCROMBIE, Mr. BLAZ, Mr. BREWSTER, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CRAMER, Mr. VOLKMER, Mr. DARDEN, Mr. DAVIS, Mrs. BENTLEY, Mr. DICKS, Mr. ESPY, Mr. FORD of Tennessee, Mrs. BYRON, Ms. HORN, Mr. HYDE, Mr. FISH, Mr. WOLPE, Mr. SLATTERY, Mr. YATRON, Mr. SERRANO, Mr. ZIMMER, Mr. HARRIS, Mr. HAMMERSCHMIDT, Mr. MFUME, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MURPHY, Mr. MCDADE, Mr. MCMILLAN of North Carolina, Mrs. MINK, Mr. ORTON, Mr. RAMSTAD, Mr. ROBERTS, Mr. PURSELL, Mr. TRAFICANT, Mr. VANDER JAGT, Mr. TOWNS, Mr. TAUZIN, Mr. TALLON, Mr. KANJORSKI, Mr. STAGGERS, Mr. MARTIN, Mr. PERKINS, Mr. HENRY, Mr. SKEEN, and Mr. BILIRAKIS.

H.J. Res. 219: Mr. RUSSO, Mr. GRAY, Mr. ROEMER, Mr. MORAN, Mr. BUNNING, and Mr. GILCHREST.

H.J. Res. 228: Mr. BRYANT, Mr. FISH, Mr. HUNTER, Mr. LEVIN of Michigan, and Mr. HALL of Texas.

H. Con. Res. 101: Mr. MFUME and Mr. EVANS.

H.J. Res. 83: Mr. LAGOMARSINO, Mr. BALLENGER, Mr. SCHAEFER, Mr. BOEHNER, Mr. HYDE, Mr. INHAFE, Mr. DICKINSON, Mr. CALLAHAN, Mr. HORTON, Mr. HEFLEY, Mr. IRELAND, Mr. COX of California, Mr. HERGER, and Mr. TAUZIN.

H. Res. 125: Mr. GOSS, Mr. RIGGS, Mr. LENT, Mr. BATEMAN, Mr. LEWIS of Florida, Mr. KYL, Mr. LAGOMARSINO, Mr. PETRI, Mr. KOLBE, Mr. BAKER, Mrs. VUCANOVICH, Ms. MOLINARI, Mr. ARMEY, and Mr. COX of California.

H.J. Res. 129: Mr. DYMALLY, Mr. FISH, and Mr. LEWIS of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. SENSENBRENNER.